CONDOMINIUM OFFERING PLAN

for

The Calyer Greenpoint
171 Calyer Street, Brooklyn, New York 11222
County of Kings

The Condominium will comprise 21 Residential Units, 12 Parking Units and 15 Storage Units, which are being offered for sale pursuant to this Offering Plan. The Condominium will also contain and 2 Retail Units, which are being reserved for future sale.

Total Amount of Offering[1]:

21 Residential Units:	$39,978,000.00
12 Parking Units:	$ 1,500,000.00
15 Storage Units:	$ 383,000.00
Total:	**$41,861,000.00**

Initial Working Capital Fund [2]: $10,000.00

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

(2) At the First Unit Closing, Sponsor will make a reimbursable "advance" payment in this amount to the Condominium's Working Capital Fund. See "Section V. Working Capital Fund" for discussion and the projected amount of the Working Capital Fund if and when all Residential, Parking and Storage Units are sold and conveyed.

SPONSOR:	SELLING AGENT:
171 Calyer Street Project LLC	Douglas Elliman, LLC
463 Seventh Avenue 4th Floor	575 Madison Avenue
New York, New York 10018	New York, New York 10022

Date of Acceptance for Filing: _____

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

SEE "SECTION A" FOR SPECIAL RISKS TO PURCHASERS.

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

BECAUSE SPONSOR IS RETAINING THE UNCONDITIONAL RIGHT TO RENT RATHER THAN SELL UNITS AFTER THE PLAN HAS BEEN CONSUMMATED, 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. IN ADDITION, PURCHASERS FOR THEIR OWN OCCUPANCY MAY NEVER GAIN CONTROL OF THE BOARD OF MANAGERS UNDER THE TERMS OF THIS PLAN. SEE SPECIAL RISKS SECTION OF THE PLAN.

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PART I

SECTION A. SPECIAL RISKS

The SPECIAL RISKS summarized below are explained more fully in other Sections of this Offering Plan ("**Plan**"). The entire Plan must be read to completely understand these and other material aspects of this offering.

See "Section B-13 Glossary; Rules of Interpretation; Grammar" for the Sections of this Part I that contain the meanings of the capitalized terms, the interpretation of certain lowercase words (and derivations and variations thereof), and the grammar used in this Part I. All references to a Section refer to a Section in Part I of this Plan, unless otherwise expressly indicated.

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

Section A-1. Certain Prominent Special Risks.

Section A-1.1. *Landmarks Law*. The building being newly constructed at 171 Calyer Street, Brooklyn, New York ("**171 Calyer Street**" or "**Building**") is located within the Greenpoint Historic District and is listed on the State and National Registers of Historic Places. As a result, the Building is subject to the New York City Landmarks Preservation Law (hereafter, "**Landmarks Law**"). Pursuant to the Landmarks Law, if the Condominium Board or a Unit Owner desires to make any alteration, addition, improvement or repair in or to the Building or a Unit, both interior and exterior, other than routine maintenance (limited to window repair, repainting storefronts with the same color and finish, routine cleaning, and repair or replacement of door or window hardware), or where the scope of work is required by the New York City Building Code to have a Governmental Work Permit, then, in addition to obtaining any necessary approval or consent under the Condominium Documents, such party must first apply to the Landmarks Preservation Commission of The City of New York (hereafter, "**Landmarks Commission**") for approval and obtain a certificate of appropriateness or a certificate of no effect (as applicable). The application is to include detailed plans and specifications of the work and information regarding the contractor and its insurance. If the proposed alteration, addition, improvement or repair is interior, is of sufficient scope to require a Governmental Work Permit, and will not affect any exterior architectural feature of the Building, a submission to that effect to the Landmarks Commission will be necessary in order to obtain a certificate of no effect. The issuance of such certificate of no effect has in the past been a common occurrence and is issued on a ministerial basis, but is not assured or guaranteed by Sponsor or the Selling Agent. See Section B-2. A Purchaser intending to alter a Residential Unit should consult with counsel and a contractor as to the additional time and added costs

expected to obtain a certificate of appropriateness or a certificate of no effect (as applicable) from the Landmark Commission.

Section A-1.2. *Zoning Lot Development and Easement Agreement*. In order to develop the property having a height and bulk as the Building that is being newly constructed, development rights were acquired by the then owner of the property at 171 Calyer Street ("**Developer**") from the owner of an adjacent property ("**Adjacent Owner**") under a Zoning Lot Development and Easement Agreement ("**ZLDA**"), dated March 28, 2019, recorded April 16, 2019 in the Kings County Office of the City Register of The City of New York ("**City Register's Office**") in CRFN: 2019000120785. The ZLDA includes a cantilever easement for the construction, use and operation, maintenance, repair, replacement and reconstruction of portions of the Building being newly constructed ("**Cantilevered Portion**") to be located over and above (not on or supported by) the Adjacent Owner's building and above a specified Lower Limiting Plane over that portion of Adjacent Owner's land which is located along the western property line of Adjacent Owner's land running eastward six feet (6') ("**Cantilever Easement Area**").

Pursuant to the cantilever easement:

(a) the Cantilevered Portion cannot be located below the Lower Limiting Plane;

(b) the Developer and the Developer parties (as defined in the ZLDA) was granted a license onto and above all portions of the Adjacent Owner's property as is necessary to inspect, maintain, repair and/or replace the Cantilevered Portion, provided, however, that such access shall only occur after notice to the Adjacent Owner, shall only occur during reasonable hours, and shall not unreasonably interfere with the Adjacent Owner's use and occupancy of the Adjacent Owner's building and, provided, further, that during any period of such access or construction, Developer shall procure and maintain liability insurance, naming the Adjacent Owner and the Adjacent Owner's agents as additional insureds, in the form and in the amount customarily carried in connection with such access and scope of work, which shall without limitation insure against any liability in connection with damage to the Adjacent Owner's building from debris emanating from the Cantilevered Portion;

(c) the design and construction of the Cantilevered Portion shall comply with all applicable laws, rules and regulations and shall be subject to the approval of the New York City Department of Buildings, the New York City Department of Finance or any other applicable agency;

(d) Developer and its successors and or assigns shall indemnify and hold the Adjacent Owner harmless from and against any and all costs, losses, liabilities and claims (including reasonable attorneys' fees and expenses), and name the Adjacent Owner and its agents as additional insureds, for damage to the Adjacent Owner's building arising out of the Cantilevered Portion, in perpetuity; and

(e) Developer and its successors and/or assigns shall clean and maintain the Adjacent Owner's roof from any debris and/or damage emanating from the Cantilever Portion.

The ZLDA also includes an easement for light and air that protects the windows of the following Residential Units to be located 5'-0" from the east Property line:

Residential Unit 3F: Five 3'-8" wide x 6'-8" high windows and one 3'-8" wide x 8'-8" high terrace door and transom.

Residential Unit 3G: Three 3'-8" wide x 6'-8" high windows.

Residential Unit 4A: Three 3'-4" wide x 6'-8" high windows.

Residential Unit 4D: Six 3'-4" wide x 6'-8" high windows.

The following Residential Unit to be located 6'-2" from the east Property line is also protected by the light and air easement:

Residential Unit PH: Three 7'-4" wide x 8'-0" window wall units with operable casements or doors, One 4'-8" x 8'-0" wide window wall unit with operable casement vent.

See Section D-1.1 and Document 4 – Description of Property and Specifications in Part II of this Plan for further discussion..

Section A-1.3. *Lot Line Windows*. A lot line window is a window that will be required to be closed when a building or structure on the immediately adjacent property is constructed within five feet or less from the lot line window. The Condominium Board, as a Residential Common Expense, will perform the work necessary to close the lot line windows.

The East and North facing façade or exterior Building walls will contain lot line windows in the following Residential Units:

Residential Unit 3E: One 3'-4" wide x 6'-8" high window located at the east lot line.

Residential Unit 4C: One 3'-4" wide x 6'-8" high window located at the east lot line.

See Section B-7.2.3.

Section A-1.4. *Reservation of Development Rights*. Sponsor is not submitting to condominium ownership and is reserving for its exclusive use and enjoyment the approximately 7,776 square feet of unused development rights that is anticipated to be available to the Property's zoning lot after completion of construction of the Building together with any future development rights that Sponsor might purchase or might become available to the Property's zoning lot by reason of a special permit or a change in zoning or otherwise (collectively, "**Excess Development Rights**"). Sponsor may sell and transfer all, or a portion of, the Excess Development Rights and retain all proceeds realized therefrom without participation of the Condominium Board or Unit Owners. However, no Excess Development Rights may be used to expand the size, height, bulk or density of any portion of the Property after the recording of the Declaration establishing the Condominium. If any of the Excess Development Rights are transferred to an adjoining premises, the light and air of the Building and views from Residential Units and/or their respective terraces might be adversely affected. See Sections B-2, D-1.1 and BB.

Section A-1.5. *Federal Bank Deposit Insurance*. The initial payment ("**Deposit**") of each purchaser ("**Purchaser**") under the agreement to purchase a Unit being offered for sale under this Plan ("**Purchase and Sale Agreement**") will be an amount equal to ten percent (10%) of the Unit's purchase

and sale price ("**Purchase Price**") and placed in a separate subaccount of a segregated attorney's special escrow account at Israel Discount Bank of New York ("**Depository**"). Each subaccount will be insured by the Federal Deposit Insurance Corporation in the maximum amount of $250,000. To the extent a Purchaser's Deposit exceeds said insured amount (i.e., $250,000), the excess will not be federally insured. Purchaser will not have any recourse against Sponsor, Selling Agent or Escrow Agent based upon any losses resulting from failure of the Depository. If a Purchaser maintains an account at the Depository, the funds in such account factor into the $250,000. Sponsor, Selling Agent and the escrow attorney for contract Deposits do not represent, assure or guarantee the solvency of the Depository and will not be responsible or liable for any loss due to the failure of the Depository. See Section K-3.2 for discussion.

Section A-1.6. *Construction Loan Financing*. On June 10. 2022, Sponsor obtained construction loan financing from Israel Discount Bank of New York ("**Construction Lender**"), having an office at The Grace Building, 1114 Avenue of the Americas, 2nd Floor, New York, New York 10036 aggregating $22,000,000.00. The construction loan documents include a Building Loan Mortgage, Building Loan Mortgage Promissory Note, Building Loan Agreement, Project Loan Mortgage, Project Loan Note and Project Loan Agreement and related documents (collectively, "**Construction Loan Documents**"). The Construction Loan Documents require Sponsor to market the Residential, Parking and Storage Units for sale, do not contain a minimum number of Units to be under contract in order to declare this Plan effective, requires a minimum release price set by the lender in order for the lender to release its lien against the Unit being sold, and requires the lender's consent to lease any Unit. See Section O-2.7.

Section A-2. Purchase and Sale Agreement. The following is a summary of provisions of the Purchase and Sale Agreement that contain SPECIAL RISKS. This is not intended as a summary of all material provisions of the Purchase and Sale Agreement. Purchaser is urged to read the entire Purchase and Sale Agreement and consult with a legal adviser to understand the full import of its terms and Purchaser's obligations.

Section A-2.1. *Liquidated Damages*. If a Purchase and Sale Agreement is cancelled based on a default by Purchaser that is not cured within thirty (30) days after written notice of the default is given to Purchaser and this Plan is consummated with the first conveyance of a Unit ("**First Unit Closing**") to a Bona Fide Purchaser, Sponsor's sole remedy shall be: (a) to receive and retain as agreed upon damages ("**Liquidated Damages**"), Purchaser's Deposit (not to exceed the ten percent (10%) of the Purchase Price), together with the interest earned thereon. If Purchaser challenges the cancellation or the Liquidated Damages provision and Sponsor prevails in any litigation instituted in connection therewith, Sponsor shall be entitled to be reimbursed by Purchaser for the actual costs and expenses paid or incurred by Sponsor, including if Sponsor successful and is awarded by in a final non-appealable order or judgment of a court having competent jurisdiction, all reasonable legal fees and disbursements, and associated litigation costs and expenses (collectively, "**Legal Expenses**"), and daily interest thereon at the rate equal to the lower of nine per cent (9%) a year or the maximum legal rate (hereafter, "**Per Diem Interest**"), computed from the date paid to the date each amount owed is reimbursed, to enforce and

defend this provision and to collect such amounts. Sponsor, however, may not seek specific performance of the Purchase and Sale Agreement. See Section K-19 for discussion.

The Liquidated Damages provision limits Purchaser's liability and avoids Purchaser potentially paying Sponsor higher actual, consequential or other damages caused by Purchaser's default (e.g., due to a sale at a price lower than Purchaser's price and added carrying costs, among others) and is an agreement by the parties that the foregoing amounts are fair, reasonable and just compensation under the circumstances.

The Liquidated Damages provision, however, is subject to review by a court or other authority having competent jurisdiction as to whether the liquidated amount is an unenforceable penalty designed to coerce performance of a Purchaser.

Section A-2.2. *Cross Default*. If Purchaser signs a Purchase and Sale Agreement for more than one Unit, a default under either Purchase and Sale Agreement is automatically a default under the other Purchase and Sale Agreement. In such case, the only time period Purchaser will have to remedy the default is the time period set forth in the Purchase and Sale Agreement that first went into default. If the default is not timely remedied and both Purchase and Sale Agreements are canceled, Sponsor shall have the right to receive and retain as Liquidated Damages the ten percent (10%) Deposit under each Purchase and Sale Agreement together with the interest earned thereon. See Section A-2.1 above and see Section K-19 for discussion. Whenever the Purchase and Sale Agreement or this Plan or the Condominium Documents provide for a deadline within which a payment is to be made, or an act is be performed, or a notice is to be given, or a default is to be cured, or to otherwise do something, means "TIME IS OF THE ESSENCE" to make such payment, or to perform such act, or to give such notice, or to cure such default, or to otherwise do something, and cannot be extended regardless of inability or other excuse for the delay. See Section K-5 for list of these deadline or "TIME OF ESSENCE" periods for discussion.

Section A-2.3. *No Mortgage Contingency*. The Purchase and Sale Agreement is not contingent upon Purchaser obtaining financing (secured or unsecured) to pay the Purchase Price of a Unit or any portion thereof. A Purchaser who is relying upon, but fails to obtain financing may lose his or her Deposit if he or she is unable to otherwise raise the monies to pay the balance of the Purchase Price. Prospective Purchasers who require financing are advised to consult with a lending institution before executing and delivering a Purchase and Sale Agreement. No representation is made by Sponsor or the Selling Agent as to the availability or cost of such financing.

If Purchaser desires financing, Purchaser assumes and accepts the full and sole risk to obtain and close the loan simultaneously with the conveyance of legal ownership of the Unit by Sponsor to Purchaser and the payment by Purchaser to Sponsor of the balance of the Purchase Price pursuant to this Plan and the Purchase and Sale Agreement ("**Closing**" or "**Closing of Title**" or "**Close Title**"). Under no circumstance shall Purchaser have the right to cancel the Purchase and Sale Agreement, or to delay the Closing of Title, or to be relieved or excused from paying the full Purchase Price, without abatement,

set-off or credit, and without liability or recourse of any kind against Sponsor or Selling Agent in the event:

(a) Purchaser is unable to arrange financing; or

(b) Purchaser receives a loan commitment letter, but before the Closing of Title:

(b-1) the interest rate or other financing terms change unfavorably, or a "lock-in" interest rate is lost, because the Closing of Title under Purchaser's Purchase and Sale Agreement fails to occur before the expiration of the period within which the loan must close; or

(b-2) such commitment expires and is not extended or renewed, or is extended or renewed on less favorable terms; or

(b-3) Purchaser is required to make additional payments to the lender to extend the loan commitment period; or

(b-4) the Building fails to qualify for federally insured or provided financing under federal home loan programs (e.g., FHA or Fannie Mae); or

(b-5) the loan commitment terminates because of: (b-5.1) an adverse change in Purchaser's financial condition (e.g., an unfavorable change in Purchaser's income, assets or employment status, or failure to sell of an existing residence, etc.); or (b-5.2) an appraisal of the Unit is not satisfactory to the lender; or (b-5.3) any other lender required condition or factor is not met; or

(c) the lender fails to fund the loan at Closing.

Sponsor and Selling Agent do not represent, assure or guarantee a Purchaser's ability to obtain financing or (if obtained) the terms of financing, or whether the Closing of Title will occur before the loan commitment or any lock-in rate expires, or (if it expires) whether the commitment will be extended or the costs to obtain an extension or the terms and conditions thereof, which may be less favorable than the original commitment. See Section K-13 for further discussion.

Section A-2.4. *Certain Closing Costs*. At Closing of Title, Purchaser will pay (among other things) the following Closing costs (see Section N-1):

Section A-2.4.1. Transfer Taxes. Under the Purchase and Sale Agreement, the Purchaser is obligated to pay the transfer taxes imposed by law on the Seller. Before 2021, in computing the New York State transfer tax, the amount of such transfer tax imposed on Seller being paid by Purchaser is added to the consideration (i.e., Purchase Price), which is a tax on a tax (also called "grossed-up consideration"). New York State Tax Law Section 1404(a) was amended in 2021 to exclude from the computation of the State transfer tax said amount of the State transfer tax imposed on Seller being paid by Purchaser. The amendment to Section 1404(a) can be accessed at the following web address: *https://www.nysenate.gov/legislation/laws/TAX/1404 [nysenate.gov]*.

The Section 1404(a) amendment to the New York State Tax Law does not apply to the New York City Real Property Transfer Tax (New York City Administrative Code § 11-2102), which continues to calculate the New York City transfer tax on the grossed-up consideration.

The current applicable residential New York State transfer tax of consideration is as follows: 0.4% thereof up to less than $3 million and 0.65% thereof from $3 million or more. The current residential New York State transfer imposes on the purchaser payment of a so-called "mansion tax" and a recently enacted "supplemental tax" added thereto, which equals:

1.00% of consideration of $1 million to less than $2 million

1.25% of consideration of $2 million to less than $3 million

1.5% of consideration of $3 million to less than $5 million,

2.25 of consideration of $5 million to less than $10 million

3.25% of consideration of $10 million to less than $15 million

3.5% of consideration of $15 million to less than $20 million

3.75 of consideration of $20 million to less than $25 million

3.9%. of consideration of $25 million and above

The current applicable residential New York City transfer tax of grossed-up consideration is 1% thereof up to $500,000 and 1.425% thereof over $500,000.

In addition, if Purchaser buys two or more Units, the New York City transfer tax for all Units may be computed at the then applicable commercial tax rate, which currently is higher than the residential rate. However, the New York State "mansion tax" is not applicable to transfers of commercial real estate. See Section N-1.1.1 for discussion.

Section A-2.4.2. Sponsor's Legal Fees. At Closing, Purchaser shall pay a Closing fee of Sponsor's attorney of $3,000.00 (if Purchaser closes without financing) or $3,500.00 (if Purchaser closes with financing). If Purchaser's lender or attorney refuses to Close Title at the office of Sponsor's attorney, Purchaser will pay a travel fee to Sponsor's attorney of $500.00 (if the Closing is held in Manhattan). Sponsor and Sponsor's attorney, however, are not required to conduct the Closing outside of the office of Sponsor's attorney or outside of New York City.

Section A-2.4.3. Postponement Costs. If Purchaser fails to Close Title on the date set by Sponsor in accordance with this Plan and the Purchase and Sale Agreement, or Purchaser is at fault for causing Sponsor to postpone the date scheduled by Sponsor for Closing (e.g., Sponsor postpones the Closing to remove a title condition because Purchaser fails to timely send Sponsor's attorney written notice of an objection to title at least ten (10) days prior to the date set by Sponsor for Closing, as explained in Section K-26), Purchaser will reimburse Sponsor at Closing for the Unit's Common Charges and real estate taxes for the period the Closing is delayed, plus Per Diem Interest on the Purchase Price, prorated for each day during such period of delay, starting on the first day after the date Sponsor scheduled the

Closing of Title to occur pursuant to the Purchase and Sale Agreement ("**Scheduled Closing Date**"), to compensate Sponsor for loss of potential earnings on investment of the Purchase Price.

Purchaser also will pay Sponsor's designated attorney $250.00 for each default notice sent to Purchaser and $250.00 for each time the Closing is rescheduled through no fault of Sponsor.

Section A-2.4.4. Working Capital Fund Payment. At Closing of Title, each Purchaser will be required to make a contribution to the Condominium Association's Working Capital Fund in an amount equal to two months' projected Common Charges for each Unit being purchased, as shown in the Offering Price Schedule in Section E ("**Offering Price Schedule**"), as such projection may change in an amendment to this Plan ("**Plan Amendment**") filed prior to the First Unit Closing. Sponsor will advance $10,000.00 as an initial contribution to the Working Capital Fund at the First Unit Closing and will be reimbursed for such payment from the first Working Capital Fund contributions made by Purchasers of Units under this Plan. See Section V-2, and see Section V-3 for use of the Working Capital Fund.

Section A-2.5. *Mortgage Tax Credit*. A mortgage tax credit is provided in RPL §339-ee based on the mortgage recording taxes paid by Sponsor in connection with Sponsor's construction loan financing to develop the Property. The statutory credit applicable to each Unit is prorated in accordance with the Unit's percentage of Common Interest. Under this Plan and the Purchase and Sale Agreement, a Purchaser who obtains mortgage financing to purchase a Unit and is entitled to the mortgage tax credit, is required to reimburse Sponsor at Closing of Title an amount equal to the savings in Purchaser's mortgage recording tax due to the mortgage recording taxes paid by Sponsor. The net result to Purchaser of such payment to Sponsor is to eliminate any benefit to Purchaser for the statutory mortgage tax credit and, in effect, for Purchaser to pay overall an amount equal to the mortgage recording tax on Purchaser's mortgage as though there were no such credit. See Section N-2.

Section A-2.6. *Prohibition Against Advertising*. Purchaser is prohibited from advertising, publicizing or listing with brokers the availability of Purchaser's Unit for sale or lease prior to Closing of Title. See Section K-35 for discussion.

Section A-2.7. *Risk of Loss*. Prior to Closing of Title, the risk of loss or damage to a Purchaser's Unit and its contents from casualty or other cause is assumed by Sponsor. Sponsor's assumption of the risk of loss does not obligate Sponsor to repair the loss or damage or to restore a the Unit or its contents. If Sponsor (in its sole and absolute discretion) elects to repair, or if the First Unit Closing has occurred and the Condominium Board is obligated to repair the loss or damage, the Closing of Title will be postponed to the later to occur of the date fixed by Sponsor for Closing in accordance with the Purchase and Sale Agreement or ninety (90) days from the date the loss or damage occurs in order to permit the repairs to be completed.

Purchaser shall not be required to Close Title until the Unit and its contents are made habitable with all essential Building Services (e.g., heat, air conditioning and utilities) in the condition required in the Purchase and Sale Agreement and the Unit has a reasonable means of access to and from the street.

If Sponsor elects not to repair, the Purchase and Sale Agreement will be canceled and the Deposit returned to Purchaser together with any earned interest thereon.

If, however, Purchaser is given possession of the Unit under an Interim Use and Occupancy Agreement or is at fault for causing the loss or damage, then Purchaser shall assume the risk of loss to the Unit and its contents, regardless of whether the fire or other casualty causing the loss or damage originates inside or outside of the Unit. In such case, Purchaser shall be obligated to consummate the Closing of Title on the date set by Sponsor in accordance with the Purchase and Sale Agreement, without delay, and pay the full Purchase Price without abatement, set-off or credit, and without liability or recourse of any kind by reason thereof against Sponsor or the Selling Agent. A Purchaser in possession who is not an Owner cannot insure the Unit since he or she has no ownership interest, and the Unit cannot be doubly insured. A person who takes possession prior to Closing assumes the risk of losses not covered by insurance. Such Purchaser should consider obtaining, at Purchaser's expense, renter's insurance to insure Purchaser against loss to the extent insurable. See Section K-11 and Section M-2 for discussion.

Sponsor, at its expense, will insure the Building until Condominium Board, as a General Common Expense, obtains the insurance set forth in the First Year's Budget and the By-Laws, which shall be in effect no later than the First Unit Closing.

Section A-2.8. *Sponsor's Default or Inability to Perform*. If Sponsor defaults under the Purchase and Sale Agreement, Purchaser shall have the right at any time give Sponsor written notice specifying the default. In such event, Sponsor shall have the right to cure the default within a period of thirty (30) days or (if not reasonably curable in thirty (30) days), such reasonably longer period (not to exceed ninety (90) days) from giving the default notice. If Sponsor fails to cure the default within the applicable grace period, Purchaser's sole remedy shall be either: (a) to compel Sponsor to specifically perform by appropriate curt action or proceeding; or (b) to cancel the Purchase and Sale Agreement and recover Purchaser's Deposit together with any interest earned thereon. Unless Purchaser elects bring suit for specific performance, if Purchaser fails to consummate the Closing of Title on the date scheduled by Sponsor or any postponed date in accordance with the Purchase and Sale Agreement, Purchaser shall conclusively be deemed to have elected to cancel and recover Purchaser's Deposit together with any interest earned thereon. In such case Sponsor shall cause the Deposit and earned interest to be refunded to Purchaser.

If Sponsor is unable, in good faith, to perform Sponsor's obligations under, or satisfy any condition applicable to Sponsor or the Unit in, or title shall not be in accordance with, the Purchase and Sale Agreement, Purchaser's sole remedy shall be either: (a) to consummate the Closing of Title without delay and accept such title to the Unit as Sponsor is able to convey without abatement in, or set-off against, the Purchase Price and without escrowing monies or liability or recourse of any kind by reason thereof against Sponsor or the Selling Agent; or (b) to cancel the Purchase and Sale Agreement and recover Purchaser's Deposit together with any interest earned thereon, and Purchaser's costs paid to a title insurer or agent to search title, if any. Purchaser shall conclusively be deemed to have elected to

cancel and recover said sums if Purchaser fails to consummate the Closing of Title on the date or any postponed date set by Sponsor. See Section K-20.

Section A-2.9. *Plan and Plan Amendments Govern*. If the provisions of this Plan or any Plan Amendment filed before or after the date of the Purchase and Sale Agreement, but before Closing, conflict, or are inconsistent or ambiguous, with the Purchase and Sale Agreement, such conflict, inconsistency or ambiguity shall be resolved according to the terms of the Plan and said Plan Amendment, which are paramount and shall govern. See Section K-14.

Section A-2.10. *Waiver of Jury Trial*. EACH PARTY WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY LAWSUIT ARISING FROM THE PURCHASE AND SALE AGREEMENT OR THE PLAN OR PLAN AMENDMENTS, OTHER THAN A LAWSUIT IN WHICH A JURY TRIAL CANNOT LEGALLY BE WAIVED. ANY CLAIM FOR WHICH A JURY TRIAL CANNOT LEGALLY BE WAIVED SHALL NOT BE ASSERTED AS A COUNTERCLAIM OR JOINED WITH ANY LAWSUIT IN WHICH A JURY TRIAL IS WAIVED, UNLESS THE FAILURE TO ASSERT IT WOULD PREVENT THE CLAIM FROM BEING MADE LATER. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE CLOSING OR (IF THE CLOSING DOES NOT OCCUR) THE CANCELLATION OR TERMINATION OF THE PURCHASE AND SALE AGREEMENT. See Section K-37.

Section A-2.11. *Escrow Agent*. Sponsor's attorney, Seyfarth Shaw LLP, is the Escrow Agent under the Purchase and Sale Agreement which provides the Escrow Agent may represent Sponsor in any litigation, whether or not related to Purchase and Sale Agreement and irrespective of Escrow Agent being in possession of the Deposit. See Section X-2.

Section A-2.12. *Legal Expenses*. In any litigation between Purchaser and Sponsor, Purchaser will not be obligated to pay Sponsor's Legal Expenses unless awarded in a final non-appealable order or judgment of a court having competent jurisdiction. See Section K-39.

Section A-2.13. *First Unit Closing*. The Sponsor anticipates that the first closing of a Unit will occur by January 1, 2024. Purchasers will be offered a right of rescission if: (a) the actual date of closing of title to the first unit; or (b) the projected date of closing of title to the first unit occurs later than December 31, 2024, twelve months after the projected date for the first closing. If the Plan is amended to provide for a later projected date for the first closing, Purchasers will be entitled to an offer of rescission if the first closing occurs more than 12 months beyond that amended, later date.

However, if the first unit closing occurs before January 1, 2025, the Sponsor may schedule the closings of title to other Units significantly later than such date. Unless your Purchase and Sale Agreement contains an outside closing date, the Sponsor is not obligated to schedule your closing within any specified time frame or to ensure that closing of title to your Unit will occur by any date certain.

PROSPECTIVE PURCHASERS SHOULD THEREFORE CAREFULLY CONSIDER SUCH RISKS IN THEIR DETERMINATION AS TO WHETHER TO PURCHASE A UNIT.

Section A-3. Reserve Fund. Since the Building is being newly constructed, only a Reserve for Capital Replacements is included in the budget for the projected first year of Condominium operation (see Section A-4). No major capital replacements are anticipated during the first five years of Condominium operation. No representation, assurance or guaranty, however, is made or given when such capital expenditures will be required or that the Reserve for Capital Replacement will be sufficient when a capital replacement may be required. Residential Unit Owners will be obligated to pay their share of the costs of ordinary and capital repairs, replacements and/or improvements to the General and Residential Common Elements as and when required.

Section A-4. First Year's Budget. The projected income in the budget set forth in Section F is based on the first twelve (12) months of Condominium operation starting on or about January 1, 2024 ("**First Year's Budget**" or "**Schedule B**"), which corresponds to the date Sponsor reasonably believes that the First Unit Closing will occur. Sponsor, Selling Agent and the budget expert (Flatiron Real Estate Advisors, LLC; sometimes hereafter, "**Flatiron LLC**"), however, cannot, and do not, represent, assure or guarantee the actual date Condominium operation will begin or the amount of the Common Expenses (or the resulting Common Charges), which may be higher or lower than those estimated in the First Year's Budget. If the actual or anticipated date of commencement of Condominium operation is to be delayed more than six months from the budget year projected in this Plan, the Plan must be amended to include a revised budget disclosing current projections. If such revised projections exceed the original projections by twenty-five percent (25%) or more, Sponsor must amend this Plan to offer all Purchasers the right to rescind and a period of fifteen (15) days after the date of Presentation of the Plan Amendment to exercise such rescission right. Sponsor must return Deposits to Purchasers who timely rescind within such fifteen (15)-day period, together with any interest earned thereon. In addition, if the actual date to commence Condominium operation is delayed twelve (12) months or more from the January 1, 2024 projected start date of Condominium operation, Sponsor must amend this Plan to offer all Purchasers the right to rescind and a period of fifteen (15) days after the date of Presentation of the Plan Amendment to exercise such rescission right. Sponsor must return any Deposit or down payment to Purchasers who timely rescinds within such fifteen (15)-day period, together with any interest earned thereon. See Sections F-2, L-2 and O-2.7.

For purposes only of presentation, the First Year's Budget but does not include: (a) estimated real estate taxes for the interim period prior to the separate assessment of Units; and (b) miscellaneous two and five year inspection fees. See Section F-6.

The First Year's Budget provides a fund for unanticipated operating expenses during the first year of Condominium operation, including an allowance for a possible increase in one or more expense items in the First Year's Budget and/or to add to the First Year's Budget one or more new expense items. No representation, assurance or guaranty is made or given that such Reserve for Contingencies will be adequate to provide for any actual increase in operating expenses during the first year of Condominium operation. If said Reserve for Contingencies is inadequate, it may be necessary for the Condominium Board to increase Common Charges or impose Special Assessments. This budget item is not to provide

a reserve for major or capital expenditures. A separate item of Reserve for Capital Replacements is included in the budget for the projected first year of Condominium operation (see Section A-3).

Under the By-Laws, a budget adopted by the Condominium Board may include a reserve for unanticipated operating expenses, including an allowance for a possible increase in one or more expense items and/or to add one or more new expense items. Any such reserve amounts shall be in an amount that shall not exceed five percent (5%) of the projected Common Expenses, excluding the Reserve for Capital Replacements, without obtaining the consent of Sponsor during the Sponsor Veto Control Period. See Section P-2.1.

Section A-5. Foreign Government and Diplomat. A foreign government or the United Nations, or any agency, department, embassy, consulate or mission or governmental entity of a foreign state or the United Nations, or any other international organization or instrumentality (each, "**Foreign Government**"), or any individual entitled to diplomatic or sovereign immunity ("**Diplomat**"), by accepting or recording a deed to a Unit or otherwise succeeding to title to a Unit, or leasing or occupying a Unit, shall conclusively be deemed to have automatically, irrevocably and unconditionally covenanted and agreed (among other things) to the following:

(a) to own, lease or occupy a Unit constitutes commercial activity within the meaning of the Foreign Sovereign Immunities Act of 1976, 28 U.S.C. §1602, et seq., as the same may be amended;

(b) to voluntarily waive all rights to any sovereign or diplomatic immunity (as applicable) from the personal jurisdiction of the courts of the United States of America and of the individual States comprising the United States of America with respect to any claim or litigation in connection with the Condominium Documents, as each may be amended from time to time;

(c) to consent to any suit, action or proceeding arising from the Condominium Documents, as each may be amended from time to time being brought in any state or federal court in the State of New York only;

(d) to waive any objection that such Foreign Government or Diplomat (as applicable) may have now or hereafter to the laying of the venue of any such suit, action or proceeding under clause (c) above; and

(e) to waive any objection that any such court, or to waive a claim that any such suit, action or proceeding under clause (c) above, has been brought in an inconvenient forum.

Section A-6. Foreign Person. An organization that is not formed or organized under the laws of the State of New York or is not an instrumentality of the State of New York or of any county, municipality, village or other Governmental Authority of the State of New York, or any individual who does not maintain his or her principal residence in the State of New York (each, "**Foreign Person**"), by accepting or recording a deed to a Unit or otherwise succeeding to title to a Unit, or leasing or occupying a Unit, shall conclusively be deemed to automatically, irrevocably and unconditionally covenant and agree to the following among other things:

(a) to be personally subject to the jurisdiction of the Supreme Court of the State of New York or (if such court lacks jurisdiction) a court of competent jurisdiction in the State of New York (including federal courts sitting in New York) and to JAMS (or any successor thereto with similar function) with respect to all litigation arising, directly or indirectly, out of the Condominium Documents, the Property;

(b) to conclusively be deemed to have automatically, irrevocably and unconditionally waived any defenses by a foreign organization or individual with respect to jurisdictional defects;

(c) to duly execute and deliver to the Condominium Board or the Condominium Board's agent engaged by from time-to-time by the Condominium Board to perform the duties of a managing agent of the Building ("**Managing Agent**"), if any (as directed by either), at or prior to the time such Foreign Person becomes a Unit Owner or a tenant of a Unit, an irrevocable and unconditional written designation or appointment of:

(c-1) (in the case of an organization) the Secretary of State of the State of New York as agent of said organization upon whom process against such organization may be served; or

(c-2) (in the case of an individual) an attorney admitted to practice and maintaining an office in the State of New York pursuant to an instrument unconditionally and irrevocably designating such attorney as his or her agent for service of process, or a New York organization, whose business includes to act as agent for service of process, as such Foreign Person's agent for service of process, each in form and content acceptable to the Condominium Board, in its sole Business Judgment.

Section A-7. Sponsor Control of Condominium Board, Common Expenses and Certain Work.

Section A-7.1. *Sponsor Voting Control of Board*. Sponsor shall have the right to exclusively appoint a majority of the Managers on the Condominium Board and thereby have voting control of the Condominium Board for five years from the First Unit Closing or whenever the Residential, Parking and Storage Units owned by Sponsor (each, "**Unsold Unit**", **"Unsold Residential Unit**", "**Unsold Parking Unit**", or **"Unsold Storage Unit**", or variations or derivations thereof, as applicable) constitute less than twenty-five percent (25%) of all Residential, Parking and Storage Units in number and Common Interest, whichever is sooner to occur ("**Sponsor Board Control Period**"). After the end of the Sponsor Board Control Period, the Independent Managers shall constitute a majority of the Managers on the Condominium Board. As a result, Sponsor may no longer exercise voting control of the Board. However, Sponsor shall continue to have the right to nominate and vote (without limitation or restriction) for all candidates to serve as Independent Managers, both before and after the end of the Sponsor Board Control Period. In addition, for as long as Sponsor owns at least one Unsold Residential, Parking or Storage Unit, Sponsor shall have the right to exclusively appoint one Sponsor Manager to serve on the Condominium Board. Sponsor will cause the Condominium Board to call a special meeting of Unit Owners to be held within approximately sixty (60) days after second anniversary of the First Unit Closing or whenever the Residential, Parking and Storage Units sold to Bona Fide Purchasers (each, "**Sold Unit**" or "**Sold Residential Unit**", "**Sold Parking Unit**" or "**Sold Storage Unit**", or variations or derivations

thereof, as applicable) constitute eighty percent (80%) or more in number and Common Interest of all Residential, Parking and Storage Units, whichever is the first to occur. See Section P-1.1. Prospective Purchasers should be aware that as a result of Sponsor's voting control over the Board during the Sponsor Board Control Period, Owner-occupants and Sponsor may have inherent conflicts on how the Property should be managed because Owner-occupants purchase Units as a home and Sponsor owns the Unsold Units as an investment.

Section A-7.2. *Sponsor Veto Control of Expenses*. During the period ending not more than five years after the Closing and conveyance of the first Residential Unit to a Bona Fide Purchaser or whenever the Unsold Units constitute less than 25% of the aggregate Common Interests appurtenant to all Units, whichever is sooner (**Sponsor Veto Control Period**"), Sponsor shall have veto control over the following expenditures, decisions and actions of the Condominium Board and Unit Owners (as to any vote or action by them), and the Board and Unit Owners must obtain Sponsor's consent to do any of the following:

(a) to raise Common Charges or levy a Special Assessment in order to do any of the following:

(a-1) to alter the General Common Elements, the Residential Common Elements, the Association's Assets, including any Unit owned or held under a lease or otherwise by the Condominium Board or its affiliate, incorporated or otherwise, organized by the Board to act on behalf and for the account of the Condominium Board or the Condominium Association;

(a-2) to establish a fund for reserves for unanticipated expenses and/or contingencies (i.e., a Reserve for Contingencies) in an amount that exceeds five percent (5%) of the projected Common Expenses, excluding the Reserve for Capital Replacements;

(a-3) to change or eliminate the Reserve for Capital Replacements set forth in this Plan, which is required to be included in each budget in accordance with the By-Laws;

(a-4) to increase, decrease, eliminate or otherwise change the number, type, classification or working hours of the Building's service staff from those set forth in the First Year's Budget, except as permitted to be changed pursuant thereto;

(a-5) to increase, decrease, eliminate or otherwise change Building Services by (for example) entering into contracts for new or additional services or maintenance work not included in said First Year's Budget, or failing to provide any service or maintenance contracts set forth in such First Year's Budget, or otherwise; or

(a-6) to increase, decrease, eliminate or otherwise change the amounts or types of insurance coverage from those provided in said First Year's Budget; or

(b) to borrow money on behalf of the Condominium Association; or

(c) exercise the Right of First Refusal to purchase or lease a Sold Residential alone or (if owned together) a Sold Residential Unit together with a Sold Parking Unit and/or a Sold Storage Unit.

Section A-7.2.2. Limitations on Veto Control. Sponsor may not, however, exercise veto control over:

(a) expenses included in said First Year's Budget; or

(b) expenses required:

(b-1) to comply with applicable federal, state, city or other local laws and ordinances (including the New York City Landmarks Preservation Law), and all applicable regulations, codes, rules, orders, permits, directives and requirements of all governmental agencies, departments, assessors, boards, bodies, instrumentalities and authorities (including the Landmarks Preservation Commission) having jurisdiction over the Property or the Condominium Association (each, "**Governmental Authority**"), as each may be duly amended from time to time (all such laws, regulations, codes, rules, orders, permits, directives and requirements of each and every Governmental Authority are collectively, "**Laws**");

(b-2) to remedy a governmental notice of a violation of Laws; or

(b-3) to remedy an order of a Governmental Authority or an insurer of the Building.

Section A-7.3. *Certificate of Occupancy; Sponsor Control of Certain Work*.

Section A-7.3.1. Certificate of Occupancy. No Unit may be occupied until a certificate of occupancy of the Building ("**Certificate of Occupancy**") authorizing the use of such Unit for the purposes set forth in this Plan is issued by the New York City Department of Buildings ("**DOB**"), whether such Certificate of Occupancy is a partial or temporary Certificate of Occupancy (collectively, "**Temporary Certificate of Occupancy**" or "**TCO**") or a final Certificate of Occupancy of the Building ("**Final Certificate of Occupancy**" or "**FCO**"), which authorizes the use of all Units for the purposes contained in this Plan. A TCO or FCO that authorizes storage on floor 2 or parking on the cellar level shall conclusively be deemed to authorize the fifteen (15) Storage Units to be located on floor 2 or the twelve Parking Units on the cellar level.

Section A-7.3.2. Sponsor's Control of Certain Work. In order for Sponsor to obtain in a timely manner from the DOB an extension of a TCO or the issuance of a FCO, the Condominium Board and a Sold Unit Owner shall not be permitted to apply to a Governmental Authority for an approval, license, authorization, certificate or permit in connection with any work to be undertaken ("**Governmental Work Permit**") prior to the issuance of a Final Certificate of Occupancy without obtaining the consent of Sponsor in each instance. The foregoing, however, shall not prevent the Board applying for, and obtaining, a Governmental Work Permit when required to perform work: (a) to comply with applicable Laws; (b) to remedy a governmental notice or violation; or (c) to remedy a work order by an insurer of the Building. See Section P-2.4.

Section A-7.4. *Sponsor's Liability*. The liability of Sponsor under this Plan, the Purchase and Sale Agreement, the Declaration, the By-Laws and the Rules and Regulations shall not extend to the managers, members, principals, representatives, agents or employees of Sponsor, each of whom shall be

immune from liability for acting in the capacity as such, but shall not be immune from liability as provided in Article 23-A of the New York General Business Law or Part 20 of Title 13 of New York Codes, Rules and Regulations promulgated by the Department of Law.

Section A-8. Resale Risk. A Purchaser may have difficulty in reselling his or her Unit if the prospective buyer is relying upon financing and is unable to obtain or close a loan because the Building does not then meet the lender's requirement for Units occupied by their Owners or a member of an Owner's immediate family (hereafter, "**Owner-Occupied**") or the Building does not qualify for federally insured or provided financing under federal loan programs. See Section A-9.1 for discussion.

Section A-9. Occupancy of Residential Units By Owners and Renters; Owner-Occupants and Board Control.

Section A-9.1. *Occupancy By Owners or Renters*. Sponsor will endeavor in good faith to sell all of the Residential Units being offered for sale in a reasonably timely manner, preferably to Purchasers for personal occupancy or use by Purchasers or one or more or members of their immediate families, but Sponsor reserves the to sell Residential Units to Purchasers for rental investment or resale. To that end, Sponsor has engaged a Selling Agent to market and multi-list the Residential Units for sale. Because of the uncertainty and volatility of market conditions, Sponsor reserves the unfettered right to rent Residential Units for an indefinite period after, but not before, the Plan is consummated with the First Unit Closing, except Sponsor may enter into an Interim Use and Occupancy Agreement for a Residential Unit with the Purchaser of such Unit, subject to obtaining the consent of the Construction Lender (which consent shall not be unreasonably withheld, conditioned or delayed, as provided in the Construction Loan Documents). See Sections B-4 and O-2.7. The Parking Units and Storage Units may only be sold to Owners of Residential Units and may only be leased or rented to residents of the Building. Until sold to Purchasers, Sponsor reserves the unfettered right to rent Parking Units and Storage Units to residents of the Building only.

Prospective 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 to be sold before a lender will consider making a loan. Thus, it may be possible for a Purchaser to experience difficulty obtaining a loan in a building or group of buildings where the sponsor or holder of unsold shares has not sold a substantial percentage of the apartments in the building or group of buildings, which in some cases may be as high as 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 10% or more. It also may be difficult for a Purchaser to resell a Residential Unit if prospective buyers are unable to obtain a loan due to the same minimum sales and investor ownership restrictions.

Prospective Purchasers also should be aware that they potentially may be living with transient tenants for an unlimited period. Transient tenants will receive the same Building Services and have the right to use and enjoy all of the same Building's amenities (e.g., the bike room, exercises room, children's playroom and recreation terrace) on the same terms and conditions as Owner-occupants. However, they

have no investment in their Units and, therefore, do not share the same economic interests and values as Owner-occupants in the maintenance and care of the Common Areas and the Common Facilities. The occupancy of Units potentially by transient tenants may limit or impair a Purchaser's ability to obtain financing or (after Closing) refinancing, or to resell the Unit to a Purchaser who is relying on financing, if the Building does not meet a lender's requirement (if any) for Owner-Occupied Units. Some Institutional Lenders may require up to seventy percent (70%) of the Units to be Owner-Occupied or such other percentage as may then be required by an Institutional Lender to which a Purchaser applies for financing. See Section A-8 and Section B-4.

Section A-9.2. *Owner-Occupants and Board Control*. Because Sponsor is not limiting the conditions under which it will rent rather than sell the Units, there is no commitment to sell more than fifteen percent (15%), or four Residential Units (rounded up), necessary to declare this Plan effective, with at least one Residential Unit Closing in order to convert the Property to a valid regime of condominium ownership. As a result, this Plan may not result in the establishment of a Condominium in which a majority of the Residential Units are owned by Owner-occupants or investors unrelated to the Sponsor. In addition, the Condominium By-Laws do not include a provision requiring a majority of the Condominium Board to be Owner-occupants or members of the Owner's immediate family who are unrelated to Sponsor and its principals after the expiration of the Sponsor Board Control Period. As a result, Purchasers for their own occupancy may never gain control of the Condominium Board under the terms of this Plan. See Section B-4, and Section Q-1.3.

Section A-9.3. *Effectiveness of Plan*. Sponsor may declare the Plan effective when Purchase and Sale Agreements are executed and in effect with Bona Fide Purchasers for a minimum of 15% of the Residential Units being offered for sale, or four Residential Units based on twenty-one (21) Residential Units being offered for sale (rounded up). Even if the Plan is declared effective with a minimum number of sales, it is possible that Sponsor may be able to establish the Condominium with fewer than the minimum number of sales because Purchasers being counted towards effectiveness do not ultimately complete the Closing of Title to their Units. Notwithstanding the Plan being declared effective, to consummate the Plan, the Declaration must be recorded and the Floor Plans must be filed in the City Register's Office, the First Unit Closing must be completed with at least one Purchaser of a Residential Unit under the Plan following Sponsor declaring the Plan effective and the acceptance and filing by the New York Department of Law of a Plan Amendment declaring the Plan effective. If all Purchase and Sale Agreements are either rescinded or terminated prior to the date of the First Unit Closing, regardless of whether the Declaration has been recorded, Sponsor must re-declare this Plan effective. See Section L for details.

Section A-10. Real Estate Tax Projection; Coop/Condo Tax Abatement.

Section A-10.1. *Real Estate Tax Projection.* The real estate taxes for the 2024 calendar year, the projected first year of Condominium operation, spans the last six months of the 7/1/23-6/30/24 fiscal tax year, when a pre-completion of construction assessed valuation of the Property is expected to be in effect, and the first six months of the 7/1/24-6/30/25 fiscal tax year, when a post-completion of

construction assessed valuation of the Property is anticipated to apply. For purposes of presentation, the projected real estate taxes contained in SCHEDULE A -- the Offering Price Schedule (in Section E) are based on the *projected post-completion of construction assessed valuation for the July 1, 2024 to June 30, 2025 fiscal tax year* and have been apportioned to all Units in the proportion that the Common Interest of a Unit bears to the total Common Interests of all Units. Metropolitan Realty Exemptions, Inc. ("**Metropolitan Realty**"), having offices at 349 Keap Street, Brooklyn, New York, states in its opinion letter, dated September 29, 2022 the New York City Department of Finance ("**DOF**") may use the Common Interest percentages set forth in the Declaration if such percentages are rationally and fairly determined. See Note 6 to SCHEDULE A and Section S-3 for more information regarding the projections of the assessed valuation of the Property after completion of construction and its apportionment to all Residential Units, all Parking Units, all Storage Units and both Retail Units. Prospective Purchasers also should be aware that improvements a Purchaser makes to his or her Residential Unit may increase its assessed valuation, resulting in higher real estate taxes.

While Metropolitan Realty has had considerable experience in real estate tax assessments, Sponsor, Selling Agent and Metropolitan Realty do not assure, represent or guarantee: (a) the accuracy of the real estate tax projections; or (b) the actual assessed valuation of the Property upon completion of construction of the Building; or (c) the actual apportionment of the Property's assessed valuation to each Unit; or (d) the actual tax rate or tax class for any tax period during Condominium operation. See footnote (6) to the Offering Price Schedule for details of Metropolitan Realty's projections and Section S-9 for the full text of its opinion and the assumptions and estimates upon which it is predicated.

Section A-10.2. *Coop/Condo Tax Abatement*. Real Property Tax Law ("**RPTL**") Section 467-a (known as the Coop/Condo Tax Abatement) has provided partial tax abatement to owners of residential cooperative and condominium units. RPTL Section 467-a is set to sunset on June 30, 2023. There is no guaranty that this law will be renewed or if renewed, that the benefit will not be reduced or eliminated as it relates to tax year 2024/2025 and thereafter. This Plan will be amended to reflect the status of RPTL Section 467-a when publicly available or when known to Sponsor.

Assuming RPTL Section 467-a is renewed and is unchanged, Owners of Residential Units who meet the requirements of this law can have their real estate taxes reduced. The amount of the abatement is based on the average assessed value of the Residential Units in the development. In this development, the tax benefit would be 17.5% of the real estate taxes based on the average assessed value of the Residential Units being greater than $60,000. In order for a Unit Owner to be eligible for the Condo Tax Abatement for a fiscal tax year starting July 1 and ending June 30, the deed conveying a Residential Unit to such Owner must be recorded by January 5th preceding such fiscal tax year. For fiscal tax year July 1, 2024 to June 30, 2025, the deed to a Purchaser must be recorded by January 5, 2024. Purchasers whose deeds are recorded thereafter and by January 5, 2025 will first become eligible for the Condo Tax Abatement for the July 1, 2025 to June 30, 2026 fiscal tax year. In addition, to be eligible for this benefit, the Condominium Board will be required to submit an affidavit certifying that all Building service employees employed or to be employed at the Property who work at least eight hours a week shall receive the prevailing wage for the duration of such Property's tax abatement and must file with the

Commissioner of the DOF by February 15th immediately preceding the July 1st to June 30th fiscal tax year a completed application for the entire Property. Prospective purchasers are advised to consult with their attorney and/or a real estate tax expert to determine the real estate tax implications of their purchase. See Section S-8.

Section A-11. Suspension of Voting and Other Rights. Under the By-Laws, if the Condominium Board perfects its lien against a Unit for unpaid Common Charges, then until the lien is paid or discharged by bonding or otherwise, the Owner of such Unit will not have the right to nominate candidates to serve on the Condominium Board or to vote for election of the Condominium Board or to serve as a member of the Condominium Board. See Section Q-6 for full discussion. In addition, no new mortgage may encumber a Sold Unit while its Owner is in default in paying the Common Charges or Additional Common Charges or other unpaid lien on said Owner's Unit is outstanding, other than a mortgage made when these requirements were met ("**Permitted Mortgage**"). See Section B-5.5.3.

Section A-12. Cancellation of Interim Use and Occupancy Agreement. If an Interim Use and Occupancy Agreement is entered into with a Purchaser for a Unit and the Interim Use and Occupancy Agreement is cancelled because of an uncured default or the election by such Purchaser to rescind pursuant to the terms of the Purchase and Sale Agreement or an offer to rescind in a Plan Amendment, said Purchaser will have a deadline of only thirty (30) days thereafter to surrender vacant possession of the Unit under the Interim Use and Occupancy Agreement. The thirty (30) days is a "TIME OF ESSENCE" period. If the Purchaser fails to timely surrender vacant possession of the Unit within such thirty (30)-day deadline period (regardless of inability or other excuse for not timely doing so), he or she will be liable to Sponsor for all costs and expenses incurred by Sponsor for the delay and to recover vacant possession of the Unit together with, if contested and awarded in a final non-appealable order or judgment of a court having competent jurisdiction, Legal Expenses and Per Diem Interest thereon to enforce or defend this right and to collect the amounts owed. See Section J-3 and Section J-4 for discussion.

Section A-13. Board Consent Required for Lease Term of Less Than One Year. A Sold Unit Owner may not lease his or her Sold Unit for less than one year to other than a member of the immediate family of an Owner or (in the case of an entity-Owner) a member of the immediate family of the permitted occupant of the Sold Unit, without obtaining the consent of the Condominium Board. This restriction does not apply to Unsold Units. See Section B-5.5.2 and Section R-1.1.

Section A-14. Terraces. A terrace is composed of concrete pavers (or other construction material) and supporting pedestals or shims, but not the roof or roof setback below a terrace, which is part of the General Common Elements. A terrace that is accessible through a door from the interior of a Residential Unit is part of the private and exclusive ownership and possessions of such Residential Unit. See the Offering Price Schedule in Section E-1 for details.

Section A-14.1. *General Restrictions and Requirements*. In order to protect the structural integrity and weather tightness of the Building and the safety of lower floors as well as a sidewalks adjacent to the Building, and to preserve the architectural and aesthetic harmony of the Building's façade

and minimize possible unsightliness, a Sold Residential Unit's windows, the doors leading to the Unit or its terrace (if any), said terrace, and related structures bordering a terrace, may not be replaced, removed or otherwise altered or decorated without obtaining in each instance the consents of the Board and (until issuance of the Final Certificate of Occupancy of the Building or while Sponsor owns an Unsold Residential Unit, whichever is the last to occur) Sponsor. The foregoing restrictions do not apply to Unsold Residential Units. Sponsor or other Owner of an Unsold Residential Unit shall have the unfettered right to alter and decorate their respective Unsold Residential Units, other than the requirement to comply with the applicable General Requirements (defined in Section A-32.2). See Sections B-7.1 and R-5.4.

Section A-14.2. *Gardening Restrictions and Requirements*. Any plants, trees, flowers, hedges, shrubs or other gardening item permitted to be installed on a Sold Residential Unit's terrace shall be contained in free standing, removable boxes of wood, lined with metal or other materials impervious to dampness and standing on supports at least two inches from the surface, and if adjoining a façade or exterior Building wall or parapet, at least three inches from such element. The wood boxes shall have suitable weep holes to draw off water and only light weight soil shall be used. In special locations, such as a corner abutting a façade or exterior Building wall or parapet or the like, plants may be contained in masonry or hollow tile walls which will be at least three inches from such elements, with a floor of drainage tiles and suitable weep holes at the sides to draw off water. No trees taller than six feet will be allowed on a terrace, including its container and supports. The Owner of such Sold Residential Unit shall have the duty, at such Owner's sole cost and expense, to properly maintain the containers, the drainage tiles and weep holes in operating condition in accordance with the Building Standard, and all gardening items properly pruned so that the height of tree shall not be taller than six feet, including its container and supports, and all gardening items shall not hang over the railings, parapets, fencing or other structures, or otherwise outside the borders of the Unit's terrace. See Sections R-5.4 and R-7.2.

Section A-14.3. *Use and Restrictions*.

Section A-14.3.1. Terrace. A Unit's terrace (if any) shall be used only for lounging, sunbathing and other passive recreational activities, and for no other purpose, and may be used and occupied only in accordance with the same Unit Users applicable to the interior of the Unit. In connection with such use:

(a) no terrace shall be enclosed, altered or partitioned, without obtaining the consents of both the Condominium Board and (until issuance of the FCO of the Building) Sponsor in each instance, except the reasonable consent of the Board and the consent of Sponsor shall be required for a temporary structure erected on a terrace in accordance with applicable Laws for religious, ceremonial or similar purposes;

(b) no antennae, satellite dishes or other telecommunication equipment may be installed in, on or from a terrace;

(c) no fence or partition (other than a fence or other barrier erected by Sponsor to separate two terraces), nor any furniture, furnishing, plants, trees, flowers, hedges, shrubs or other gardening item, planters or containers, structures or other objects shall be installed or placed in or on a terrace unless in compliance with applicable Laws and after first obtaining in each instance the reasonable consents of the Board and (until the Final Certificate of Occupancy of the Building is issued) Sponsor.

In no event may a terrace be used for sleeping, dining or any other any type of "living" or habitable space, or as an office. Failure to comply with these restrictions will be a violation of the Condominium Declaration and may result in a violation being issued by the DOB. The Condominium Board may enjoin such violation, among other rights and remedies provided in the Condominium Documents. The offending Unit Owner, at such Owner's sole cost and expense, shall be responsible to correct the condition causing the violation and to reimburse the Board for its costs and expenses and, if contested and awarded in a final non-appealable order or judgment of a court having competent jurisdiction, any Legal Expenses (with Per Diem Interest thereon) to enforce and uphold these restrictions and collect the amounts owed. See Section R-7.

Section A-14.3.2. Parking Unit. The Building will have an unattended parking garage with twelve (12) Parking Units. Each Parking Unit is to be used solely for parking a motor vehicle whose dimensions (i.e., width, length and height) shall fit entirely within the dimensions of the Parking Unit. The floor area of ten (10) Parking Units is planned to be 153 square feet, one Parking Unit is planned to be 173 square feet and one Parking Unit is planned to be 201 square feet, for a total of 1,904 square feet. Each 90 degree Parking Unit is scheduled to be 18 feet in length and 8 feet 6 inches in width. Each accessible van Parking Unit is scheduled to be 18 feet in length and 11 feet 2 inches in width. Each parallel Parking Unit is scheduled to be 20 feet 4 inches in length and 8 feet 6 inches in width. The height of Parking Units will vary approximately as follows: Parking Units 1 to 5: 7 feet 9 inches; Parking Units 6 to 11: 8 feet 5 inches; Parking Unit 12: 8 feet 9 inches. The Owner of a Parking Unit will be provided with a remote control device to access the gated garage from Lorimer Street.

Section A-14.3.3. Sold Storage Unit. A Sold Storage Unit shall be used only for the storage of personal belongings and effects of its Owner or tenant registered on the records of the Condominium Association in accordance with the By-Laws, or the Owner's or tenant's Household (as applicable). In no event shall a Sold Storage Unit be used to store any food or other perishable item, or any flammable or explosive item, or any item which would impose a health or safety threat or cause noxious odors, dirt or other unsanitary problems or create a nuisance.

Section A-14.3.4. Restriction on Ownership and Leasing. The Parking Units and the Storage Units are accessory to the Residential Units and are restricted to Sponsor, as the initial Owner of all Units, and Owners of Residential Units. In no event may the combined ownership of Sold Residential Unit with a Sold Parking Unit or a Sold Residential Unit with a Sold Storage Unit be severed. As a result, apart from Sponsor:

(a) a Sold Parking Unit and a Sold Storage Unit can only be owned by the Owner of a Sold Residential Unit and can only be leased or rented to a resident of the Building;

(b) the Owner of a Sold Residential Unit who also owns a Sold Parking Unit and/or a Sold Storage Unit:

(b-1) cannot convey title (whether by sale, gift, devise, intestacy, or otherwise) to, or mortgage, the Sold Residential Unit without simultaneously including in such conveyance or mortgage the Sold Parking Unit and/or the Sold Storage Unit (as applicable);

(b-2) cannot separately mortgage the Sold Parking Unit or the Sold Storage Unit without including in such mortgage the Owner's Sold Residential Unit; and

(b-3) shall have the right to separately sell the Sold Parking Unit and/or the Sold Storage Unit to another Residential Unit Owner only; and

(c) in a lien foreclosure sale of a Sold Residential Unit and a Sold Parking Unit and/or a Sold Storage Unit, or a deed given in lieu of foreclosure, the Sold Parking Unit and/or the Sold Storage Unit can only be conveyed to the purchaser at such lien foreclosure sale or to another Residential Unit Owner, or to the named grantee in the deed of the Sold Residential Unit given in lieu of foreclosure.

Section A-14.3.5. Handicapped Parking Space. Parking Unit 11 ("**Handicapped Parking Unit**") is designated a handicap parking space in accordance with Laws and measures 11 feet in width, 18 feet in length and 8 feet 5 inches in height. A Residential Unit Owner or a family member of such Owner who resides with the Owner in the Owner's Residential Unit ("**Handicapped Resident**") and has a motor vehicle with government-issued handicap licensed plate ("**Handicapped Vehicle**") will have priority rights to own the Handicapped Parking Unit. Sponsor reserves the right to sell the Handicapped Parking Unit to any Purchaser who is purchasing a Residential Unit, or to any then existing Owner of a Residential Unit who does not have a Handicapped Vehicle. If the Handicapped Parking Unit is not being used and occupied by a Handicapped Vehicle, then the Owner of a Residential Unit in which a Handicapped Resident resides and who has a Handicapped Vehicle that will fit on and within the dimensions of the Handicapped Parking Unit, shall have the right to require the Owner of such Handicapped Parking Unit, on not less than thirty (30) days' notice, to sell and convey the Handicapped Parking Unit at its then current fair market value to said Owner of the Residential Unit in which such Handicapped Resident resides. If the parties fail to agree upon the fair market value within fifteen (15) days after such notice is given, either party may submit the dispute to Baseball Arbitration for resolution. If said Owner of the Handicapped Parking Unit fails to comply with the foregoing, the Owner of the Residential Unit in which such Handicapped Resident resides shall have the right, in addition all remedies at law and in equity, to the remedies set forth in the By-Laws. See Section R-7.3.

Section A-15. Right of First Refusal and Mortgage Restriction. The Condominium Board shall have a Right of First Refusal to purchase or lease, directly or through a nominee or designee, a Sold Residential Unit or (if owned together) a Sold Residential Unit together with a Sold Parking Unit and/or a Sold Storage Unit at the same price or rent offered by a Bona Fide Purchaser or tenant, respectively, subject to obtaining the consent of a majority Residential, Parking and Storage Unit Owners, in number and Common Interest, at a duly convened meeting of such Owners called for such purpose at which a

quorum is present, or in writing in lieu of a meeting (excluding the selling or leasing Sold Unit Owner for quorum and voting purposes). The Right of First Refusal does not apply to the separate sale of a Parking Unit or a Storage Unit to another Residential Unit Owner or the separate lease or rental of a Sold Parking Unit or a Sold Storage Unit to a resident of the Building. Unless purchased or held under a lease pursuant to said Right of First Refusal, the Condominium Board does not have the right to approve or disapprove of a purchaser or tenant. As a result, there is no limit on the number of Purchasers who may purchase for rental investment or resale rather than personal occupancy and the Board and Unit Owners shall have no control over occupancy of Residential Units, apart from said Right of First Refusal. See Section B-7.8.1. The Board's Right of First Refusal and other restrictions, requirements and payments applicable to Sold Units are not applicable to Unsold Units or the Retail Units, each of which may be sold, transferred and leased freely (other than the requirement to lease an Unsold Residential Unit for a minimum initial term of at least six months, the restriction against using a Unit for Prohibited Uses, the requirement to sell and convey a Parking Unit and Storage Unit to only a Residential Unit Owner and the restriction to lease or rent a Parking Unit and a Storage Unit to only a resident of the Building). See Section A-32 and Section B-7.8.2.

An Owner may not encumber the Owner's Unit with a new mortgage while such Owner is in default in paying the Common Charges or Additional Common Charges or while an unpaid lien on said Owner's Unit is outstanding (other than Permitted Mortgages).

Section A-16. Planned Building Services.

Section A-16.1. *Amenities*. The planned Building Services include a bike room with 11 bike rack spaces, an exercises room, a children's playroom, a pet grooming station and a 6th floor recreation terrace with a barbecue. No representation, assurance or guaranty is made or given that the security system will prevent personal injury or damage to, or loss of, property. See Section C-1.5, for details. All Building Services are planned to be in effect from and after the First Unit Closing and occupancy of a Residential Unit, subject to delays caused by Unavoidable Causes.

Section A-16.2. *Electricity and Gas*. Electricity will be provided by Consolidated Edison Company of New York, Inc. (or any utility that subsequently supplies electricity to the Building) to each Residential Unit and Retail Unit. Gas service will be provided to each Residential Unit for cooking. Electricity will each be separately metered and paid by the Unit Owner directly to the utility provider as measured by the Unit's separate meter, the utility provider's rates in effect from time to time, and any taxes. Gas service will be commonly metered and included in the Residential Common Expenses.

Section A-16.3. *Cooling and Heating*. Each Residential Unit will be provided with cooling and heating from a heat pump split system with air handlers installed within the Residential Unit and condensers installed on the roof.

Section A-16.4. *Telephone, Television, Cable Television and High Speed Internet*. Telephone, cable television and high speed internet services will be, provided by Spectrum or Verizon FIOS and/or another service provider. All of these services will be available in each Residential Unit. The Residential

Unit Owner will be required arrange for these services with the utility provider and will pay directly to the utility provider for his or her individual: telephone charges and initial charges for activating individual outlets in the Residential Unit; charges for cable television service (including installation and subscription charges); and high speed internet.

Section A-16.5. *Refuse Disposal*. Each floor containing a Residential Unit will contain a trash room with a refuse chute and a recycling bin. The refuse chute will lead to the cellar trash room where the refuse will be compacted by a compactor. Refuse will be loaded into plastic bags and taken by the porter to curbside for collection by the New York City Department of Sanitation. See Section C-1.5.

Section A-16.6. *Laundry*. Each Unit will have a laundry closet or room outfitted with an Electrolux (or equal) compact electric washer and an Electrolux (or equal) compact electric dryer.

Section A-16.7. *Building Staff*. The Building staff is planned to consist of a part time visiting superintendent, doorman and porter. The Building staff will be engaged and working on site at or before the First Unit Closing and the occupancy of a Unit. The forgoing level of staffing complies with all applicable Laws, including the janitorial requirements stated under the New York City Administrative Code. See Schedule B in Section F for discussion.

Section A-17. Closing Apportionments Between Sponsor and Board. At the First Unit Closing, Sponsor and the Condominium Board will apportion certain customary Building expenses. If the Closing apportionments results in a "net amount" to be paid by the Condominium Board to Sponsor, the Condominium Board will pay such net amount to Sponsor at the First Unit Closing from the Initial Working Capital Fund and the payment of the first month's Common Charges. If such payments are insufficient, the balance owed shall be paid, without interest, in twelve (12) equal, consecutive monthly installments on the first day of the month, starting with the first full calendar month after the First Unit Closing, or sooner as, when and from the first Working Capital Fund Payments paid by Purchasers are received by Sponsor that otherwise would have been delivered to the Board, all pursuant to a promissory note to be signed and delivered by the Condominium Board at said First Unit Closing. If the net amount of the Closing apportionments is in favor of the Condominium Board:

(a) Sponsor's payment of the Initial Working Capital Fund will be credited against the net amount owed and (if insufficient) the deficiency will be paid by Sponsor to the Condominium Board at the First Unit Closing and added to the Working Capital Fund; and

(b) an amount equal to such credit that otherwise is to be reimbursed to Sponsor from the first Working Capital Fund contributions of Purchasers of Units will not be paid to Sponsor and instead will be paid to the Condominium Board. See Section N-1.4.

Section A-18. Construction Matters.

Section A-18.1. *Easements*. In order to permit Sponsor to complete construction necessary for the issuance of a Final Certificate of Occupancy and to perform other construction obligations under this Plan or a Purchase and Sale Agreement, Sponsor and Sponsor's Construction Parties shall have the

following unfettered easements and rights, among others, with respect to the General and Residential Common Elements after the First Unit Closing:

(a) an easement and right of preferential and priority access to, and use of, said Common Elements (including preferential and priority use of the elevator);

(b) an easement and right to transport on, across and through said Common Elements, and to temporarily store construction equipment, materials, supplies and debris on portions of said Common Elements considered appropriate by Sponsor or Sponsor's contractors; and

(c) the right to temporarily interrupt Building Services (including water, heating, cooling, electric, gas, ventilation, plumbing and other Building Systems).

Sponsor will endeavor to minimize inconveniencing residents of the Building.

Section A-18.2. *Disruptions*. After the First Unit Closing, portions of the Common Elements and Units will still be undergoing construction, equipping, outfitting and decorating, which may extend up to possibly a year or more, subject to delays caused by completion of Units and Punch List Work (which will have the highest priority) and Unavoidable Causes (defined below). During this period, the electrical, plumbing, elevator and other Building Systems may be disrupted temporarily from time to time as work is performed or Building Systems are balanced and adjusted. The occupied Residential Units, however, will remain habitable and a tenant protection plan to the extent required by Laws will be in place. The term "**Unavoidable Causes**" means acts of nature (such as flood, earthquake or severe or unusually inclement weather); explosion; fire; labor strikes, work stoppage or slowdown; shortage or late delivery or unavailability of materials or supplies; war, emergencies, national defense preemptions, governmental restrictions or actions; endemics and pandemics; court injunctions or orders; power interruption; failure of electrical or mechanical equipment; or other cause or event or circumstance beyond the reasonable control of Sponsor, the Condominium Board or other person in question (as applicable) and not attributable to the improper or bad faith conduct of such person. See Section CC-2.

Section A-18.3. *Construction Hours*. From and after the first occupancy a Residential Unit, Sponsor's Construction Parties shall have the unfettered right to perform work on Mondays to and including Fridays, from 8:00 a.m. to 5:00 p.m. and on Saturdays from 9:00 a.m. to 1:00 p.m., except that especially noisy work will not begin before 9:00 a.m., and except further that work may be performed at any time and on any day to correct or remediate a condition that: threatens or endangers the life, health, safety, security or protection of an occupant of a Unit; or requires action necessary to avoid injury to person or damage to property, or the suspension or disruption of an essential or necessary service to a Unit or the General or Residential Common Elements (collectively, "**Emergency**") See Section R-4.5.

Section A-18.4. *Security*. At the time of first occupancy of a Unit, all contemplated security systems will be fully operational (see Section C-1.5). No additional security measures are planned as the Common Areas and many Residential Units are anticipated to have been substantially completed, subject to customary Punch List Work remaining.

Section A-18.5. *Debris and Dust*. From and after first occupancy of a Residential Unit, the debris from the anticipated remaining work will be removed daily from the Building by Sponsor's appropriate Construction Parties. The dust from work within the Residential Units is anticipated to mostly be self-contained in the Units involved in the work. Any dust or dirt in the Common Areas will be cleaned at the end of the workday by Sponsor's appropriate Construction Parties.

Section A-18.6. *Inconveniences*. During the course of completing the construction and buildout of the Common Elements and the Units after the First Unit Closing, Residential Unit Owners in occupancy may experience construction noise, dust, debris, temporary interruptions in service and other inconveniences from time to time. In addition, portions of the General and Residential Common Elements, including the Building entrance and lobby and the elevator cab may be covered with padding or other protections for this interim period.

Section A-18.7. *Construction Schedule*. Based on the current schedule, the construction of the Building is projected to be sufficiently completed to permit the issuance of a TCO authorizing the residential use of at least one Unit in or about January 2024. Such date is only a target and is not guaranteed. The timetable for substantial completion of all Units and the Common Elements (other than cosmetic or immaterial work, including Punch List Work listed on a Purchaser's Final Inspection Statement, attached as Exhibit A to the Purchase and Sale Agreement) is currently scheduled to occur within approximately twelve (12) months from such date (i.e., December 2024), unless delayed by events or circumstances beyond Sponsor's reasonable control. While these are good faith estimates of the target dates for substantial completion, Sponsor does not assure, represent or guarantee that these goals will be achieved. See Section C-3.

Section A-18.8. *Construction Obligations*. Sponsor is obligated to construct and complete the Building in accordance with the Plans and Specifications identified in this Plan and has the right (subject to obtaining the consent if the Construction Lender to the extent required by the Construction Loan Documents):

(a) to divide, combine and reconfigure Residential Units (see Section I-4, and the requirements to be met in Sections I-5 and I-6);

(b) to substitute equipment or materials and make modifications of layout and design comprising the Building Systems and Facilities; provided, however, Sponsor may not:

(b-1) substitute equipment or materials of lesser quality and design; or

(b-2) change the size or location of the Building or Units or other improvements or Common Elements if such changes affect the percentage of Common Interests or adversely affect the value of any Unit to which title has closed or for which a Purchase and Sale Agreement has been executed and in effect unless all affected Unit Owners and Purchasers consent in writing to such change; and

(c) to make immaterial Construction Changes without consent of Unit Owners or Purchasers and without prior notice or a Plan Amendment; however this Plan will be amended to disclose any

material Construction Changes as required by Article 23-A of the General Business Law and Part 20 of the Department of Law's regulations and no material change may be made to a Unit in contract without the consent of the Purchaser.

Section A-18.9. *Construction Defects*.

Section A-18.9.1. Immaterial Construction Defects. Sponsor will not be obligated to correct Immaterial Construction Defects, which are defined in Section O-2.12.2 to mean:

(a) any immaterial variations from: Sponsor's Plans and Specifications, the Floor Plans of a Unit or a description of the construction of the Building (including the Units and Common Elements) set forth in this Plan; however this Plan will be amended to disclose any material variations from the foregoing as required by Article 23-A of the General Business Law and Part 20 of the Department of Law's regulations and no material variation may be made to a Unit in contract without the consent of the Purchaser;

(b) any immaterial variations necessitated by site conditions, or by construction, job or governmental requirements, provided all Construction Change Requirements are met to the extent applicable;

(c) any Construction Defects covered by assignable, unexpired warranties or other undertakings (however denoted) from manufacturers, contractors, suppliers or others that are assigned to, or benefit (without assignment), a Unit Owner or the Condominium Board;

(d) any condition caused by normal use, wear, tear, deterioration, settlement or shifting, or aging or seasonal variations; and

(e) any immaterial conditions or defects involving color, alignment, fit, noise, drafts, cracks, chips, scratches, breaks, curling, warpage or other imperfections.

Odors, noise, fumes, vapors and similar inconveniences transmitted from one Unit to another Unit or from the Common Elements to a Unit are common occurrences in multi-family dwellings and are not Construction Defects.

See Section O-2.12.2 for full discussion.

Section A-18.9.2. Patent and Latent Construction Defects. Sponsor's only obligation and liability shall be to repair, replace or otherwise correct (at Sponsor's exclusive option) in the manner determined by Sponsor (in its sole judgment):

(a) Patent Construction Defects, if any, in a Purchaser's Unit that are listed in Purchaser's Final Inspection Statement (to be completed by Purchaser, and to be signed by Purchaser and Sponsor or Sponsor's representative and received by Sponsor or its representative at or prior to the Closing of Title) or in a reasonably detailed Defect Notice received by Sponsor within a deadline of three months from the Closing of Title to the Unit (any item noted to be in working order in the Final Inspection Statement signed by Purchaser shall govern and control any conflict or inconsistency in the Defect Notice);

(b) Patent Construction Defects, if any, in the Common Elements that affect Purchaser's Unit as to which a reasonably detailed Defect Notice signed by Purchaser and received by Sponsor within a deadline of six months from the Closing of Title to the Unit; or

(c) Latent Construction Defects (if any) in Purchaser's Unit that are listed in a reasonably detailed Defect Notice signed by Purchaser and received by Sponsor within a deadline of one year following the Closing of Title to the Unit; and

(d) both Patent Construction Defects and Latent and Construction Defects in the Common Elements that are listed in a reasonably detailed Defect Notice signed by any Independent Manager and received by Sponsor within a deadline of one year from the later to occur of the completion of such defective Common Elements or the issuance of a Temporary Certificate of Occupancy of the Building.

Sponsor shall not in any event be responsible or liable for any losses attributable to Patent Construction Defects or Latent and Construction Defects in the Units or the Common Elements.

Sponsor shall not be obligated to repair, replace or correct, and shall not be liable for, Immaterial Construction Defects, whether affecting a Unit and/or the Common Elements or existing at the time of the Closing of Title to a Unit or arising thereafter. Purchasers shall purchase and Close Title subject to Immaterial Construction Defects in their respective Units or in the Common Elements that affect their respective Units, without any recourse against Sponsor, without abatement, set-off or credit against the Purchase Price, and without escrowing monies.

Nothing contained herein shall reduce or otherwise abridge any rights of Purchaser under Article 23-A of the General Business Law, or Part 20 of the Department of Law's regulations nor excuse Sponsor from Sponsor's Obligations to comply with Article 23-A of the General Business Law or said Part 20.

See Section O-2.12.2 for definitions of capitalized terms and full discussion.

Section A-18.10. *Remedies of Purchaser and the Board for Construction Defects*. If Sponsor defaults in Sponsor's Obligations to correct Patent and Latent Construction Defects, the sole right and remedy of a Purchaser (for Construction Defects in Purchaser's Unit) or the Condominium Board (for Construction Defects in the Common Elements) is a suit to compel Sponsor to repair, replace or otherwise correct (at Sponsor's exclusive option) in the manner determined by Sponsor (in its sole judgment) the Construction Defects, but Sponsor shall not be liable to Purchasers or the Condominium Board for any losses resulting therefrom. The foregoing, however, shall not limit liability for losses based on common law fraud or arising under Article 23-A of the General Business Law or Section 63 of the Executive Law. See Section O-2.12.4.

Sponsor shall be excused, released and discharged from Sponsor's Obligations for Patent and Latent Construction Defects in a Unit or the Common Elements if reasonably continuous access thereto by Sponsor and Sponsor's Construction Parties is prevented and is not given within a deadline of thirty (30) days ("TIME OF ESSENCE") after written notice thereof is mailed by certified mail (return receipt requested) or hand delivered, respectively, to the Purchaser of such Unit or an Independent Manager, as applicable. See Section O-2.12.4.

Section A-18.11. *20-Year Roof Warranty*. The roof will have a twenty (20)-year warranty by the manufacturer, which shall be limited to repairs of the roof caused by defective material, but the warranty will exclude repairs to any areas or facilities within the Building caused by leaks in the roof. See DOCUMENT 4 in Part II of this Plan entitled "Description of Property".

Section A-18.12. *Wood Floors*. The Units will contain engineered wood floors in the entry, bedrooms, living rooms and kitchens. Wood floors should not be washed with water and should be maintained in accordance with the manufacturers recommendations. Wood flooring is also subject to changes due to humidity as well as chipping, scratching, cracking, curling, warpage and other imperfections. Sponsor does not represent, assure or guarantee that the wood floors will maintain their appearance after they are subject to wear and tear and shall not be responsible or liable for any changes in appearance or condition resulting therefrom.

Section A-19. Sponsor's Financial Resources for Construction and Carrying Costs of Unsold Units. Sponsor represents that it has the financial resources: (a) to complete all planned construction of the Units and Common Elements in order to obtain a Final Certificate of Occupancy; and (b) to pay for all "carrying costs" (namely, Common Charges, Special Assessments (if any) of the Condominium Board, real estate taxes and financing debt service) of Unsold Units. No bond or security is being provided to secure Sponsor's Obligations for said construction or carrying costs. See Section O-2.3, Section O-2.7 and Section O-2.16 for further discussion.

Section A-20. Sponsor's Indemnity. Sponsor's agreement in Section O-2.1 to indemnify the Condominium Board and Unit Owners from and against suits or proceedings arising out of Sponsor's acts or omissions is conditional upon any Independent Manager (on behalf of the Board) in the case of a claim with respect to the Common Elements, or an affected Unit Owner in the case of a claim with respect to said Owner's Unit, promptly notifying Sponsor in writing of any claim for which indemnity is sought, but in no event shall Sponsor receive such notice, together with any complaint or petition (as applicable) as to which Sponsor is not directly served with process therein, later than five full business days before an answer is required to be served or filed. Such five-business day period is a "TIME OF ESSENCE" or deadline period. See Section O-2.1 for full discussion.

Section A-21. No Housing Merchant Implied Warranty. Article 36-B of the General Business Law entitled "Warranties on Sale of New Homes" does not apply to newly constructed condominium units in buildings taller than five stories and, therefore, does not apply to the Units. Except to the extent set forth in Section O-2.11.5, Sponsor does not warrant the materials or workmanship of any Unit or the Common Elements. Sponsor's Obligation, regardless of any limitations in the warranty or in this Plan, is to construct the premises in accordance with all applicable codes and filed plans and specifications, and that any conflict between the disclaimers and Sponsor's Obligation to construct the premises in accordance with all applicable codes and filed plans and specifications shall be resolved in favor of the latter.

Section A-22. Square Footage in the Offering Price Schedule and Floor Plans Exceed Usable Floor Area. In accordance with customary practice in New York City, the approximate floor area of each Unit

shown on the Offering Price Schedule (in Section E) or the Unit's Floor Plan (in DOCUMENT 5 in Part II of this Plan) has been measured as follows. The indoor area of each Residential, Retail and Storage Unit is measured: horizontally from the prevailing exterior side of an enclosing boundary wall or façade or exterior Building wall (but not beyond the Property line), or from the midpoint of a party wall separating two Units; and vertically from the Unit-side of the surface of the structural floor to the Unit-side of the surface of the structural ceiling. Each terrace is measured: horizontally from the prevailing exterior side of an enclosing parapet (but not beyond the Property line) or from the exposed prevailing surface of an enclosing façade or exterior Building wall, or from the midpoint of a fence or barrier separating two terraces; and vertically from the Unit-side of the surface of a roof or roof setback enclosing the terrace to a height of an imaginary horizontal plane that is directly opposite and coincident with the Unit-side of the surface of the Unit's structural ceiling. The Common Elements (their surfaces, façade or exterior Building walls, party walls, chase walls, interior columns, and shafts) bordering or within the interior of a Unit or terrace are included in the computation of the floor area of the Unit and terrace, but such Common Elements are not part thereof. As a result, the indoor or outdoor floor areas of a Unit will substantially exceed the Unit's useable floor areas. The room and area dimensions, however, are measured from the exposed surface of the prevailing walls enclosing the room or area, but cabinets, moldings, baseboards and the like are not subtracted. Each 90 degree Parking Unit is 18 feet in length and 8 feet 6 inches in width. The Handicapped Parking Unit is 18 feet in length and 11 feet 2 inches in width. Each parallel Parking Unit is 20 feet 4 inches in length and 8 feet 6 inches in width. See Section C-1.3 for discussion.

All measurements and dimensions are approximate, rounded and within reasonable tolerances and estimates based on Sponsor's Plans and Specifications, all of which are subject to normal construction allowances, tolerances, variances and changes pursuant to Sponsor's Right to change the number, configuration, layout, size and room dimensions of Units in compliance with Part 20, Section 20.3(k) of the regulations issued by the Department of Law (see Section I-4 and Section I-5). An immaterial inaccuracy in the actual square footage (i.e., floor area) or the actual size of individual rooms or areas of a Unit when built from that shown on its Floor Plan in DOCUMENT 5 in Part II of this Plan (or any other drawing or diagram) and the Offering Price Schedule (in Section E) shall not excuse a Purchaser from his or her obligation under the Purchase and Sale Agreement to pay the full Purchase Price and all Closing costs, without abatement, set-off or credit, and without liability or recourse of any kind against Sponsor or the Selling Agent.

If the actual aggregate floor area of a Unit or the individual floor area of a room or area therein when built, as similarly measured as set forth above, is materially smaller than shown on its Floor Plan in DOCUMENT 5 in Part II or in the Offering Price Schedule, this Plan will be amended to offer the affected Purchaser the right for fifteen (15) days after "Presentation" (defined below) of the Plan Amendment to rescind and recover Purchaser's Deposit together with any earned interest thereon, which shall be the limit on Purchaser's remedy and Purchaser's sole recourse against Sponsor and its Selling Agent. Sponsor reserves the right to make changes in the planned Unit Layout. See Section I-4) and footnote (2) to the Offering Price Schedule.

The term "**Presentation**" or words of similar import mean the day of hand delivery or (if mailed) the fifth day after mailing (whether by ordinary mail or registered or certified mail, with or without return receipt requested) of this Plan or a Plan Amendment to prospective Purchasers, all then existing Purchasers and (after the First Unit Closing) then existing Sold Unit Owners.

Section A-23. Limited Common Elements. The Limited Common Elements are the portions of the Common Elements that are restricted and limited to the exclusive use and enjoyment of a specified Unit Owner and consist only of a Residential Unit's windows and a Retail Unit's storefronts. Each Owner will be responsible, at the Owner's sole cost and expense, to maintain, repair, replace and restore the Unit's Limited Common Elements, except the Condominium Board, as a Residential Common Expense, will perform the work necessary to close the lot line windows, if and when such closure is required by Laws. See Sections A-1.3, B-7.2.3 and R-4.1.

A Residential Unit's windows may not be replaced, removed or otherwise altered or decorated without obtaining in each instance the prior written reasonable consent of the Board and (until the Final Certificate of Occupancy of the Building is issued) the consent of Sponsor; except window shades, blinds, curtains and other window treatments will be permitted if they are light colored with light colored backings facing the outdoors in conformity with the Rules and Regulations and any amendments to them adopted from time to time by the Condominium Board (said amendments shall be subject to obtaining the consent of Sponsor while Sponsor owns any Unsold Unit). See Section B-7.8.1.

Section A-24. Views from Units (Light and Air). The Building is located in Brooklyn, which is experiencing new construction or rehabilitation projects. Because nearby sites may be developed with new buildings or the buildings thereon may be reconstructed with additional floors, the views and "light and air" from any Unit at the time of purchase or Closing of Title may change and become obstructed. No representations are made or assurances given that the view or views from any Unit will remain as they are as of the date of this Plan or the date of Closing of Title to a Unit, or thereafter. Sponsor, however, is not planning and is unaware of any planned development or construction at sites near the Building at the date of this Plan. See Section AA-5.

Section A-25. Construction Inconveniences from Other Sites. In addition, Unit Owners may experience the noise, disruption, dust and other inconveniences associated with nearby construction. Sponsor, however, is not aware of any planned development or construction at sites near the Building at the date of this Plan. See Section AA-5.

Section A-26. Insurance.

Section A-26.1. *Insurance to be Maintained by Condominium Board*. The insurance to be maintained by the Condominium Board will include the cost to replace the Common Elements, including the façade or exterior Building walls, party walls enclosing Units, structural floors and structural ceilings, following a fire or other casualty based on a "replacement cost endorsement". Under this endorsement, the insurance carrier agrees to reimburse the Condominium Association for losses up to the full amount of the policy limit, regardless of the actual cost of replacement. The effect of the endorsement is to

waive any claim the insurer might otherwise have for co-insurance whereby the Condominium Association would bear a portion of the cost of replacement. The endorsement, however, does not mean that the Condominium Board would necessarily receive sufficient proceeds to actually fully rebuild or restore the Building in the event of its total or substantial destruction. The Condominium Board will be responsible to periodically review the amount of casualty insurance for the Building's Common Elements to assure that the amount of coverage is sufficient, See Section B-7.8.4 and the Insurance note in Schedule B in Section F for discussion.

Section A-26.2. *Insurance to be Maintained by Sold Residential Unit Owners*. The Condominium Association's insurance will not cover: (a) losses to the furniture, furnishings, personal belongings, fixtures, cabinets, appliances, finishes or other improvements or contents of, or within, a Unit, including wall and floor coverings and finishes, window treatments and other decorations; or (b) claims for personal injury and property damage arising from occurrences within a Unit or on a Residential Unit's terrace (if any). Each Owner of a Sold Residential Unit shall be required to obtain and maintain condominium homeowner's insurance as follows: Personal Property in the amount of $150,000; Alterations & Additions in the amount of: $150,000; and Personal Liability in the amount of $1,000,000. The Sold Residential Unit Owner's Property and Liability coverage is to be endorsed to provide a waiver of subrogation in favor of the Condominium Board. These insurance requirements do not apply to Owners of Unsold Residential Units, or Owners of Storage Units, Parking Units or Retail Units. See Sections B-7.9.2, O-2.5 and R-6.1.9.

It is noted that the liability insurance to be maintained by the Condominium Board will cover claims for personal injury and property damage arising from occurrences on the Common Elements. Nonetheless, Unit Owners may be liable, jointly and severally, for occurrences in, on or caused by the Common Elements to the extent the liability insurance maintained by the Condominium Board is inadequate or does not cover the risk. See Section B-7.8.4 and Section R-6 for discussion.

Section A-27. Certain Sponsor's Rights.

Section A-27.1. *Definition*. The special easements, rights, licenses, exemptions, remedies, indemnities, privileges, benefits and protections of Sponsor set forth in this Plan or the Condominium Documents, as each may be duly amended by Sponsor, are called collectively, "**Sponsor's Rights**" and shall apply to all Unsold Units owned by Sponsor at the time in question. Certain Sponsor's Rights are listed below.

Section A-27.2. *Condominium Amendment*. Sponsor's Rights include Sponsor's unfettered right to amend the Condominium Documents (each, "**Condominium Amendment**") without the consent of the Condominium Board or Unit Owners for the purpose (among other things) to reflect Unit Changes made to Unsold Residential Units or to conform the Condominium Documents to objections from an Institutional Lender, a Governmental Authority or a title insurer, or to correct scrivener's errors. See Section O-1.12.1 for full discussion.

Section A-27.3. *Prohibited Condominium Amendments.* No Condominium Amendment, however, may change the use or Common Interest of a Sold Unit, or require a Sold Unit to physically be modified, nor adversely affect the priority or validity of the lien of any purchase money mortgage or Institutional Lender's mortgage on a Sold Unit, unless the Owner of the affected Sold Unit or said mortgage lender (as applicable) consents in writing to the Condominium Amendment. In addition, no Condominium Amendment may be made by the Condominium Board or other Unit Owners that: (a) unreasonably interferes with the disposition of an Unsold Unit or a Retail Unit; or (b) imposes new, different or additional fees or charges (whether or not discriminatory) on Sponsor or a Purchaser, tenant or occupant of an Unsold Unit or a Retail Unit; or (c) limits, restricts, impairs, burdens or otherwise changes the permitted use or occupancy, or Common Interest, or value of an Unsold Unit or a Retail Unit; or (d) otherwise adversely affects Sponsor's Rights or a Retail Unit or its Owner, without obtaining in each instance the consent of Sponsor or the Owner of the affected Retail Unit (as applicable), recorded together with such Condominium Amendment. See Section O-1.12.2 for full discussion.

Section A-27.4. *Sponsors Right to Make Unit Changes*. In order meet the possible demand for Units of different sizes and/or configurations, or to meet particular requirements of Purchasers or prospective Purchasers, or for any other reason or no reason, Sponsor reserves the right from time to time, both before and after the First Unit Closing, to divide, combine, reconfigure and alter Unsold Residential Units in compliance with Part 20, Section 20.3(k) of the regulations promulgated by the Department of Law and the Unit Change Requirements, as more fully explained in Section I. The Plan will be amended to reflect such Unit Changes, but no Unit Change shall be made for a Unit in contract without the consent of the Purchaser of such Unit.

Section A-27.5. *Sponsor's Right to Grant Easements, Licenses and Leases.* For so long as Sponsor owns any Unsold Unit, Sponsor shall have the right, on behalf of all Unit Owners, to grant easements, licenses and leases to all or any portion of the Common Areas of the Property as Sponsor deems necessary or desirable to: (a) properly operate and maintain the Common Elements; (b) promote and protect the general health, safety, security, protection or welfare of Owners or occupants of one or more Units; (c) to comply with applicable Laws or requirements of a Governmental Authority having competent jurisdiction; or (d) to install, maintain, repair, restore and operate telecommunication equipment and other utility services. See Section O-1.13 for discussion.

Section A-27.6. *Sponsor's Rights to Sell, Lease, Sublease and Mortgage*. Subject to compliance with Sponsor's Construction Loan Documents, Sponsor shall have the unfettered right to sell, convey, lease, sublease and mortgage (with one or more mortgages) Unsold Units from time to time, free of the Condominium Board's Right of First Refusal to purchase or lease the Unsold Unit, and without:

(a) the consent of the Condominium Board or Unit Owners;

(b) complying with any kind of condition, requirement or restriction other than the following:

(b-1) Sponsor shall not rent Unsold Units until after the First Unit Closing, except Sponsor may enter into an Interim Use and Occupancy Agreement for a Unit with the Purchaser of such Unit, subject to obtaining the consent of the Construction Lender (which consent shall not be unreasonably withheld, conditioned or delayed, as provided in the Construction Loan Documents);

(b-2) the initial term of the lease shall not be less than six months; and

(b-3) the lease shall expressly provide that it is subordinate to the Condominium Documents;

(c) complying with any requirements as to the form of lease, sublease, mortgage or other instrument;

(d) Sponsor or a Purchaser, tenant or subtenant paying any fee to move in or to move out or otherwise, or any charge, "flip tax", "exit fee", "entrance fee", imposition or expense to the Condominium Board or its Managing Agent or attorneys (however, this will not excuse the payment of any applicable governmental taxes charged by Law, such as the New York City and New York State transfer taxes, which shall be payable by the Purchaser pursuant to the Purchase and Sale Agreement); and

(e) the proposed Purchaser, Owner, tenant or subtenant (as applicable) submitting an application, financial or bank statement, copies of income tax returns, references or other documents or attending a personal interview or complying with any requirements, restrictions or otherwise.

Section A-27.7. *Sponsor Designee*. A person who is designated by Sponsor in a Plan Amendment or a deed or other instrument executed and notarized by Sponsor as having all of Sponsor's Rights under this Plan, a Plan Amendment and the Condominium Documents with respect to the Unsold Units owned by such person is a "**Designee**" or a "**Sponsor Designee**" shall be binding upon, and enforceable by a Sponsor Designee against, the Condominium Board and all Unit Owners with respect to each Unsold Unit owned by a Sponsor Designee, but subject to the limitations, restrictions and requirements applicable to Sponsor's Rights as contained in this Plan and Condominium Documents. Each Designee shall have the same right to designate a person as a Sponsor Designee in the same manner as Sponsor provided herein. See Section O-1.

Section A-28. Certificate of Occupancy. *Purchasers are advised that in New York City, newly constructed and newly renovated buildings are sometimes offered as condominium projects without a FCO covering the entire building but with only a TCO and sometimes with several successive TCOs. Certificates of Occupancy are generally governed by Section 301 of the New York Multiple Dwelling Law and local building codes and rules. Both TCOs and FCOs are issued by the DOB. A TCO is intended to indicate that the property conforms substantially to the DOB approved plans and specifications, and to the requirements of all applicable Laws for the uses and occupancies specified in the TCO. No change of use or occupancy shall be made unless a new Certificate of Occupancy is issued. All TCOs have an expiration date. A TCO typically expires ninety (90) days after the date of issuance.*

*When a TCO expires and is not renewed, it may be difficult or impossible to buy insurance, refinance, or sell Units. In New York City, it is common for sponsors to commence unit Closings when some or all units are covered by a TCO rather than a FCO. Sponsor anticipates this scenario may occur. Sponsor and its principals will undertake the responsibility for extending each TCO received prior to expiration thereof, and ultimately for obtaining a FCO covering the entire Building. However, Sponsor and its principals make no representation or guarantee that DOB will issue the FCO within two years, which is the timeframe anticipated by the Multiple Dwelling Law ("**MDL**") for issuance of a FCO. NOTWITHSTANDING THE FOREGOING, SPONSOR AND ITS PRINCIPALS ARE OBLIGATED TO PROCURE THE FINAL CERTIFICATE OF OCCUPANCY FOR THE ENTIRE BUILDING, AND SHALL EXERCISE BEST EFFORTS TO OBTAIN THE FCO WITHIN SUCH TWO-YEAR PERIOD WHILE KEEPING THE TCO CURRENT. Unit Owners and the Condominium Board shall be obligated to cooperate with and refrain from obstructing Sponsor in these undertakings.*

Purchasers are advised to visit the DOB website (Factsheet on Certificates of Occupancy at *http://www.nyc.gov/html/dob/downloads/pdf/co_factsheet.pdf*) for recommendations when buying units in a condominium that does not have a FCO. See Section O-2.10.

Section A-29. Security for FCO. In accordance with Part 20.3(t)(13) of the Department of Law's regulations, Sponsor is required to maintain all Deposits and funds paid on account of the Purchase Price in the special escrow account required by General Business Law Section 352-e(2-b) unless Sponsor's engineer, architect or other qualified expert certifies that a lesser amount will be reasonably necessary to complete the work to the Common Elements and the Building Services to be provided to all Units needed to obtain a FCO, in which case the sum exceeding the amount so certified by Sponsor's engineer, architect or other qualified expert may be released from the special escrow account. Alternatively, Sponsor must deposit with an Escrow Agent an unconditional, irrevocable letter of credit or post a surety bond in the amount so certified, or in an account 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 secure its obligation to obtain a FCO with other collateral acceptable to the Department of Law and disclosed in a Plan Amendment (e.g., cash deposit or (if acceptable) the unfunded portion of a mortgage loan). As the work progresses, Deposits held for Units conveyed to Purchasers may be released to Sponsor from time to time, provided the remaining Deposits maintained in the special escrow account, together with such other collateral acceptable to the Department of Law, shall be not less than the amount then so certified to be reasonably necessary to complete all remaining work for the Common Elements and the Building Services to be provided to all Units in order to obtain a FCO. See Section O-2.11.

Section A-30. "As Built" Plans. With reasonable promptness after issuance of a Final Certificate of Occupancy, Sponsor will deliver to the Condominium Board or its Managing Agent a set of "as built" plans used for the major components of the Building's Systems and the maintenance manuals for the Building's mechanical equipment to the extent provided by the applicable manufacturer, vendor or contractor. See Section O-2.15.

Section A-31. Business Judgment Rule. The decisions, approvals, consents, actions and transactions of the Condominium Board or the Residential Managers or the Sponsor Manager or Managers under the Condominium Documents that are made in good faith, for the purposes set forth in the Condominium Documents and within the scope of the party's authority, absent bad faith, breach of a fiduciary obligation, self-dealing, breach of contract or disparate treatment are called the "**Business Judgment**" and shall have the equivalent status of those made by a cooperative housing corporation as to which the so-called "**Business Judgment Rule**" articulated in *Levandusky v. One Fifth Ave Corp.* (75 NY2d 530 [1990]). Under this Plan and the Condominium Documents, the Business Judgment Rule shall not apply to any decisions or transactions affecting, directly or indirectly, the Sponsor or other Owner of an Unsold Unit, or the Owner of a Retail Unit, the Sponsor's Rights under this Plan or the Condominium Documents, or an Unsold Residential, Parking or Storage Unit, or a Retail Unit or its Owner, or the business to be conducted in or the operation of a Retail Unit, or the easements, rights, remedies, indemnities, protections, privileges, exemptions and other benefits of an Owner of a Retail Unit, which shall be subject to scrutiny and determined solely on the merits by a court, arbitration panel or other forum having competent jurisdiction, without any deference, weight or favorable assumption being given to the Condominium Board or the Residential Managers or the Sponsor Manager(s). The foregoing is not contrary to the Condominium Act or any other statute, and its enforceability has yet to be determined by a court. See Section Q-1.7.2.

Section A-32. Prohibited Uses; General Requirements.

Section A-32.1. *Prohibited Uses*. The Common Elements, the sidewalks and the Units (or only Sold Units where indicated) shall not be used for any of the following uses (collectively, "**Prohibited Uses**"):

(a) any use or alteration of, or matter kept in or on, a Unit or Common Element, that, in the Business Judgment of the Board, would impair or threaten the structural integrity of the Building, or damage to the Common Elements or another Unit, or the life, health, safety, protection or security of Owners or tenants of Units;

(b) any use that violates applicable Laws (as such Laws may change from time to time as a result of a statutory change, a zoning variance, a new or amended Certificate of Occupancy of the Building or otherwise);

(c) any use of, or matter kept in or on, a Unit or Common Element, whether permitted or suffered, that increases the rate of insurance of the Property, or results in, or in the Business Judgment of the Board would result in, the cancellation or notice of cancellation of insurance maintained by the Board;

(d) any use of a Unit that increases or, in the Business Judgment of the Board, would increase, the rate of insurance for the Property above the rate in effect at the date of recording the Declaration, unless the Unit Owner responsible for such increase pays the additional premium therefor as a Specially Allocated Expense;

(e) any use inconsistent with or in violation of its permitted use;

(f) any use of, or practice permitted or suffered in, on or to a Sold Unit, a Common Element, or a sidewalk that, in the Business Judgment of the Board, is an unreasonable and substantial annoyance or nuisance to an Owner or a tenant of another Unit or an unreasonable, substantial and repeated interference with the peaceful possession or proper use and enjoyment of a Unit or the Common Elements for their intended or permitted purposes as stated in the Condominium Documents;

(g) any use of a Common Element causing or comprising waste;

(h) any use involving the storage, purchase, sale, disposal or release or other disposition of any hazardous, explosive, toxic or radioactive material, matter, substance or waste that is or becomes regulated under applicable Law, including: asbestos; polychlorinated biphenyls (i.e., "PCBs"); radioactive substances; petroleum, petroleum-based derivatives and hydrocarbons; urea formaldehyde; and any "hazardous substance" or "hazardous waste", as defined in and regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq., or the Resource Conservation and Recovery Act, 42 U.S.C. §§6901, 6903, 6921, et. seq., as each statute may hereafter be amended from time to time, or any other existing or hereafter enacted or promulgated new applicable federal, state or local Law, but excluding from the foregoing the following:

(h-1) petroleum products for mechanical equipment of a Unit or Common Element that are properly used and stored in accordance with applicable Law or the Condominium Documents; and

(h-2) cleaning, heating and lubricating products in general use in first-class, high quality residential buildings located in the vicinity of the Building and similar to the Building's amenities; provided, however, such products are properly used and stored in accordance with applicable Laws;

(i) any use of a Unit or any portion thereof by: (i-1) any Foreign Government, unless such Foreign Government waives its sovereign or diplomatic immunity in conformity with the terms contained in the Declaration; or (i-2) a Foreign Person, unless such Foreign Person designates an agent for service of process in accordance with the terms of the Declaration; and

(j) any change in use that would require a new or amended Certificate of Occupancy that would affect the permitted use of another Unit.

See Section R-7.5 for discussion.

Section A-32.2. *General Requirements***.** The use and enjoyment of the Common Elements, and a sidewalk adjacent to the Property by each Unit Owner or only each Sold Unit Owner (as indicated), and all Unit Users of such Unit Owner or only each Sold Unit (as applicable), and the Condominium Board, and the use and enjoyment of each Unit or only each Sold Unit (as indicated) and its Limited Common Elements by the Owner thereof and all Unit Users of such Sold Unit, shall be in accordance with the following requirements (collectively, "**General Requirements**"):

(a) the requirement to use and enjoy the Common Elements, a sidewalk and Units (or only Sold Units where indicated) and their respective Limited Common Elements for the purposes for which each is reasonably suited, capable, designed and intended, and as permitted or stated in the Declaration, the By-Laws or the Rules and Regulations, but not to permit or suffer Prohibited Uses;

(b) the requirement to use and enjoy the Common Elements, the Limited Common Elements, the sidewalks, and the Units in accordance with the Building Standard and in a manner that shall not hinder or impair the exercise of, or infringe, the Sponsor's Rights;

(c) the requirement to maintain, repair, restore, alter, operate or otherwise perform all manner of work affecting a Unit, a Limited Common Element, a General or Residential Common Element, an Association's Asset, or a sidewalk as summarized in this Plan and as more fully set forth in the Declaration and the By-Laws ("**Work Requirements**");

(d) the requirement to obtain the consent of Sponsor or (after FCO is issued) the Condominium Board to alter or otherwise change the aesthetics, architectural integrity or appearance of the façade or exterior Building walls, Residential Unit windows or street entrances to the Residential Common Elements, unless required by Law or in connection with permitted maintenance or repairs in accordance with the Building Standard; provided, however, such changes (including design and materials) shall be consistent in all material respects to the original aesthetics, architectural integrity and appearance of such façade or exterior Building walls, Unit windows or street entrances as determined solely by Sponsor or (after the Final Certificate of Occupancy is issued) the Condominium Board;

(e) the requirement of each Sold Residential Unit Owner to not discharge, nor permit or suffer (whether knowingly or unknowingly) such Owner's tenant to, discharge, any materials or items into, or to emanate from, such Owner's Residential Unit into waste lines, vents or flues that causes or would reasonably expect to cause damage thereto;

(f) the requirement of each Sold Unit Owner to not, nor permit or suffer (whether knowingly or unknowingly) such Owner's tenant to, emit fumes, vapors or odors from such Owner's Residential Unit that would unreasonably disturb or interfere with the comforts, conveniences or use and enjoyment of another Owner or a tenant of such other Owner's Unit;

(g) the requirement of each Unit Owner to not install or use, nor permit or suffer (whether knowingly or unknowingly) a tenant of such Owner's Unit to install or use, any facilities in or on said Owner's Unit or the Common Elements that exceeds the Building's permissible floor load or electrical capacity under applicable Law;

(h) the requirement of each Sold Unit Owner, at its sole cost and expense, to install and maintain in its Unit, and to cause a tenant of such Owner's Unit to install and maintain therein, such insulation or buffers or other material or apparatus as may be necessary to prevent the transmission from such Owner's Unit to another Unit of commercially unreasonable disturbing noise, vibration, odor, fume or other interference with another Unit's electrical, internet, television or other telecommunication equipment; and

(i) until issuance of the Final Certificate of Occupancy, the requirement to obtain the consent of the Sponsor for any work to be undertaken by or behalf of the Condominium Board or a Unit Owner or its tenant that requires a Governmental Work Permit or an application therefor.

Section A-33. Outfitting of Units. Residential Units are planned to be outfitted as set forth below, subject to the right reserved to Sponsor to substitute material and appliances of no less equal in quality or design. Kitchens with a 30 inch Bertazzoni gas range will be outfitted with a 30 inch a Bertazzoni range microwave oven, a 36 inch integrated French door refrigerator by Fisher & Paykel, a 24 inch panel ready dishwasher by Cove, and natural stone Taj Mahal Quartzite Slab kitchen counter and backsplash. Kitchens with a 36 inch Wolf gas range will be outfitted with a 24 inch Wolf drawer microwave oven, a 36 inch Subzero integrated French door refrigerator/freezer, a 36 inch XO Appliance hood exhaust, a 24 inch Cove ready dishwasher, and natural stone Taj Mahal Quartzite Slab kitchen counter and backsplash. All Residential Units will have a laundry closet or room outfitted with an Electrolux 24 inch compact washer/compact condensation dryer. Unit entrances, bedrooms, living/dining rooms and kitchens will have engineered hardwood European white oak 5/8 inch flooring, 7 inch wide plank. The Purchase Price of a Residential Unit includes all of the foregoing items. See Section C-1.4 and see the Description of the Property and Specifications (DOCUMENT 4 in Part II of this Plan) for appliance makers, model numbers and further details.

Section A-34. Use and Occupancy of Unsold Units. Unsold Units shall be exempt from all restrictions and requirements in the Condominium Documents applicable to the use and occupancy of Sold Units and may be used for any lawful purpose, including as models and offices for the sale, promotion, rental, management and operation of Unsold Units, but excluding Prohibited Uses listed in Section A-32.1. Such permitted uses of the Unsold Units may be noisy, emit odors, involve heavy traffic and cause other effects that need not be compatible with the primary use of the Building for dwelling purposes. The Condominium Board and the other Unit Owners shall not have the right to approve or consent to the tenants or Unit Users of Unsold Units, nor impose any restrictions, limitations, requirements with respect to, the use or any changes in the use, or operation of, or the business conducted in, the Unsold Units, or any portions thereof, nor levy any fees or charges or impositions on Sponsor or other Owners of Unsold Units, or their respective Unit Users. The Unsold Units may be occupied by any person or persons approved by Sponsor, regardless of any relationship or lack of relationship with Sponsor. See Section B-7.5.1 and Section O-1.5.

Section A-35. Window Guards. Each Residential Unit Owner shall notify the Condominium Board or the Managing Agent, if any, in writing when a child under the age of eleven (11) years lives or resides (even temporarily) in the Unit. Such Unit Owner shall be obligated to install, at said Unit Owner's sole cost and expense, window guards (or safety "stops" in lieu of window guards, designed specifically to prevent a child from falling out of the window) in all windows of the Unit in accordance with applicable Laws. The design and composition of the window guards shall conform to the architectural features of the Building as determined solely by the Condominium Board and (until there is no Unsold Unit and the Final Certificate of Occupancy is issued) Sponsor. Such Unit Owner shall maintain in proper working order and in good condition all window guards (or stops) installed in, on or to the Unit and shall not

remove them until permitted by applicable Laws. The installation and removal of the window guards (or stops) shall be performed in accordance with all applicable Work Requirements, which (among others) require a Sold Unit Owner (but not an Unsold Unit Owner, who is exempt from this requirement): (a) signing the Building's standard alteration agreement with such modifications as the Board may determine to be appropriate (in its sole judgment); and (b) obtaining the prior written reasonable consents of the Condominium Board and (until there is no Unsold Unit and the Final Certificate of Occupancy is issued) Sponsor. In the event of any disagreement between the Board and Sponsor (whenever its consent is required), the decision of Sponsor shall be paramount and control. See Section R-5.4.

Section A-36. Aesthetic Controls. In order to protect the structural integrity and weather tightness of the Building and the safety of lower floors as well as the sidewalks, and to preserve the architectural and aesthetic harmony of the Building's façade and minimize possible unsightliness, a Sold Residential Unit's private terrace and related structures enclosing the terrace may not be replaced, removed or otherwise altered or decorated without obtaining in each instance the prior written the reasonable consent of the Board and (until the Final Certificate of Occupancy of the Building is issued) the consent of Sponsor in each instance. The foregoing restrictions do not apply to Unsold Residential Units, including their windows exterior doors, private terrace (if any), and related structures enclosing the terrace. Sponsor or other Owner of an Unsold Residential Unit shall have the unfettered right to alter and decorate their respective Unsold Residential-Units, other than the requirement to comply with the applicable General Requirements. See Section R-5.4.

Section A-37. Sponsor's Obligations for Violations. Sponsor, at its sole cost and expense, will be obligated to correct within a reasonable period of time after the First Unit Closing (subject to delays due to Unavoidable Causes) any violation noted or issued against the Property that are outstanding at the First Unit Closing. At the First Unit Closing, Sponsor will escrow with Seyfarth Shaw LLP an irrevocable and unconditional letter of credit, or cash, or equivalent security, to secure the foregoing obligation. The amount escrowed will be sufficient to correct such violations as estimated by an independent architect or engineer selected by Sponsor. See Section O-2.23 for full discussion.

Section A-38. Marketing Materials. In no event shall the presence of any furniture, furnishings, finishes, equipment or decorations, wall coverings, window treatments, carpeting and the like in any portion of the Building or Units or set forth in any marketing materials, artistic renderings, advertisements, and/or websites used in connection with the sale and marketing of the Units imply or represent that any such items will be located within any portion of the Building or the Units. The presence of such items in the Building (when constructed) or any model Unit are for illustrative or promotional purposes only and will not be included in the Building or a Unit. See DOCUMENT 4 in Part II of this Plan entitled "Description of Property and Specifications" for items to be included in the Building and the Units.

Section A-39. Common Interest.

Section A-39.1. *Determination*. The Common Interest of each Unit has been determined based upon floor space, subject to the location of such space and the additional factors of relative value to other

space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use, and the overall dimensions of the particular Unit in accordance with Section 339-i.1(iv) of the Condominium Act. The Common Interest appurtenant to each Unit cannot be separated from the Unit. See Section B-7.3.1.

Section A-39.2. *Impact*. The Common Interest of each Unit constitutes the proportionate undivided interest of the Owner of such Unit in the Common Elements and the Condominium Association's Assets. Similarly sized Residential Units: (a) may have different Common Interests based upon each Unit's location and additional factors of relative value to other Residential Units, its uniqueness (such as its appurtenant terrace, if any) and overall dimensions; and (b) as a result pay different amounts of Common Expenses, which generally are apportioned to each Unit pro rata to its Common Interest (certain Common Expenses are specially allocated to reflect the amount fairly attributable to certain Units). See Section B-7.3.1.

Section A-40. Disclosure Requirements Regarding FinCEN's Geographic Targeting Order. On November 15, 2018, the Director of the Financial Crimes Enforcement Network ("**FinCEN**") issued a revised and updated Geographic Target Order (the "**Order**") that affects disclosure requirements for sponsors and prospective purchasers of residential real property located in all Boroughs of New York City. The Order requires title insurance companies to collect and report information about persons involved in certain residential real estate transactions in furtherance of the Bank Secrecy Act. The reporting requirement went into effect as of March 1, 2016. A copy of the Order is available at:

https://www.fincen.gov/news/news-releases/fincen-targets-shell-companies-purchasing-luxury-properties-seven-major

Pursuant to the Order, title companies are now required to collect and report information regarding purchasers in transactions where: (a) the purchaser is a legal entity as defined in the Order; (b) the purchaser purchases residential real property located in the Boroughs of Brooklyn, Queens, Bronx, Manhattan and Staten Island; (c) the total purchase price is the amount of $300,000 or more; (d) such purchase is made without a bank loan or other similar form of external financing; and (e) the purchase is made, at least in part, using currency or a cashier's check, a certified check, a traveler's check, a personal check, a business check, a money order in any form, funds transfer or virtual currency. The updated Order affects all residential real property closings occurring on or after November 17, 2018 and while the Order remains in effect.

Section A-41. Smoking and E-Smoking Policy. Under the By-Laws, smoking, e-smoking, smoke and vapors shall be prohibited in all indoor and outdoor Common Areas of the Building, including hallways, lobby, public egress stairs and landings, elevator and elevator landings, mailbox area, amenity areas, storage areas, parking areas, refuse closets, all roof setbacks and roofs of the Building, all other Common Areas located in the interior or exterior of the Building (whether below, at or above grade level), in all Units and on all terraces. The smoking and e-smoking ban shall apply to all persons permitted to occupy, visit or work in, or otherwise use a Unit (including contractors, subcontractor and their respective workers), whether by the Owner or Owner's tenant or the Household of each (collectively, "**Permitted**

Users"), and any other person in the Building or elsewhere on the Property. It is the responsibility of each Unit Owner to ensure that such Permitted Users are informed of this smoking policy and comply to its terms.

The Condominium Board shall post a copy of this smoking and e-smoking ban in a prominent location in the Building or deliver this smoking and e-smoking ban to all Unit Owners at least annually.

Each Owner shall disclose this smoking and e-smoking ban to a tenant of Owner's Unit and shall be incorporated in each lease or agreement to sell the Owner's Unit.

A violation of this smoking and e-smoking ban by an Owner or the Owner's tenant or other Permitted User of Owner's Unit shall entitle the Board, in addition to all rights and remedies available at law or in equity:

(a) (in the case of a violation by a tenant of Owner's Unit or a Permitted User of a tenant), to implement all remedies available under the tenant's lease by reason of such violation in the name and on behalf and at the expense of the Owner of the Unit leased to such tenant, including to terminate the lease and evict the tenant by summary proceedings or otherwise; and

(b) to levy upon the Owner, as Administrative Expenses:

(b-1) a fine equal to the maximum lawful daily rate, but not to exceed $75.00 a day for each day such violation occurs one or more times;

(b-2) a charge of $250 for each notice of said violation given by counsel engaged by Board in order to reimburse the Board for the Legal Expenses incurred, which charge shall constitute liquidated or agreed upon damages incurred by the Board in connection with such notice; and

(b-3) an amount equal to all losses paid or incurred by the Board to remedy, and/or that are attributable to, such violation as evidenced by invoices, statements or other documentary proof thereof.

See Section R-7.5.2 for discussion.

Section A-42. Retail Units.

Section A-42.1. *Use*.: The Building is initially planned to contain two Retail Units at ground level. Sponsor has not determined at the date of this Plan the uses that might be made of each Retail Uni, which are not restricted to any particular use and may be used and changed to be used from time to time by its Owner (including Sponsor) for any lawful purpose, other than Prohibited Uses and Offensive Uses listed in Section H-3. A Retail Unit may be used as a restaurant, food store, clothing store, bank and other commercial establishment, whether or not similar to the foregoing. The permitted uses of the Retail Unit may be noisy, emit odors, involve heavy traffic and cause other effects that need not be compatible with the primary use of the Building for dwelling purposes. The Condominium Board and the other Unit Owners shall not have the right to approve or consent to the tenants or Unit Users of the Retail Units, nor impose any restrictions, limitations, requirements with respect to, the use or any

changes in the use, or operation of, or the business conducted in, the Retail Units, or any portions thereof, nor levy any fees or charges or impositions on Sponsor or other Owners of the Retail Units, or their respective Unit Users. The Owner of each Retail Unit shall have the unfettered right to lease its Retail Unit to anyone. See Section H for discussion.

Section A-42.2. *Common Expenses*. The Condominium Association's expenses shall be specially allocated and apportioned to the Residential Units, together with the Parking Units and Storage Units, and to the Retail Units based on special or exclusive use or availability or exclusive control of particular Units or Common Areas by particular Unit Owners and not based on their respective Common Interests as provided in §339-i and §339-m of the Condominium Act (see Section B-5.3 below). As a result, the Retail Units are projected to pay approximately 4.9% (rounded) of the Common Expenses budgeted for the first year of Condominium operation, which is less than their Common Interests aggregating 17.4546% (see Schedule B at Section F-6 below).

Section A-42.3. *Unit Division*. Each Owner of a Retail Unit will have the right to divide its Retail Unit into two or more Retail Units without obtaining the consent of the Condominium Board or other Unit Owners, but subject to obtaining the consent of the Construction Lender (which consent shall not be unreasonably withheld, conditioned or delayed, as provided in the Construction Loan Documents). See Section H-4 for discussion.

Section A-43. Certification of Sponsor and Principals for Compliance with the Martin Act and Governing Regulations. Consistent with a First Department court decision, the principals of Sponsor expressly disclaim the existence of any private right of action for contract claims by individual Unit Owners (or a Board on its or their behalf) in connection with or arising solely from their execution of the Certification of Sponsor and Principals, absent liability under another statute or under an alter-ego or other veil-piercing theory. See Board of Managers of 184 Thompson Street Condominium v. 184 Thompson Street Owner LLC. et al, 2013 N.Y. Slip Op 03574 (1st Dept. May 16, 2013).

Section A-44. Local Law 11 Not Applicable. Local Law 11/98 "Façade Inspection Safety Program" (FISP) is applicable to buildings taller than six (6) stories and therefore is not applicable to this Building, which planned to be only six (6) stories.

END OF SECTION A

SECTION B. INTRODUCTION"

Section B-1. Purpose of Plan. The purpose of this Plan is to set forth all the material terms of this offer. This Plan, which consists of this "**Part I**" and the documents in "**Part II**", may be amended from time to time when a Plan Amendment is accepted and filed by the New York State Department of Law ("**Department of Law**"). Plan Amendments will be served on all "offerees" as defined in Section 20.1 of Part 20 of Title 13 New York Codes, Rules & Regulations ("**Part 20**") of the regulations promulgated by the Department of Law, which includes Purchasers who have executed and delivered Purchase and Sale Agreements for Units being offered for sale under this Plan and owners of Units ("**Unit Owners**", "**Residential Unit Owners**", "**Parking Unit Owners**", "**Storage Unit Owners**", "**Retail Unit Owners**" or "**Owners**", or variations or derivations thereof) after the First Unit Closing. Sponsor reserves the right to file Plan Amendments that will substantially change the terms of this Plan. The changes may adversely affect rights of Purchasers to the extent not prohibited by Part 20. In such case, however, Purchasers will be given the right to rescind their Purchase and Sale Agreements following material adverse Plan Amendments (see Section AA-4 for discussion).

Section B-2. The Condominium. Sponsor intends to convert the Property to condominium ownership in compliance with Article 9-B of the Real Property Law of the State of New York ("**Condominium Act**") by duly signing, acknowledging and recording against the Property in the City Register's Office, a declaration of condominium ("**Declaration**"), substantially in the form and content contained as DOCUMENT 6 in Part II, together with, among other Exhibits thereto, the Condominium, by-laws ("**By-Laws**") and the rules and regulations ("**Rules and Regulations**"), substantially in the form and content contained as DOCUMENTS 7 and 7A, respectively, in Part II, and filing in the City Register's Office the floor plans of the Units, the General and Residential Common Elements ("**Floor Plans**", which together with the Declaration and the Exhibits thereto are collectively, "**Condominium Documents**"). The term "**Condominium**" refers to the Property submitted to condominium ownership pursuant to the provisions of the Condominium Act. The Condominium is to be called *The Calyer Greenpoint*.

Sponsor is not submitting to condominium ownership and is reserving for its exclusive use and enjoyment the Excess Development Rights appurtenant to the Property, which comprises approximately 7,776 square feet of unused development rights available to the Property's zoning lot after completion of construction of the Building together with any future development rights that Sponsor might purchase or might become available to the Property's zoning lot by reason of a special permit or a change in zoning or otherwise. Sponsor may sell and transfer all, or a portion of, the Excess Development Rights and retain all proceeds realized therefrom without participation of the Condominium Board or Unit Owners. However, no Excess Development Rights may be used to expand the size, height, bulk or density of any portion of the Property after the recording of the Declaration establishing the Condominium. If any of the Excess Development Rights are

transferred to an adjoining premises, the light and air of the Building and views from Residential Units and/or their respective terraces might be adversely affected. See Sections A-1.4 and BB.

The Building is not an individual landmark, but is located in a historic district known as the Greenpoint Historic District. As a result, the Building is subject to the New York City Landmarks Law. Pursuant to the Landmarks Law, if the Board or any Unit Owner desires to make any alteration, addition, improvement or repair in or to the Building or a Unit (other than certain ordinary repairs and maintenance as defined in Section 302 of the Landmarks Law) that affects any exterior architectural feature of the Building, or where the scope of work is required by the New York City Building Code to have a Governmental Work Permit, then, in addition to obtaining any necessary approval or consent under the Condominium Documents, such party must first obtain the approval and a certificate of appropriateness or a certificate of no effect (as applicable) from the New York City Landmarks Commission. If the proposed alteration, addition, improvement or repair is interior, is of sufficient scope to require a Governmental Work Permit, and will not affect any exterior architectural feature of the Building, a submission to that effect to the Landmarks Commission will be necessary in order to obtain a certificate of no effect. The issuance of such certificate of no effect has in the past been a common occurrence and is issued on a ministerial basis, but is not assured or guaranteed by Sponsor or the Selling Agent. See Section A-1.1.

Section B-3. Identity of Sponsor. 171 Calyer Street Project LLC ("**Sponsor**"), having an address at 463 Seventh Avenue, 4th Floor, New York, New York 10018, is the sponsor of this Plan. Sponsor acquired fee title to the parcel on which the Building is being erected and the air space above such parcel (the "**Land**") by deed dated June 10, 2022 from 171 Calyer Main Owner, LLC, recorded in the City Register's Office on June 30, 2022 in CRFN: 2022000259205. See Section A-1.1. The Building and the Land are together, the "**Property**". The legal description of the parcel on which the Building is being newly constructed with entirely new Units and Common Elements, each being outfitted with new modern Facilities, is more particularly set forth in Exhibit A to the Declaration.

Section B-4. Unfettered Right to Sell or Rent Units. Sponsor will endeavor in good faith to sell all of the Residential, Parking and Storage Units in a reasonably timely manner, preferably to Purchasers for personal occupancy for use by themselves or members of their immediate families, but Sponsor reserves the unfettered right to sell Units to Purchasers for rental investment or resale. To that end, Sponsor has engaged a Selling Agent to market and multi-list the Residential, Parking and Storage Units for sale. Because of the uncertainty and volatility of market conditions, Sponsor reserves the unfettered right to rent Units for an indefinite period after, but not before, the Plan is consummated with the First Unit Closing, except Sponsor may enter into an Interim Use and Occupancy Agreement for a Unit with the Purchaser of such Unit, subject to obtaining the consent of the Construction Lender (which consent shall not be unreasonably withheld, conditioned or delayed, as provided in the Construction Loan Documents).

Prospective 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 Residential Units in a building or group of buildings to be sold before a lender will consider making a loan. Thus, it may be possible for a Purchaser to experience difficulty obtaining a loan in a building or group of buildings where the sponsor or holder of unsold shares has not sold a substantial percentage of the Residential Units in the building or group of buildings, which in some cases may be as high as 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 10% or more. It also may be difficult for a Purchaser to resell a Residential Unit if prospective buyers are unable to obtain a loan due to the same minimum sales and investor ownership restrictions.

Prospective Purchasers also should be aware that they potentially may be living with transient tenants for an unlimited period. Transient tenants will receive the same Building Services and have the right to use and enjoy all of the same Building's amenities (e.g., the lobby, the elevator, the bike room, the exercises room, the children's playroom, a pet grooming station, a 6th floor recreation terrace, and other amenities in and on the Residential Common Elements) on the same terms and conditions as Owner-occupants. However, they have no investment in their Units and, therefore, do not share the same economic interests and values as Owner-occupants in the maintenance and care of the Common Areas and the Common Facilities. The potential occupancy of Units by transient tenants may limit or impair a Purchaser's ability to obtain financing or (after Closing) refinancing, or to resell the Unit to a Purchaser who is relying on financing, if the Building does not meet a lender's requirement (if any) for Owner-Occupied Units. Some Institutional Lenders (defined below) may require up to seventy percent (70%) of the Residential Units to be Owner-Occupied. An "**Institutional Lender**" includes a savings bank, a savings and loan association, a bank or trust company, a credit union, an insurance company, a real estate investment trust, a mortgage trust, a federal, state or municipal union or similar organization, a welfare, pension or retirement fund or system See Section A-9.1.

Because Sponsor is not limiting the conditions under which it will rent rather than sell the Units, there is no commitment to sell more than the fifteen percent (15%), or four Residential Units (rounded up), necessary to declare this Plan effective, with at least one Residential Unit Closing in order to convert the Property to a bona fide condominium regime. As a result, this Plan may not result in the establishment of a Condominium in which a majority of the Residential Units are owned by Owner-occupants and/or investors unrelated to the Sponsor. In addition, the Condominium By-Laws do not include a provision requiring a majority of the Condominium Board to be Owner-occupants or members of the Owner's immediate family who are unrelated to Sponsor and its principals after the expiration of the Sponsor Board Control Period. As a result, Purchasers for their own occupancy may never gain control of the Condominium Board under the terms of this Plan. See Section A-9.2 for discussion.

If Sponsor makes a bulk sale of some or all of its Unsold Units, the transferee successor sponsor shall be bound by Sponsor's representations regarding its preference to sell Units, subject, however, to Sponsor's unfettered right to rent Unsold Units rather than sell for an indefinite period after the First Unit Closing.

Section B-5. The Units. Building is planned to contain fifty (50) newly constructed condominium units (the "**Units**"), consisting of twenty-one (21) Units designated "**Residential Units**", twelve (12) Units designated "**Parking Units**", fifteen (15) Units designated "**Storage Units**", and two Units designated "**Retail Units**". All Units, other than the Retail Units, are being offered for sale under this Plan. The Retail Units are not being offered for sale and will be retained by Sponsor. Sponsor reserves the right to amend the Plan to offer the Retail Units for sale by an amendment to this Plan or as otherwise permitted by Part 20 regulations promulgated by the Department of Law.

The Building and Units are in the course of construction. Certain Residential Units will include as part of their private and exclusive ownership and possession a terrace that is accessible exclusively from the interior of such Unit from a door leading to the terrace. See the Offering Price Schedule in Section E for the identity of Residential Units with terraces.

Certain development rights from the adjacent property are being used to construct the Building pursuant to a certain Zoning Lot Development and Cantilever Easement Agreement, dated as of April 10, 2019, recorded on April 17, 2019 in the City Register's Office in CRFN: 2019000120785.

Section B-6. Declaring Plan Effective. Sponsor's offer to sell and obligations to convey and consummate the Closing of Title to Units under the Purchase and Sale Agreement are contingent upon Sponsor electing to declare this Plan effective. Sponsor may declare the Plan effective by: (a) a Plan Amendment; or (b) by notice stating that this Plan is declared effective served on every Purchaser. Sponsor may not declare this Plan effective unless Bona Fide Purchasers, including investors for rental investment or resale, have signed Purchase and Sale Agreements for at least fifteen percent (15%) of the Residential Units being offered for sale under this Plan, or four Residential Units (21 Residential Units x 15%, rounded up). Sponsor must declare this Plan effective when Purchase and Sale Agreements with Bona Fide Purchasers have been accepted by Sponsor for eighty percent (80%), or seventeen (17) Residential Units (21 Residential Units x 80%, rounded up) being offered for sale under this Plan. See Section L for full discussion.

Section B-7. Basic Aspects of Condominium Ownership. The basic aspects of condominium ownership are set forth below.

Section B-7.1. *Unit Ownership and Possession*. Each Purchaser will own his or her Unit outright and is entitled to exclusive possession of that Unit, together with a proportionate undivided interest ("**Common Interest**") in fee simple absolute in the elements of the Property owned in common by all Unit Owners ("**Common Elements**"). See Section B-7.2 for discussion of the Common Elements.

Section B-7.1.1. Residential Unit's Areas. The areas of each Residential Unit ("**Unit's Areas**") consist of the volume of space bordered horizontally and vertically by Common Elements enclosing the indoor area of the Unit and the outdoor area of a Residential Unit consisting of a terrace (if any). The Common Elements enclosing the indoor Residential Unit's Areas horizontally and vertically are structural floors, structural ceilings and façade or exterior Building walls. The Common Elements enclosing a Unit's terrace horizontally are parapets, the façade or exterior Building walls and a fence or barrier separating two terraces, and vertically from the surface of the roof or roof setback below the terrace extending to a height of an imaginary horizontal plane that is directly opposite and coincident with the Unit-side of the Residential Unit's structural ceiling.

Section B-7.1.2. Residential Facilities. The facilities of each Residential Unit (the "**Residential Facilities**") consist of the following (if and to the extent applicable and existing upon completion of construction or installed by the Owner thereafter):

(a) Interior Walls and Partitions: all non-load bearing interior walls and partitions;

(b) Interior Window Sills: all interior window sills;

(c) Doors: all interior doors;

(d) Terrace: the concrete pavers or other construction material and the supporting pedestals or shims comprising the terrace, which is located above a roof or roof setback (which are part of the General Common Elements);

(e) Kitchens and Bathrooms: all Unit kitchen and bathroom appliances, including (if and as applicable) cooktop, oven, microwave oven, dishwasher, clothes washer and dryer, refrigerator, sinks, lavatories, showers, bathtubs, cabinets, countertops and built-ins, and all accessible facilities exclusively serving any of the foregoing;

(f) Decorations, Finishes and Coverings: all decorations, finishes and coverings on:

(f-1) the interior walls and partitions of a Residential Unit (e.g., paint, wallpaper, fabrics, paneling, baseboards and moldings);

(f-2) the Unit-side of a Residential Unit's windows, which windows are the Limited Common Elements appurtenant to such Unit;

(f-3) the Unit-side of a Residential Unit's structural floors (such as tile (e.g., ceramic, marble, granite, stone, vinyl or otherwise), wood flooring, carpet, rug, subflooring, sound dampening, supporting pedestals, or other flooring) and structural ceilings and any plaster, gypsum board or other coverings on the underside of the structural ceilings (e.g., paint), which structural components and any plaster, gypsum board or other coverings on the underside of the structural ceilings are part of the General Common Elements;

(f-4) the Unit-side of a Residential Unit's party walls separating the Unit from another Unit or a hallway or other portion of a Residential Common Element;

(g) Meter and Submeter: any separate individual meter or submeter (wherever located) that serves exclusively the Unit and its Residential Facilities;

(h) New Facilities: any new facilities installed by an Owner which are not included in Sponsor's plans and specifications for newly constructing, equipping and outfitting the Building and Units, which (to the extent required by Law) have been or will be filed with the DOB and which may, from time to time, hereafter be amended in accordance with the provisions of this Plan ("**Plans and Specifications**"), whether accessible or inaccessible, including all newly installed cables, wires, fibers, optic fibers, filaments and lines (including risers and distribution and branch lines), together with the pipes, tubes, ducts, insulation and other conduits, together with their components, protecting or enclosing them (collectively, "**Lines and Conduits**") serving such new Residential Facilities; and

(i) General: the portions of the Building Systems and the separate, independent facilities that serve exclusively a Residential Unit that are exposed to view inside the Unit or are accessible from within the interior of the Residential Unit or are accessible elsewhere in or on the Building that serve exclusively the Unit, including, if and where applicable, facilities with respect to plumbing, electricity, equipment, electronics, heat pump split system (including compressor and air handlers), ventilation, hot and cold water, telephone, television, internet, intercom, telecommunications, security, sanitary waste, refuse, lighting, sprinkler heads, and smoke and carbon monoxide detectors, and their respective pipes, shut-off valves, faucets, spouts, outlets, jacks, switches, panel and circuit breakers, and other components, including the portions of their respective related exposed or accessible Lines and Conduits serving only these facilities.

A Unit does not include the items comprising the General or Residential Common Elements or the Limited Common Elements listed below in Section B-7.2.1, Section B-7.2.2 and Section B-7.2.3, respectively.

Section B-7.2. *Description of Common Elements*. The Common Elements consist of the "**General Common Elements**", the "**Residential Common Elements**", the "**Retail Common Elements**" and the "**Limited Common Elements**".

The General Common Elements consist of those areas and facilities owned in common that are for the use and enjoyment in common by all Unit Owners and include all parts of the Property necessary or convenient to its existence, maintenance, security, protection and safety of the Building and all Owners and occupants of Units, or are normally in common use. See Section B-7.2.1 for summary of the General Common Elements.

The Residential Common Elements consist of those areas and facilities owned in common by all Unit Owners that are for the exclusive use and enjoyment in common by all Residential Unit Owners. See Section B-7.2.2 below for a summary of the Residential Common Elements.

The Retail Common Elements consist of only the party wall separating the two Retail Units and any facilities inaccessible from within the interior of the Retail Units that serve exclusively both Retail Units.

The Limited Common Elements consist of those facilities owned in common by all Unit Owners that are for the exclusive use and enjoyment of only the Owner of the Unit to which a Limited Common Element is appurtenant. See Section B-7.2.3 below for the list of the Limited Common Elements.

The "**Common Areas**" are the rooms and unenclosed areas serving exclusively the General or Residential Common Elements (as applicable). There are no Common Areas comprising the Retail Common Elements or Limited Common Elements. The "**Common Facilities**" are the facilities serving exclusively the General Common, Residential Common Elements, Retail Common Elements or Limited Common Elements (as applicable). The Common Areas are immutable and inalienable. The Common Facilities by their nature are inherently mutable and perishable.

Section B-7.2.1. General Common Elements. The General Common Elements include the following rooms and unenclosed areas and the facilities inaccessible from within the interior of a Unit, unless otherwise expressly provided elsewhere in the Declaration:

(a) Land: the Land;

(b) Cellar: the water room, detention tank room, staff lavatory (including all accessible facilities located therein), corridor serving these two rooms and adjacent stair, electrical room and stair, gas meter room, and fire pump room;

(c) Floor 1: the stair adjacent Retail Unit 1;

(d) Floor 3: the 119 square foot area housing General Common Element equipment adjacent to Residential Unit 3G;

(e) Floor 6: the 1,739 square foot area housing equipment serving the Residential Units and serving separately Retail Units 1 and 2;

(f) Roofs: the roof/bulkhead above floor 6 and all Building setback roofs, including those below terraces;

(g) Roof Structures: all parapets, copings and railings enclosing a roof, together with its drains, gutters, leaders and similar elements;

(h) Structural Components: all elements that contribute to the physical support, stability, soundness, integrity and weather-tightness of the Building or a portion thereof, including (if and to the extent applicable):

(h-1) the Building's foundation, foundation walls, footings, pilings girders and structural columns, beams and supports;

(h-2) all concrete (or other construction material) comprising the Building's structural floors and structural ceilings, and any plaster, gypsum board or other construction material on the underside of a structural ceiling enclosing a Unit or a Common Element;

(h-3) all façade and exterior walls of the Building and their components, composed of glass (other than windows and storefronts), masonry, concrete, brick walls and/or other construction material, together with fire retardant insulation and furring, all exterior window sills, ornaments, heads and jambs, and all load-bearing or shear walls;

(i) Main Feeder Lines: all main feeder lines for water, sewerage, sanitary waste, storm drainage, electricity, gas, power, telephone, cable television, Internet and other media, communications and utility equipment and related facilities for Building Services that serve or benefit both one or more Residential Units and Retail Units, or a General Common Element; and

(j) Building Systems: the rooms and unenclosed areas housing, and the portions of the facilities inaccessible from within the interior of a Unit comprising: the heating, ventilating, air-conditioning, hot and cold water, lighting, refuse disposal (including chutes and compactor), storm drainage, sanitary sewerage or waste, fire protection (e.g., sprinkler, sprinkler alarm, pumps, hoses, nozzles, standpipe, siamese connection and related facilities), utilities (i.e., electricity, gas. water and sewer, cable television, telephone and Internet), intercom, security cameras, monitors and other devices, and their respective components, including risers and distribution or branch lines, motors, pumps, louvers and fans; all shafts, ducts, conduits, chases, chase walls, shelves, coves, dropped ceilings, soffits and other structures that house facilities comprising the foregoing elements; and all equipment, machinery, tools, devices and apparatus (all of the foregoing are collectively, "**Building Systems**") serving or benefiting:

(j-1) both one or more Residential Units and Retail Units; or

(j-2) the General Common Elements; and

(k) Generally: all rooms and unenclosed areas and all facilities inaccessible from within the interior of a Unit, that are necessary or convenient for the use and enjoyment in common of both one or more Residential Units and one or both Retail Units, or the Property as a whole, and are not expressly stated to be part of the private and exclusive ownership and possession of a Unit, the Residential Common Elements, the Retail Common Elements or the Limited Common Elements.

Section B-7.2.2. Residential Common Elements. The Residential Common Elements include the following rooms and unenclosed areas, and the facilities inaccessible from within the interior of a Unit, that serve all or portions of the Residential, Parking and/or Storage Units, unless otherwise expressly included in a Unit or a General Common Element or Retail Common Element:

(a) Cellar: the garage area serving the Parking Units; the pet grooming station; the trash room; the elevator and landing; and stair A;

(b) Floor 1: the Calyer Street residential entrance, vestibule, lobby, the mail box area, bike storage room and bike racks, corridor leading to the elevator, elevator; stairs A and B and their respective landings, and parking ramp;

(c) Floor 2: the children's playroom (and outfitting), exercise room (and outfitting), lavatory (including all accessible facilities located therein); storage room housing the Storage Units, the trash room, elevator; corridor, and stairs A and B and their respective landings;

(d) Floors 3 through 5: the trash room, elevator, corridor, and stairs A and B and their respective landings;

(e) Floor 6: recreation terrace and barbecue, trash room, elevator, corridor, stairs A and B and their respective landings, and mechanical equipment serving exclusively the Residential Units located on areas comprising the General Common Elements;

(f) Roof/Bulkhead: solar panels serving exclusively the Residential Units located on areas comprising the General Common Elements;

(g) Boundary Walls and Fences: all nonstructural boundary walls enclosing a Residential or Storage Unit or separating two Residential Units or two Storage Units; and all fences or barriers separating two terraces;

(h) Interior Walls and Partitions, and Doors: all walls and partitions enclosing and within the rooms and other areas comprising the Residential Common Elements, all street entrance doors leading to the Residential Common Elements and all doors leading to or within the Residential Common Elements;

(i) Facilities:

(i-1) Stairs: the fire rated walls, hand rails, steps, landings other facilities comprising the fire-safety egress stairs serving the Residential Common Elements or the Residential, Parking and/or Storage Units;

(i-2) Elevator: the elevator cab, motor, shaft, pit, cables and all other facilities comprising its components;

(i-3) Outfitting: the water closet, sink, faucets mirror, cabinet of the floor 2 lavatory; the facilities, equipment, decorations, finishes and coverings in and on the rooms and areas comprising the Residential Common Elements; and

(i-4) Lighting and Ventilation: all lighting fixtures and related switches, plates, electrical panels, and Lines and Conduits, and ducts, louvers fans and other components comprising the ventilation system that serve the Residential Common Elements or one or more Residential, Parking and/or Storage Units;

(j) Shafts, Ducts, Conduits, Chases etc.: the shafts, ducts, conduits, chases, chase walls, shelves, coves, dropped ceilings, soffits and other structures that house facilities comprising or serving exclusively the Residential Common Elements or one or more Residential, Parking and/or Storage Units;

(k) Building Systems: the Building Systems that serve exclusively the Residential Common Elements or one or more Residential, Parking and/or Storage Units, and are inaccessible from within the interior of a Unit.; and

(l) Generally: generally, all rooms and unenclosed areas that serve exclusively the Residential Common Elements or one or more Residential, Parking and/or Storage Unit; all facilities serving exclusively the Residential Common Elements, and the inaccessible portions of facilities that serve exclusively all or portions of one or more Residential, Parking and/or Storage Units or are necessary or convenient for the use and enjoyment in common of two or more Residential, Parking and/or Storage Units only, and are not expressly stated to be part of the private ownership of a Unit or a General Common Element or Retail Common Element.

Section B-7.2.3. Retail Common Elements. The Retail Common Elements consist of only the party wall separating the two Retail Units and any facilities inaccessible from within the interior of the Retail Units that serve exclusively both Retail Units.

Section B-7.2.4. Limited Common Elements. The Limited Common Elements comprise all Unit windows and storefronts.

The East and North facing façade or exterior Building walls will contain lot line windows in the following Residential Units:

Residential Unit 3E: One 3’-4” wide x 6’-8” high window located at the east lot line.

Residential Unit 4C: One 3’-4” wide x 6’-8” high window located at the east lot line.

A lot line window is a window that will be required to be closed when a building or structure on the immediately adjacent property is constructed within five feet or less from the lot line window. The Condominium Board, as a Residential Common Expense, will perform the work necessary to close the lot line windows. See Section A-1.3.

Section B-7.3. *Owner's Obligation to Pay Common Charges*.

Section B-7.3.1. Common Charges. The "**Common Charges**" are the amounts assessed by the Condominium Board to all or certain Unit Owners to pay the Common Expenses of the "Condominium Association" (defined in Section B-7.7.1) in accordance with the Condominium Act and New York Real Property Law (the "**RPL**") Section 339-(i) and Section 339-(m). The Common Charges consist of the following:

(a) the "**General Common Charges**" assessed by the Board to all Unit Owners to pay the "General Common Expenses" (defined below in Section B-7.3.2);

(b) the "**Residential Common Charges**" assessed by the Residential Managers in the name and on behalf of the Board to all Residential, Parking and Storage Unit Owners to pay the "Residential Common Expenses" (defined below in Section B-7.3.2);

(c) the "**Retail Common Charges**" assessed by the Retail Managers in the name and on behalf of the Board to the Retail Unit Owners only to pay the "Retail Common Expenses" (defined below in Section B-7.3.2); and

(d) the "**Additional Common Charges**" assessed by the Board to a Unit Owner under the Declaration or the By-Laws to pay the "Specially Allocated Expenses" and the "Administrative Expenses" (see Section B-7.3.2 for definitions of the quoted terms).

The Condominium Board shall have all of the same rights and remedies to collect the General Common Charges, Residential Common Charges, Retail Common Charges and Additional Common Charges as are applicable to collect the Common Charges.

The General Common Charges shall be assessed to all Units pro rata to their respective Common Interest percentage (i.e., the proportion that the Common Interest of each Unit bears to 100%), except certain General Common Expenses shall be specially allocated and assessed to only certain Units to reflect the amounts fairly attributable to such Units (see the First Year's Budget (Schedule B) in Section F-6 for details). The Residential Common Charges shall be assessed to only all Residential, Parking and Storage Units pro rata to their respective Common Interest percentages (i.e., in the proportion that the Common Interest of each Residential, Parking and Storage Unit bears to the aggregate Common Interests of all Residential, Parking and Storage Units). The Retail Common Charges shall be assessed to only the Retail Units pro rata to their respective Common Interest percentages.

Unless otherwise determined by the Condominium Board, the Owners shall be obligated to pay the Common Charges in equal monthly installments in advance on the first day of every month. The Condominium Board shall have the power to assess one or more Common Expense items in one or more installments, payable at one time or in installments over a period to be specified by the Board, with or without interest, all as shall be determined by the Board, in its sole Business Judgment. The installment payment or installment payments (as applicable) are called

"**Special Assessments**" and constitute Additional Common Charges. The Condominium Board shall have all of the same rights and remedies to collect Special Assessments as are applicable to collect Common Charges.

Each Owner shall be liable personally to pay the Common Charges and Additional Common Charges levied by the Condominium Board on such Owner or such Owner's Unit. See Section R-3.3 for further discussion.

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

Section B-7.3.2. Common Expenses. The "**Common Expenses**" consist of the following:

(a) the expenses assessed by the Board to all Units pro rata to their respective Common Interests (collectively, "**General Common Expenses**") to do the following:

(a-1) to maintain, repair, restore, alter, lease, manage and otherwise operate the General Common Elements and the Association's Assets attributable to both the Retail and the Residential Units in accordance with the Building Standard (defined below);

(a-2) to purchase, acquire (including own and lease), mortgage, securitize, sell, convey, transfer, assign and make other dispositions of said Association's Assets;

(a-3) to provide "Building Services" (defined below) to all Owners and tenants of the Retail and Residential Units; and

(a-4) to properly maintain, repair, restore and alter the sidewalk in accordance with the Building Standard, except as otherwise provided in Section H-7.18.2; and

(a-5) generally, to exercise and prosecute the affairs and business of the Retail, Residential, Parking and Storage Units, the use and enjoyment of the General Common Elements, the Residential Common Elements, the Retail Common Elements, and the Limited Common Elements, and the actions and activities of Owners and tenants in, on and to their respective Units as a whole (as discussed in Section B-7.6.1);

(b) the expenses assessed by the then Residential Managers, in the name and on behalf of the Board, to only all Residential, Parking and Storage Units pro rata to their respective Common Interests (collectively, the "**Residential Common Expenses**") to do the following:

(b-1) to maintain, repair, restore, alter, lease, manage and otherwise operate the Residential Common Elements and the Association's Assets attributable to the Residential, Parking and/or Storage Units in accordance with the Building Standard;

(b-2) to purchase, acquire (including own and lease), mortgage, securitize, sell, convey, transfer, assign and make other dispositions of said Association's Assets; and

(b-3) to provide Building Services to all Owners and tenants of only the Residential, Parking and/or Storage Units; and

(b-4) generally, to exercise and prosecute the affairs and business of only the Residential, Parking and/or Storage Units, the use and enjoyment of the Residential Common Elements and the Limited Common Elements appurtenant to the Residential Units only, and the actions and activities of Owners and tenants in, on and to their respective Residential, Parking and/or Storage Units and a Residential Unit's terrace, if any (as discussed in Section B-7.6.1);

(c) the expenses assessed by the then Retail Managers, in the name and on behalf of the Board, to only the Retail Units pro rata to their respective Common Interests (collectively, the "**Retail Common Expenses**") to do the following:

(c-1) to maintain, repair, restore and alter the Retail Common Elements;

(c-2) to provide Building Services to the Owners and tenants of only the Retail Units; and

(c-3) generally, to exercise and prosecute the affairs and business of only the Retail Units, the use and enjoyment of the Retail Common Elements, and the actions and activities of Owners and tenants in, on and to their respective Retail Units;

(d) the specially allocated expenses ("**Specially Allocated Expenses**") are the amounts assessed by the Board:

(d-1) to an Owner to reimburse the Board for its costs and expenses to repair and restore a Common Element due to the acts or omissions of such Owner or for whom such Owner is accountable pursuant to the Condominium Documents (i.e., the agents, employees and representatives, Construction Parties, and all vendors of materials and supplies engaged in work by or on behalf of said Owner or such Owner's tenant, as applicable);

(d-2) to only the applicable Sold Unit Owner for such Owner's late payment of Common Charges or other violations of the Condominium Documents by said Sold Unit Owner or for whom such Owner is accountable as set forth in clause (d-1) above (collectively, "**Administrative Expenses**"); and

(d-3) to all Residential, Parking and Storage Units for the Residential Common Expenses or to only the Residential, Parking, and Storage Units, or to only the Retail Units, to reflect the portions of the General Common Expenses fairly attributable to each such group of Units in accordance with RPL §339-m, as explained more fully in the First Year's Budget (Schedule B in Section F-6).

The term "**Building Services**" means the services to be provided to all or certain Units by the General or Residential or Retail Common Elements (as applicable) and all other services and amenities to be provided to all or certain Units and their Owners and tenants contemplated in the Declaration, the By-Laws or this Plan (see Section C-1.5 for more details).

The term "**Building Standard**" means to perform all work affecting a Unit, a Common Element, an Association's Asset, or the sidewalk in a good, safe, clean, neat and sanitary first class condition and appearance, in proper working order, free and clear of water leaks, water accumulations, snow, ice, debris, dirt and undue air penetration, in keeping with the high quality, character, standards and dignity of the Building and with the quality of workmanship and materials that shall meet or exceed the standards of locally accepted building practices for high quality residential buildings with a retail component in the locale of the Building and comparable to the construction and amenities of the Building, in accordance with Laws and all other Work Requirements.

The Common Expenses do not include the expenses to maintain, repair, restore, alter or otherwise operate an Owner's Unit or its appurtenant Limited Common Element, which shall be the responsibility of the Owner of such Unit to directly pay and perform at such Owner's sole cost and expense. See Section R-4.1 for further discussion.

Section B-7.4. *Common Interest*. The Common Interest of each Unit has been determined based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use, and the overall dimensions of the particular Unit in accordance with §339-i.1(iv) of the Condominium Act. The Common Interest appurtenant to each Unit cannot be separated from the Unit. See Section A-39.1.

Similarly sized Residential Units may have different Common Interests based upon each Unit's location, view and additional factors of relative value to other Residential Units, its uniqueness (such as its appurtenant terrace, if any) and overall dimensions. As a result, similarly sized Residential Units may pay different amounts of Common Expenses. See Section A-39.2.

The Common Interest of a Unit may change following a "Unit Division", a "Unit Combination" or a "Unit Reconfiguration" (see Section I-4 below for definitions of the quoted terms), or a taking by a Governmental Authority in condemnation or by eminent domain as provided in Section 3.11 of the By-Laws. See also Section I-4 below.

Section B-7.5. *Owner's Obligations to Comply with Condominium Documents*. Each Unit Owner shall be obligated personally to comply with the Declaration, the By-Laws and the Rules and Regulations, as they may be duly amended from time-to-time. These Condominium Documents, among other things, place reasonable restrictions on the use and occupancy of the Units (see Section B-7.5) and Common Elements (see Section B-7.6) in order to avoid one Unit Owner from unreasonably interfering with the use and enjoyment of another Unit Owner or to

prevent the Common Elements from being used improperly. If a Unit Owner violates any of these provisions, such Unit Owner may be enjoined by a court in a litigation brought by the Condominium Board and will be liable for all costs and expenses incurred by the Board in connection therewith together with, if contested and awarded in a final non-appealable order or judgment of a court having competent jurisdiction, Legal Expenses and Per Diem Interest thereon to pursue, enforce, defend and protect the provisions of the Condominium Documents and to collect the amounts owed. See "Section R-8. Remedies" for discussion.

Section B-7.6. *Owners' Restrictions on Use, Occupancy, Resale, Leasing and Mortgaging*.

Section B-7.6.1. Use and Occupancy. Each Sold Residential Unit shall be used only as a private one-family dwelling and incidental home occupations permitted by Laws, and for no other purpose, and shall be occupied in accordance with all applicable Laws by only the Unit's Owner or tenant, the "Household" of said Owner or tenant, and the "Guests" of said Owner or tenant (see below for the definitions of the quoted terms).

If the Owner or a tenant is a corporation, partnership, limited liability company, trust, consulate, mission, sovereign government or other entity, then occupancy of a Sold Residential Unit shall mean the individual who is an officer, director, shareholder, member, partner, fiduciary, trust grantor or beneficiary, principal or governmental official or employee designated by such entity ("**Designated Occupant**").

The term "**Household**" means to the extent not prohibited by Laws, a member of the immediate family, domestic employees or housekeepers and health care aides of the Owner or a tenant or a Designated Occupant of the Unit (as applicable).

The term "**Guests**" means the visitors and invitees of an Owner or a tenant or Designated Occupant (as applicable) of a Residential Unit, or such party's Household member, who do not pay any manner of consideration or value or provide any service or exchange to occupy the Unit or any portion thereof and whose relationship to the Owner or said tenant or Designated Occupant (as applicable), or such party's Household member, is not attributable to advertising on any media platform (such as the Internet, Airbnb, Home Away, Roomorama or other social media site) or to a broker or other intermediary.

The foregoing permitted Household and Guests will be permitted to occupy the Sold Residential Unit even though the Owner or a tenant or a Designated Occupant (as applicable) is absent; provided, however, at least one Household member of the Owner or tenant or a Designated Occupant aged 18 years or older is simultaneously in occupancy overnight. No transient or short-term occupancy or stay, similar to a hotel, motel, dormitory, bed and breakfast, boarding house shall be accommodated in a Sold Residential Unit or any room of a Sold Unit at any time, other than nonpaying Guests. No Sold Residential Unit Owner shall permit or suffer (whether knowingly or unknowingly) such Owner's Sold Unit to be used or occupied in violation hereof.

Notwithstanding the foregoing, the Condominium Board may, in its sole and absolute discretion, grant permission for occupancy of a Sold Residential Unit by individuals other than those set forth above, subject, however, to compliance with applicable Laws. If granted by the Condominium Board, such permission must be in writing and shall be personal to such Sold Residential Unit Owner or tenant of the Sold Residential Unit (as applicable) and shall not inure to the benefit of a succeeding Owner, tenant or Designated Occupant of such Sold Residential Unit.

The Owner of a Sold Parking Unit must also own a Sold Residential Unit and may only lease or rent the Sold Parking Unit to a resident of the Building.. A Sold Parking Unit shall be used for parking a motor vehicle whose dimensions (i.e., width, length and height) shall fit entirely within the dimensions of the Parking Unit and is for the exclusive use of such Sold Residential Unit's Owner, tenant or Designated Occupant, or a member of such party's Household who permanently resides in the Residential Unit.

The Owner of a Sold Storage Unit must also own a Sold Residential Unit and may only lease or rent the Sold Storage Unit to a resident of the Building. A Sold Storage Unit shall be used for storage of personal belongings and effects and is for the exclusive use of such Sold Residential Unit's Owner, tenant or Designated Occupant, or a member of such party's Household (as applicable), but in no event shall any food or other perishable item, or any flammable or explosive item, or any item that would impose a health or safety threat or cause noxious odors, dirt or other unsanitary problems or create a nuisance, be stored in a Storage Unit.

Most of the requirements and restrictions contained above shall not apply to Unsold Units or the Retail Units, each of which may be used and occupied, and changed to be used, for any lawful purposes, other than Prohibited Uses, the items prohibited to be contained in Storage Units, the restriction on limiting the sale of Unsold Parking Units and Unsold Storage Units to only Residential Unit Owners, the requirement to lease or rent an Unsold Parking Unit or an Unsold Storage Unit to only a resident of the Building, and (in the case of the Retail Units) Offensive Uses. The Condominium Board and other Unit Owners do not have the right to approve or consent to the Unit Users of Unsold Units or the Retail Units, nor impose any restrictions, limitations, requirements with respect to, the use or any changes in the use, or operation of, or the business conducted in, the Unsold Units or the Retail Units, or any portions thereof, nor levy any fees or charges or impositions on Sponsor or other Owners of Unsold Units, or Unit Users of Unsold Units, in connection therewith. The Unsold Units or the Retail Units may be occupied by any individuals approved by Sponsor or the then Owner thereof, regardless of any relationship or lack of relationship with Sponsor or such Owner (as applicable). The permitted uses of Unsold Residential Units include as models and offices for the sale, promotion, rental, management and operation of Unsold Units. The permitted uses of Unsold Residential Units and the Retail Units may be noisy, emit odors, involve heavy traffic and cause other effects that need not be compatible with the primary use of the Building for dwelling purposes. Sponsor and the Retail Unit Owner

shall each have the unfettered right, at its sole cost and expense, to change the use and configuration of its Unsold Residential Units or Retail Unit (as applicable) from time to time. See Sections A-32, A-34 and A-42.

Each Owner shall be fully and directly legally responsible and accountable for all claims, litigations, liabilities, losses and damages arising from the acts or omissions of a tenant of its Unit, and the respective Construction Parties, agents and employees of said Owner or tenant, as well as the patrons, customers and Guests of said Owner or its tenant or a permitted permanent occupant of a Unit (collectively, "**Unit Users**"). The Condominium Board shall be fully and directly responsible and accountable for all claims, litigations, liabilities, losses and damages arising from the acts or omissions of its Construction Parties, agents and employees.

Section B-7.6.2. Owner's Restrictions on Sale and Leasing. Subject to obtaining the consent of Sponsor during the Sponsor Veto Control Period, the Condominium Board, or its nominee or designee, shall have the right to purchase or lease a Sold Unit at the same price or rent contained, respectively, in a fully executed contract of sale or lease with a Bona Fide Purchaser or tenant (the **"Right of First Refusal**"); provided, however, the Board is authorized to exercise such Right of First Refusal by a majority in number and Common Interest of those Residential, Parking and Storage Unit Owners attending a meeting of such Unit Owners at which a quorum is present in person or by proxy (excluding the selling or leasing Sold Unit Owner and the Retail Unit Owners for quorum and voting purposes). Certain sales and leasing are exempt from the Board's Right of First Refusal (e.g., a sale or lease to an adult member of the Owner's immediate family or a transfer by gift or a devise under a will of a deceased Owner). The Board does not have the right to approve or disapprove of the Purchaser or the sales price, or the tenant or the rent.

A lease of a Sold Unit must meet certain requirements (e.g., the term may not be less than one year) and cannot be assigned or the Unit sublet without obtaining the consent of the Condominium Board (see Section A-13). The Condominium Board, its Managing Agent and/or attorneys may also collect reasonable fees and expenses in connection with processing a sale or lease that is subject to the Board's Right of First Refusal.

The Board's Right of First Refusal and the other restrictions, requirements and payments do not apply to Unsold Units or the Retail Units, each of which may be sold, conveyed and leased freely (other than the requirement to lease an Unsold Residential Unit for an initial minimum term of not less than six months and the restriction against using a Unit for Prohibited Uses or using a Retail Unit for Offensive Uses). See Sections A 9.1, A-15, A-27.6 and Section R-1.1.4.

Section B-7.6.3. Restriction on Mortgaging. Each Unit may be separately encumbered by one or more mortgages held by any lenders, without the consent of the Condominium Board and without restriction, except an Owner may not encumber a Sold Unit with a new mortgage while such Owner is in default in paying the Common Charges or Additional Common Charges or while an unpaid lien on said Owner's Unit is outstanding (other than Permitted Mortgages). See

Section A-15. A copy of the each mortgage is to be filed with the Condominium Board. See "Section R-2. Mortgaging of Units by Unit Owners" for discussion. See also Section W-1.3 for the fee to be paid by an Owner to the Managing Agent if any Board action is requested with respect to a mortgage financing or refinancing of a Sold Unit.

Section B-7.7. *Authority of the Condominium Board; Unit Owner's Right to Vote for Managers*.

Section B-7.7.1. Authority of the Condominium Board. A Condominium consists of an unincorporated association of the Unit Owners ("**Condominium Association**" or "**Association**") to the extent permitted pursuant to the provisions of the General Associations Law of the State of New York. The membership of the Condominium Association at all times shall consist exclusively of all the Unit Owners at the time in question and shall be governed by a board of managers ("**Condominium Board**" or "**Board**") elected by the Unit Owners and appointed by Sponsor and each Owner of a Retail Unit, as explained in Section B-7.7.2. The Units and the Common Elements are subject to the powers of the Condominium Board to:

(a) govern and conduct the affairs of the Condominium Association;

(b) administer, manage, direct, control, rule, and regulate the use of, and access to, the General, Residential and Retail Common Elements;

(c) supervise the use of the Common Elements and the actions and activities of Unit Users in, on and to their respective Units, each Unit's terrace (if any) and the Common Elements;

(d) implement the powers, obligations and duties vested in the Board in the Condominium Documents, including:

(d-1) to determine the use and enjoyment of the Common Elements and to amend the Rules and Regulations from time to time governing their use and enjoyment, by Unit Users and "Construction Parties" (defined below) of Sold Units, but not governing their use and enjoyment by Sponsor or the tenants of Unsold Units or Sponsor's Construction Parties;

(d-2) to oversee the use and enjoyment of Units and its Limited Common Elements in accordance with the terms of the Condominium Documents;

(d-3) to determine the Common Expenses, the Common Charges and the Special Assessments;

(d-4) to determine investment and expenditure of the monies collected from payments of the Common Charges and payments to the Working Capital Fund, the Reserve for Capital Replacements, and any interest or investment income earned on all such monies; and

(d-5) generally, to do, perform, exercise, pursue, enforce, uphold, protect and defend the easements, rights, remedies, indemnities, protections, privileges, exemptions and other benefits of the Condominium Board as set forth in the Condominium Documents.

The foregoing powers of the Condominium Board are subject to Sponsor's Rights and to the terms, conditions, prohibitions, limitations and restrictions contained in, the Condominium Documents.

The term "**Construction Parties**" means all architects, engineers, construction managers, contractors, subcontractors, consultants, expediters, experts, decorators and other professionals, and their respective workers and employees.

The powers and duties of the Condominium Board shall be exercised and implemented in the name and on behalf of the Board by the following:

(x) in the case of only the General Common Elements, the General Common Expenses, the Specially Allocated Expenses, the Administrative Expenses for violations of the Condominium Documents to be administered, managed, controlled or implemented by the Board, or the business and affairs affecting both a Residential, Parking and/or Storage Unit and a Retail Unit, a majority of the Managers attending a duly convened Board meeting at which a quorum is present, as a General Common Expense;

(y) in the case of only the Residential Common Elements, the Residential Common Expenses, the Administrative Expenses for violations of the Condominium Documents to be administered, managed, controlled or implemented by the Residential Managers in the name and on behalf of the Board, or the business and affairs affecting only the Residential, Parking and/or Storage Units, a majority of the Residential Managers attending a duly convened meeting of the Residential Managers at which a quorum is present, as a Residential Common Expense; or

(z) in the case of only the Retail Common Elements, the Retail Common Expenses, the Administrative Expenses for violations of the Condominium Documents to be administered, managed, controlled or implemented by the Retail Managers in the name and on behalf of the Board or the business and affairs affecting only the Retail Units, the Retail Managers by unanimous vote or consent.

The term "**Construction Parties**" means all architects, engineers, construction managers, contractors, subcontractors, consultants, expediters, experts, decorators and other professionals, and their respective workers and employees.

Section B-7.7.2. Owner's Right to Vote for Managers. Initially, the Condominium Board will consist of one Board member ("**Manager**") appointed by Sponsor to represent the interests of Sponsor and other Unsold Unit Owners (if any) on the Condominium Board ("**Sponsor Manager**"). Sponsor will call the first meeting of Unit Owners to be held within approximately sixty (60) days after the second anniversary of the First Unit Closing or whenever the number and

Common Interest of the Sold Residential, Parking and Storage Units constitute eighty percent (80%) or more in number and Common Interest of all Residential, Parking and Storage Units, whichever is the first to occur.

At such first meeting, the Unit Owners will elect or appoint (as applicable) seven Managers, of whom five Managers shall be elected or appointed by only the Residential, Parking and Storage Unit Owners, including Sponsor as Owner of one or more Unsold Units (each, "**Residential Manager**") and two Managers (each, "**Retail Manager**"), each of whom shall be separately appointed exclusively by a Retail Unit Owner.

During the Sponsor Board Control Period, Sponsor shall exclusively appoint four Residential Managers and all Sold Unit Owners and Sponsor (while it owns an Unsold Unit) will elect one Residential Manager who has no family (by blood, marriage or adoption), employment or business relationship or affiliation with Sponsor or a manager, member or principal of Sponsor or an Unsold Unit Owner ("**Independent Manager**"), thereby giving Sponsor voting control of the Board. The Sponsor Managers will be appointed exclusively by Sponsor or (if Sponsor no longer owns an Unsold Unit) an Unsold Unit Owner (if any). Each Unit Owner (including Sponsor and other Owners of Unsold Units) shall be entitled to cast one vote at all meetings of the Unit Owners for each percentage of Common Interest appurtenant to each Unit owned by such Owner. See Section Q-1 and Section Q-6 for details.

At all Board elections held after the end of the Sponsor Board Control Period, the Independent Managers shall constitute a majority of the Condominium Board. As a result, Sponsor may no longer exercise voting control of the Condominium Board. However, Sponsor shall always have the right to nominate and vote (without limitation or restriction) for all candidates to serve as the Independent Manager(s), both before and after the end of the Sponsor Board Control Period. In addition, after the end of the Sponsor Board Control Period and for so long as Sponsor owns at least one Unsold Residential, Parking or Storage Unit, Sponsor shall continue to have the right to exclusively appoint one Sponsor Manager. See Section P-1 for full discussion.

The Condominium By-Laws do not include a provision that requires a majority of the Condominium Board to be Owner-occupants or members of an Owner-occupant's Household who are unrelated to Sponsor and its principals after the end of the Sponsor Board Control Period. As a result, Purchasers for their own occupancy may never gain control of the Condominium Board under the terms of this Plan. See Section A-9.2 and see Section Q-1.2.

Section B-7.7.3. Association's Assets. The real property, personal property, chattel real, intangibles, monies, securities, licenses, belongings, and other assets, if and to the extent owned, leased or otherwise held from time to time by the Condominium Board or its affiliate on behalf of the Condominium Association comprise the "**Association's Assets**", which are owned in common by all Unit Owners or all Residential, Parking and Storage Unit Owners (as applicable), in proportion to their respective Common Interests, but cannot be divided, possessed, used or

occupied by the Unit Owners, all of whom shall conclusively be deemed to have irrevocably and unconditionally waived all rights of partition, possession, use and occupancy of the Association's Assets.

Section B-7.8. *Separate Taxes and Mortgages*.

Section B-7.8.1. Separate Taxes. Each Unit will be separately assessed by the DOF for real estate taxes. The estimated post-completion of construction real estate taxes for each Unit are listed in the Offering Price Schedule A in Section E. These estimates are based on certain assumptions and projections and are not assured or guaranteed (see footnote (6) to the Offering Price Schedule).

The time period after construction is completed in which the taxing authority (i.e., the DOF) will separately assess and bill Units for real estate taxes is uncertain and possibly may range from three months to up to one year from recording the Declaration. During the interim period, the real estate taxes will continue to be assessed against the entire Property and will be paid by the Condominium Board as a General Common Expense and assessed to all Units pro rata to their respective Common Interest, which Metropolitan Realty reports in its tax opinion is the method the DOF may use if the Common Interest percentages set forth in the Declaration are rationally and fairly determined. See Section A-10 and see Section S). After the Units are separately assessed and billed for real estate taxes, each Owner will only be liable for the real estate taxes levied against his or her Unit and no lien may thereafter be placed against an Owner's Unit because of non-payment of the real estate taxes on another Unit.

Section B-7.8.2. Mortgages. Each Unit may be separately mortgaged. The lien of the Condominium Board will be subordinate to the lien of a first mortgage placed on a Unit provided and on condition that at the time the Unit is mortgaged the Owner of such Unit is current in the full payment of all Common Charges and any Additional Common Charges (including unpaid Special Assessments) assessed by the Board against such Unit and all unpaid liens against such Unit are satisfied or bonded, other than the liens of mortgages made in compliance with the By-Laws. If such requirements are not met, the lien of the Condominium Board will be superior to the lien a first mortgage, but the validity or enforceability of such first mortgage will not otherwise be affected.

No Unit Owner shall execute any mortgage or other document mortgaging, pledging or hypothecating title to such Owner's Unit without including therein its appurtenant Common Interest, it being the intention to prevent any severance of such combined ownership. Any mortgage or other instrument purporting to affect one of such interests without including both of such interests shall automatically be deemed and taken to include the interest so omitted, even though the latter shall not be expressly mentioned or described therein.

Each Unit is separately owned and is not subject to the lien, nor liable for payments, of any mortgage placed on any other Unit.

Section B-7.9. *Maintenance and Repairs; Insurance*.

Section B-7.9.1. Maintenance and Repairs by Unit Owner. Each Unit Owner, at his or her sole cost and expense, shall maintain and repair his or her Unit, including its terrace (if any), facilities and Limited Common Elements, in accordance with the Building Standard.

The Owner's maintenance and repair obligations do not apply to the structural components of the Building bordering, enclosing and/or supporting the Unit or its terrace (if any), which are part of the General Common Elements and are to be maintained and repaired exclusively by the Condominium Board as a General Common Expense.

A Sold Residential Unit's windows, entrance door and the door leading to its terrace (if any) may not be colored, painted, covered, replaced, removed or otherwise altered, and the Unit's terrace (if any) may not be enclosed, partitioned, landscaped, furnished or decorated, without obtaining in each instance the consents of both Sponsor (until issuance of the Final Certificate of Occupancy) and the Condominium Board; except window shades, blinds, curtains and other window treatments will be permitted if they are light colored or have light colored backings facing the outdoors in conformity with the Rules and Regulations appended to the By-Laws, as amended from time to time by the Condominium Board.

The foregoing restrictions do not apply to an Unsold Residential Unit's windows, entrance door or the door leading to its terrace (if any), or a Retail Unit's storefront, which may be altered and decorated freely, other than the requirement to comply with the applicable General Requirements. See Section A-14.1 and see Section R-4 and Section R-5 for discussion.

Section B-7.9.2. Insurance Requirements of a Unit Owner. Each Owner of a Sold Residential Unit shall be required to obtain and maintain condominium homeowner's insurance as follows: Personal Property in the amount of $150,000; Alterations & Additions in the amount of: $150,000; and Personal Liability in the amount of $1,000,000. The Sold Residential Unit Owner's Property and Liability coverage is to be endorsed to provide a waiver of subrogation in favor of the Condominium Board. These insurance requirements do not apply to Owners of Unsold Residential Units, or Owners of Storage Units, Parking Units or Retail Units. See Section A-26.2 and see Section R-6.4 for further discussion.

Section B-7.9.3. Maintenance and Repairs by Condominium Board. The Condominium Board shall maintain and repair the Common Elements (other than the Limited Common Elements, which shall be maintained and repaired by, and at the sole cost and expense of, the Owner of the Unit to which a Limited Common Element is appurtenant) and the Association's Assets in accordance and compliance with the Building Standard (see Section R-4.2.1 and Section R-4.2.2) and in a manner that:

(a) shall not materially impair or prevent, nor unreasonably and materially interrupt or interfere with, the permitted use and enjoyment of a Unit; and

(b) shall maintain the value of all Units and the Building Services to be provided to the Units pursuant to the Declaration and the By-Laws.

The costs and expenses of such maintenance and repairs shall be assessed as follows:

(x) in the case of the General Common Elements, to all Unit Owners pro rata to their respective Common Interests; or

(y) in the case of the Residential Common Elements, to all Residential, Parking and Storage Unit Owners pro rata to their respective Common Interests.

Section B-7.9.4. Insurance Requirements of Condominium Board. The Condominium Board will maintain fire and other casualty insurance insuring the Common Elements, including the Common Areas and Common Facilities, and the Limited Common Elements. The insurance will include the interests of the Condominium Board, the Unit Owners and their respective holders of Permitted Mortgages. This insurance will not cover losses to the personal property of the Owner or Owner's Household, which are to be obtained and maintained by the Sold Unit Owners as provided above.

The Condominium Board will also maintain liability insurance covering claims for personal injury and property damage arising from occurrences in or on or to the General and Residential Common Elements, but not in or on or to Units. The insurance will include the interests of the Condominium Board, its Managers, Officers, employees and agents, and each Unit Owner. Unit Owners may be liable, jointly and severally, for occurrences in, on or caused by the Common Elements to the extent the liability insurance maintained by the Board is inadequate or does not cover the risk. The liability insurance in the First Year's Budget is in the amount recommended by the insurance agent identified in a Note to the First Year's Budget (see Schedule B in Section F for details).

The premiums for the casualty and liability insurance maintained by the Condominium Board will be included in the General Common Expenses and charged to all Unit Owners pro rata to their respective Common Interests as set forth in the First Year's Budget (Schedule B in Section F-6) and the Condominium Documents. The minimum insurance coverages are also contained in such First Year's Budget.

Section B-7.10. *No Right of Board to Approve Purchasers*. The Condominium Board and the other Unit Owners shall not have the right to approve or disapprove Purchasers. Unless purchased by the Board under said Right of First Refusal, there is no limit on the number of Owners who may purchase for investment rather than for personal occupancy. This potentially may result in an indeterminate number of non-resident Owners resulting in Purchasers for their own occupancy never gaining control of the Condominium Board under the terms of this Plan. See Section A-9.

Section B-8. Equipment and Fixtures Included in Sale. The offering price of each Unit includes all appliances, equipment, cabinets, and electrical and plumbing fixtures included in Sponsor's Plans and Specifications and summarized in Section C-1.4 and the Description of Property and Specifications (see DOCUMENT 4 in Part II of this Plan).

Section B-9. Prices Set By Sponsor Without Governmental Approval. The offering prices are set by Sponsor and are not subject to approval of the Department of Law or any other governmental agency.

Section B-10. All Material Terms Disclosed. This Plan delivered to prospective Purchasers contains all of the material terms of the transaction. Copies of this Plan, all documents referred to in this Plan and all Exhibits submitted to the Department of Law in connection with the filing of this Plan will be available for inspection without charge and for copying at a reasonable charge to prospective Purchasers and their attorneys at the office of the Selling Agent or the site of any sales office or the office of Sponsor and at the Real Estate Finance Bureau of the Office of the New York State Attorney General, 28 Liberty Street, New York, New York 10005.

Section B-11. Who May Purchase. This offering is made to only individuals aged 18 years or older, entities qualified to do business in the State of New York who are competent to own real estate in the State of New York, Foreign Governments and Diplomats that waive sovereign and diplomatic immunity, respectively, in conformity with the terms contained in the Declaration, and Foreign Persons that designate an agent for service of process in accordance with the terms of the Declaration.

Section B-12. Caveat. **THE PURCHASE OF A CONDOMINIUM UNIT HAS MANY SIGNIFICANT LEGAL AND FINANCIAL CONSEQUENCES. THE ATTORNEY GENERAL STRONGLY URGES YOU TO READ THIS OFFERING PLAN CAREFULLY AND TO CONSULT WITH AN ATTORNEY BEFORE SIGNING A PURCHASE AND SALE AGREEMENT.**

Section B-13. Glossary; Rules of Interpretation; Grammar.

Section B-13.1. *Glossary*. The meanings of the defined terms set forth below are contained in the following Sections of this Part I and shall apply to, variations and derivations thereof.

171 Calyer Street:	Section A-1.1	Association's Assets:	Section B-7.7.3
24/7:	Section A-4.	Balance:	Section K-1.3.
Additional Common Charges:	Section B-7.3.1(c).	Bank:	Section K-3.2.
Administrative Expenses:	Section B-7.3.2(d).	Baseball Arbitration:	Section R-9.
Adjacent Owner:	Section A-1.2	Board:	Section B-7.7.1.
Association:	Section B-7.7.1	Bona Fide Purchasers:	Section L-3.
		Brown:	Section F-6

Building: Section A-1.1.
Building Code: Section C-2.
Building Construction Standard: Section O-2.12.1.
Building Services: Section B-7.3.2.
Building Standard: Section B-7.3.2.
Building Systems: Section B-7.2.1(j).
Bulkheads: Section B-7.2.2.
Business Judgment: Section A-31.
Business Judgment Rule: Section A-31.
By-Laws: Section B-2.
Cantilever Easement Area: Section A-1.2
Cantilevered Portion: Section A-1.2
Certificate of Occupancy: Section A-7.3.1
City Register's Office: Section B-2.
Close Title: Section A-2.4.
Closing: Section A-2.4.
Closing Date: Section K-6.
Closing of Title: Section A-2.4.
Combined Unit: Section I-4(b).
Common Charges: Section B-7.3.1(a).
Common Areas: Section B-7.2.
Common Elements: Section B-7.1.
Common Expenses: Section B-7.3.2.
Common Facilities: Section B-7.2
Common Interest: Section B-7.1.
Condominium: Section B-2.
Condominium Act: Section B-2.
Condominium Amendment: Section A-27.2.
Condominium Association: Section B-7.7.1.
Condominium Board: Section B-7.7.1.
Condominium Documents: Section B-2.
Construction Change Requirements: Section O-2.9.
Construction Changes: Section O-2.9.
Construction Defect: Section O-2.12.2.
Construction Lender: Section A-1.6
Construction Loan Documents: Section A-1.6
Construction Parties: Section B-7.6.1.
Contingency Reserve: Section H-7.2
Declaration: Section B-2.
Defect Notice: Section O-2.12.2.
Department of Law: Section B-1.
Deposit: Section A-1.5.
Deposit Notice: Section K-3.8.
Depository: Section A-1.5.
Designated Occupant: Section B-7.5.1.
Designee: Section A-27.7.
Developer: Section 1.2
Diplomat: Section A-5
Excess Development Rights: Section A-1.4
DOB: Section A-7.3.1.
DOF: Section A-10.
Douglas Elliman Property Management: Section X-3.
Effectiveness Amendment: Section L-2.
Emergency: Section A-18.3.
Escrow Account: Section K-3.2.
Escrow Agent: Section K-3.1.
Excess Development Rights: Section A-1.4
FCO: Section A-7.3.1.

Final Certificate of Occupancy: Section A-7.3.1.

FinCEN: Section A-401.

First Unit Closing: Section A-2.1.

First Year's Budget: Section A-4.

Flatiron LLC: Section A-4.

Floor Plans: Section B-2.

Foreign Person: Section A-6.

Foreign Government: Section A-5

GBL: Section K-2.

General Common Charges: Section B-7.3.1(a).

General Common Elements: Section B-7.2.

General Common Expenses: Section B-7.3.2(a).

General Requirements: Section A-32.2.

Government Document: Section O-1.8.

Governmental Approvals: Section R-5.4.3(d)

Governmental Authority: Section A-7.2.2(b-1)

Governmental Work Permit: Section A-7.3.2.

Guests: Section B-7.5.1.

Handicapped Parking Unit: Section A-14.3.5

Handicapped Vehicle: Section A-14.3.5

Handicapped Resident: Section A-14.3.5

Household: Section B-7.5.1.

ILSA: Section AA-7.

Indemnified Party: Sections O-1.7(d) and O-2.1.

Independent Manager: Section B-7.7.2.

Initial Working Capital Fund: Section V-2.

Institutional Lender: Section B-4.

Insurance Trustee: Section R-6.1.1(b). .

Interim Use and Occupancy Agreement: Section J-1.

kwh: Section F-7.

Land: Section B-3.

Landmarks Commission: Section A-1.1.

Landmarks Law: Section A-1.1.

Latent Construction Defect: Section O-2.12.2.

Laws: Section A-7.2.2(b-1)

Legal Expenses: Section A-2.1.

Limited Common Elements: Section B-7.2.

Lines and Conduits: Section B-7.1.2(h).

Litigation Document: Section O-1.8.

Liquidated Damages: Section A-2.1.

Malfeasance: Section Q-3.

Manager: Section B-7.7.2.

Managing Agent: Section A-6.

MDL: Section A-28.

Metropolitan Realty: Section A-10.

Miller LLP: Section T-1.

Immaterial Construction Defect: Section O-2.12.2.

Non-Recourse, Pro Rata and Limited Liability: Section Q-3.

OCV: Section X-5

Offensive Uses: Section H-3

Offering Price Schedule: Section A-2.5.4.

Officer: Section Q-1.8

Operating Costs:	Section A-4
Order:	Section A-40.
Ordinary Work:	Section R-5.1.1.
Owners:	Section B-1.
Owner-Occupied:	Section A-8.
Parking Units:	Section B-5.
Parking Unit Owners:	Section B-1.
Part I:	Section B-1.
Part II:	Section B-1.
Part 20:	Section B-1.
Patent Construction Defect:	Section O-2.12.2.
Per Diem Interest:	Section A-2.1.
Permitted Encumbrances:	Section M-4.
Permitted First Mortgage:	Section Q-7.2(b).
Permitted Mortgage:	Section A-11.
Permitted Users:	Section A-41.
PKSB:	Section X-5.1.
Plan:	Preamble.
Plan Amendment:	Section A-2.5.4.
Plans and Specifications:	Section B-7.1.2(h).
Presentation:	Section A-22.
Prohibited Uses:	Section A-32.1.
Property:	Section B-3.
Punch List Work:	Section K-28.2.
Purchase and Sale Agreement:	Section A-1.5.
Purchase Price:	Section A-1.5.
Purchaser:	Section A-1.5.
Reasonably Acceptable:	Section O-1.8(b).
Reconfigured Units:	Section I-4(c).
Registered Mortgage:	Section R-6.1.1(c).
Reserve for Capital Replacements:	Section R-3.2.
Reserve for Contingencies:	Section R-3.2.
Residential Common Charges:	Section B-7.3.1(b).
Residential Common Elements:	Section B-7.2.
Residential Common Expenses:	Section B-7.3.2(b).
Residential Facilities:	Section B-7.1.2.
Residential Manager:	Section 7.7.2
Residential Units:	Section B-5.
Residential Unit Owners:	Section B-1.
Retail Common Charges:	Section B-7.3.2(c)
Retail Common Element:	Section B-7.2
Retail Common Expenses:	Section B-7.3.2(c)
Retail Manager:	Section 7.7.2.
Retail Units:	Section B-5.
Retail Unit Owners:	Section B-1.
Right of First Refusal:	Section B-7.5.2.
RPL:	Section B-7.3.1.
RPTL:	Section A-10.2.
Rules and Regulations:	Section B-2.
Schedule B:	Section A-4
Scheduled Closing Date:	Section A-2.5.3.
Security Deposit:	Section R-3.7.
Selling Agent:	Section X-4.
Sharon:	Section X-5.2

SNDA:	Section H-7.22
Sold Parking Unit:	Section A-7.1.
Sold Residential Unit:	Section A-7.1.
Sold Storage Unit:	Section A-7.1.
Sold Unit:	Section A-7.1.
Special Assessments:	Section B-7.3.1.
Specially Allocated Expenses:	Section B-7.3.2(d).
Sponsor:	Section B-3.
Sponsor Board Control Period:	Section A-7.1.
Sponsor Manager:	Section B-7.7.2.
Sponsor Designee:	Section A-27.7.
Sponsor Veto Control:	Section P-2.1.
Sponsor Veto Control Period:	Section A-7.2.
Sponsor Paid Waiver Period:	Section A-4
Sponsor's Obligations:	Section O-2.
Sponsor's Rights:	Section A-27.1.
STAR:	Section S-8.1
Storage Units:	Section B-5.
Storage Unit Owners:	Section B-1.
Subdivided Units:	Section I-4(a).
Substantial Damage:	Section R-6.3.
TCO:	Section A-7.3.1.
Temporary Certificate of Occupancy:	Section A-7.3.1.
Titan:	Section X-5.3
Title Insurance Company:	Section M-4(c).
Unavoidable Causes:	Section A-18.2.
Units:	Section B-5
Unit Alteration:	Section I-4(e).
Unit's Areas:	Section B-7.1.1
Unit Change Requirements:	Section I-6.
Unit Changes:	Section I-4.
Unit Combination:	Section I-4(b).
Unit Division:	Section I-4(a).
Unit Expansion:	Section I-4(d).
Unit Layout:	Section A-22.
Unit Owner:	Section O-1.4.
Unit Owners:	Section B-1.
Unit Owners Paid Waiver Period:	Section A-4
Unit Users:	Section B-7.6.1.
Unit Reconfiguration:	Section I-4(c).
Unsold Parking Unit:	Section A-7.1.
Unsold Residential Unit:	Section A-7.1.
Unsold Storage Unit:	Section A-7.1
Unsold Unit:	Section A-7.1.
Veto Control:	Section P-2.1.
Waiver Period:	Section A-4
Work Requirements:	Section A-32.2(c).
Working Capital Fund:	Section V-1.
Working Capital Fund Payment:	Section V-2.
ZLDA:	Section A-1.2.

Section B-13.2. *Rules of Interpretation.* The lowercase words used in this Part I or derivations or variations thereof shall be interpreted as indicated below. All other lowercase words shall have their ordinary meanings.

"accessible" is a facility or other item in question that is accessible from within the interior of a Unit without damage or destruction to boundary walls, boundary floors, boundary ceilings, Building façade or exterior walls, or similar Common Elements within or bordering a Unit.

"acts or omissions" are actions or oversights, whether due to abuse, neglect or negligence or otherwise, and whether inadvertent or intentional.

"affiliate" is an entity whose legal, equity or beneficial interest are totally owned or controlled by a party or over which a party has voting control.

"alter" is to improve, modify, add to, adjust, vary, change, amend, revise, rework, correct, demolish, remove or replace, whether structural or non-structural, or extraordinary or ordinary.

"amend" is to modify, revise, correct, rewrite, supplement, add, eliminate, delete, repeal, replace, substitute, or otherwise change.

"and/or" means one or the other or both, as may be applicable or to best implement the intent of the parties as gathered from the entire instrument.

"arising from" is interchangeable with "attributable to", "caused by", "due to", and "in connection with" so that the use of one shall include the others.

"attributable to" is interchangeable with "arising from", "caused by", "due to", and "in connection with" so that the use of one shall include the others.

"business day" is any calendar day other than Saturday, Sunday or a legal holiday of the State of New York or United States government.

"caused by" is interchangeable with "arising from" "attributable to", "due to", and "in connection with" so that the use of one shall include the others.

"claim" is any manner of contention, dispute, controversy or disagreement.

"consent" shall mean the required permission to be obtained must be in writing and given in advance of the action or transaction in question, and can be conditioned, delayed, withheld or denied, without cause or explanation, at the absolute discretion of the party whose consent is required, without liability or recourse of any kind against such party.

"cost" is any price, charge or fee.

"day" is any day of the year, unless expressly stated to be a business day.

"decorate" is to outfit with art works, ornaments, furnishings, furniture, fixtures and embellishments of any kind, including: all manner of: flooring (e.g., wood, tiles of any composition, carpeting, rugs and other floor coverings);wall finishes and coverings (e.g., paint, wallpaper and fabric; wood

paneling; baseboards and moldings; ceiling finishes and coverings (e.g., paint and plaster); lighting fixtures and chandeliers and related switch plates and electrical outlets; doorknobs, hinges, faucets, spouts and other hardware; and plants, flowers and gardening).

"disposition" is to assign, transfer, convey, lease, license, mortgage, securitize, pledge, grant easements or concessions, and to otherwise alienate.

"due to" is interchangeable with "arising from" "attributable to", "caused by", and "in connection with" so that the use of one shall include the others.

"duty" is a responsibility, obligation, burden, or requirement.

"easement" is a right and interest in the Land that shall be irrevocable, perpetual and permanent, and not subject to forfeiture or reversion.

"entity" is a person, other than an individual, legally competent to own real property in the State of New York, including: a general or limited partnership; a limited liability company; a corporation; an unincorporated association; a trust; an estate; a fiduciary; a syndicate; a joint venture, a government or a government instrumentality, or other body.

"equipment" is all manner of machinery, tools, apparatus, devices and implements comprising part of a Common Element or Unit (as applicable), now or hereafter, whether mechanical, electrical, electronic, plumbing, heating, ventilation, cooling or otherwise.

"expense" is any pecuniary expenditure, outlay, imposition, penalty or fine.

"facilities" are all manner of equipment, structures, fixtures and the components of the Building's mechanical, power, lighting, electronic, plumbing, communications, security, fire protection, utility (electric and gas), heating, ventilation, air conditioning, hot and cold water, refuse, drainage, sanitary waste, sewer, elevator and other systems serving or benefiting, at the time in question, one or more Units or the Common Elements, or necessary or desirable for the use and enjoyment of the Property or any portion thereof, including risers and distribution lines, main feeder lines, motors, fans. louvers, pumps, cameras, recorders, monitors and connections (wires, cables, lines and conduits).

"for example" shall be deemed to mean "for example (without limitation)" and shall be interchangeable with "include" and "such as" so that the use of one shall include the others.

"freely" is the same as unfettered.

"immediate family" means Owner's spouse or domestic partner, a child of Owner or Owner's spouse or domestic partner (whether by blood, marriage or adoption), a parent (including a step-parent or parent-in-law), grandparent or sibling of any of the foregoing.

"in accordance with" shall always be deemed to mean "in accordance and compliance with".

"in connection with" is interchangeable with "arising from" "attributable to", "caused by", and "due to" so that the use of one shall include the others.

"inaccessible" means the facility or other item in question is not accessible.

"include" shall be deemed to mean "include (without limitation)" and shall be interchangeable with "for example" and "such as" so that the use of one shall include the others.

"indemnify" shall always be deemed to include "defend and hold harmless".

"install" is to erect, construct, affix, mount, fasten, project or otherwise attach to, in, on, under, above or from, or to hang on, under or from.

"lease" is a contract or agreement creating a landlord and tenant or licensor and licensee relationship, or other form of use and occupancy or possessory interest in a Unit or a Common Element for rent, fee or other consideration.

"liable" is all manner of legal responsibility or accountability.

"litigation" is a court action or proceeding, and/or (if specifically provided) an arbitration, mediation or other dispute resolution body, as applicable.

"loss" means to sustain or suffer (as applicable): bodily harm or death, or property damage or destruction; or actual or compensatory damages, but not consequential, indirect, incidental, special or punitive damage; or costs or expenses.

"maintain" is to inspect, test, clean, wash, paint, preserve and keep in good and proper working order and first-class condition and appearance, free and clear of leaks, water accumulation, dirt and debris.

"notice" is any demand, notification, request or other communication.

"offend" is to be at fault or blame, and thereby be responsible or accountable to another party.

"on behalf of" means with the authority or permission, or at the direction, or at the behest of, or for the benefit of a party.

"operate" is to govern, administer, manage, control, perform (including to alter, maintain, repair and restore), conduct or transact business or affairs or other activities; or to run, work or function, as indicated or inferred by the context.

"party" is a person who is or becomes bound by the Condominium Documents.

"person" is a natural individual or an entity.

"power" is to have the authority and right of a party as set forth in the Condominium Documents or the Condominium Act.

"pro rata" means in the proportion that the Common Interest of a Unit bears to the total Common Interests of all Units.

"promote" is all manner of offering, advertising, marketing, signage, displays and other activities in connection with the sale, rental or operation of, or the business conducted in, a Unit, or as otherwise indicated by the context.

"reasonable consent" means the required permission to be obtained must be in writing, given in advance of the action or transaction in question, and cannot be arbitrarily conditioned, withheld, denied or delayed, and instead shall be determined in accordance with reasonable criteria, and if the consent is not given, or if no response is given within a

specified period (or if none) a commercially reasonable period, then the reason to condition, withhold, deny or delay, or to not respond, shall be explained upon written request.

"repair" is to fix, correct, refurbish, renovate, replace and substitute, whether structural or non-structural, or extraordinary or ordinary.

"restore" is to reinstate or rebuild.

"right of self-help" is the authority of a party, for the account and at the expense of another party, to pay or perform an obligation of such other party.

"roof" is the top weather protection of the Building or a Building setback, composed of (if and to the extent existing at the time in question) concrete slab and a roofing system (insulation, membrane flashing and counter-flashing), but excludes any terrace located thereon.

"roof structures" mean all parapets, copings and railings enclosing a roof and together with its drains, gutters, leaders and similar elements.

"shall" is the same as must and is mandatory.

"sidewalk" is the portion of the pavement immediately outside and fronting the Property line, including its curb and tree pit(s) (if any).

"signage" is a graphic mark, figure, picture, inscription, banner, flag, awning, placard, sandwich board, or other object or item, composed of any material, and of any design, size, illumination, configuration, fabrication, quality, character, color, appearance or content, used to advertise, market, sell, lease, license or operate a Unit or to promote a business being conducted in a Unit or the sale of goods or merchandise being offered in a Unit, or to identity the Owner or tenant of a Unit or for any other lawful purpose.

"sole cost and expense" mean the cost and expense shall be borne solely by the applicable party without reimbursement from, or any manner of recourse against, another party.

"storefront" is the non-load bearing glass front and entry of a Retail Unit, including its frames and components.

"structural" is an element that contributes to the physical support, stability, soundness, integrity and weather-tightness of the Building or a portion thereof, including (if and to the extent existing at the time in question) foundation, foundation walls, retaining walls, pilings, columns, beams, supports, girders, wood joists, load-bearing and shear walls, concrete ceiling and floor slabs, Building façade and exterior walls, the roof above the top floor and above the Building or at a Building setback, and all similar structural members of the Building and their respective components.

"subject to" shall always deemed to mean "subject and subordinate to".

"such as" shall be deemed to mean "such as (without limitation)" and shall be interchangeable with "include" and "for example" so that the use of one shall include the others.

"telecommunication equipment" consists of antennae, satellite dishes, cables, lines, wires, fibers, filaments, conduits, receivers, transponders, relays and all other devices and apparatus for radio, telephone (mobile,

wireless or cable), telegraph, telecopier, electronic mail, television, computer, laptop and other means to communicate at a distance.

"tenant" is the person entitled to use, occupy and possess a Unit, a Common Element or an Association's Asset pursuant to a lease, including a licensee, operator and concessionaire.

"terrace" is the flooring (composed of pavers or other construction material) and supporting pedestals or shims located above (but is not part of) a roof.

"unfettered" is unrestrained, without and free of any consent, approval, fee, charge, imposition, payment, condition, restriction, limitation, prohibition or requirement, other than compliance with the General Requirements and any other expressly stated restriction, limitation, prohibition or requirement.

"use and enjoy" are all rights, privileges and benefits, either exclusively or in common (as applicable), with respect to a portion of the Property for its permitted purposes, under the terms and conditions contained in Condominium Documents.

"utilities" include electricity, gas, water and sewer, cable television, telephone and Internet.

"violate" is to default or breach, or to suffer a default or breach, or to fail to observe, fulfill, perform or comply with a duty, obligation, restriction, limitation, prohibition or other requirement (whether intentional or inadvertent).

"window" includes the pane, muntins, mullions, sashes, latches, mechanisms, frames and any other components comprising a window (if and to the extent applicable), whether a fixed or operable window, including the portion of a window in the Building's façade or exterior walls.

"work" is all manner of labor, actions and activities, whether structural or non-structural, extraordinary or ordinary.

Section B-13.3. *Grammar*. Any number (plural or singular), or gender (masculine, feminine or neuter) or tense (past, present or future) used in this Part I shall be deemed to include any other number, any other gender and any other tense, as the context may require or to correct a grammatical error.

END OF SECTION B

SECTION C. DESCRIPTION OF THE PROPERTY AND IMPROVEMENTS

The following is a general description of the Property, including the Units and the Common Elements, as well as certain facilities to be provided at the Condominium. For a more detailed description of the Property and the Building, see DOCUMENT 4. "Description of Property and Specifications" in Part II of this Plan. This summary and said DOCUMENT 4 are based on Sponsor's Plans and Specifications for the construction of the Building with newly constructed and outfitted Units and Common Facilities filed with the DOB, which may be amended from time to time pursuant to this Plan.

Section C-1. The Property, Services and Amenities.

Section C-1.1. *Land*. The parcel of Land comprises 9,600 square feet and fronts 96 feet, 0 inches on Calyer Street and fronts 100 feet, 0 inches on Lorimer Street.

Section C-1.2. *Building*. The Building is being newly constructed at 171 Calyer Street, Brooklyn, New York. Upon completion of construction, the Building will contain a cellar, six floors above the cellar, a main roof and a Roof/Bulkhead. The floors above the cellar will be numbered 1 (ground floor) to 6. See the following Section C-1.3 for location of the Units. An elevator will serve all floors from the cellar to floor 6.

Section C-1.3. *Units*. Under Sponsor's current Plans and Specifications, the Building is to be newly constructed with a total of twenty-one (21) Residential Units to be located on floors 2 to 6, twelve (12) Parking Units to be located on the cellar level, fifteen (15) Storage Units to be located floor 2 and two Retail Units to be located on floor 1.

The planned floor locations, designations and number of bedrooms and bathroom or half baths (i.e., without a shower or tub) of the Residential Units are as follows:

Floor 2:

Residential Unit 2A	2 bedroom, 3 bathroom
Residential Unit 2B	1 bedroom, 2 bathroom
Residential Unit 2C	3 bedroom, 2.5 bathroom
Residential Unit 2D	1 bedroom, 1.5 bathroom
Residential Unit 2E	2 bedroom, 3 bathroom

Floor 3:

Residential Unit 3A	2 bedroom, 3 bathroom
Residential Unit 3B	1 bedroom, 2 bathroom
Residential Unit 3C	3 bedroom, 2.5 bathroom
Residential Unit 3D	1 bedroom, 1.5 bathroom
Residential Unit 3E	2 bedroom, 2.5 bathroom
Residential Unit 3F	3 bedroom, 2.5 bathroom
Residential Unit 3G	1 bedroom, 1.5 bathroom

Floor 4:

Residential Unit 4A	3 bedroom, 3.5 bathroom
Residential Unit 4B	4 bedroom, 3 bathroom
Residential Unit 4C	4 bedroom, 3.5 bathroom
Residential Unit 4D	3 bedroom, 3 bathroom

Floor 5:

Residential Unit 5A	3 bedroom, 3.5 bathroom
Residential Unit 5C	2 bedroom, 2 bathroom
Residential Unit 5D	2 bedroom, 2.5 bathroom
Residential Unit 5E	2 bedroom, 2 bathroom

Floor 6:

Residential Unit 6A	3 bedroom, 2.5 bathroom

The following Residential Units will have a terrace with a gas grille barbecue: 3F, 4A, 4B, 4C, 5C, 5D and 6A.

The square footage of the Parking Units are planned as follows: Parking Units 1 to 10: 153 square feet; Parking Unit 11 (the Handicapped Parking Unit): 201 square feet, and Parking Unit 12: 173 square feet, for a total of 1,904 square feet. Each 90 degree Parking Unit is scheduled to be 18 feet in length and 8 feet 6 inches in width. The Handicapped Parking Unit is scheduled to be 18 feet in length and 11 feet 2 inches in width. Each parallel Parking Unit is scheduled to be 20 feet 4 inches in length and 8 feet 6 inches in width. The height of Parking Units will vary as follows: Parking Units 1 to 5: 7 feet 9 inches; Parking Units 6 to 11: 8 feet 5 inches; and Parking Unit 12: 8 feet 9 inches. The Owner of a Parking Unit will be provided with a remote control device to access the gated garage from Lorimer Street. The garage will be unattended.

All Storage Units are planned to be 53 square feet, except Storage Units 8 and 15 are planned to be 40 square feet and 34 square feet, respectively, for a total of 529 square feet.

Retail Units 1 and 2 will be located on floor 1 and are planned to contain 4,820 square feet and 1,994 square feet, respectively, for a total of 6,814 square feet.

See the Offering Price Schedule (Schedule A in Section E) for further details.

The indoor area of each Residential, Retail and Storage Unit is measured: horizontally from the prevailing exterior side of an enclosing boundary wall or façade or exterior Building wall (but not beyond the Property line), or from the midpoint of a party wall separating two Units; and vertically from the Unit-side of the surface of the structural floor to the Unit-side of the surface of the structural ceiling. Each terrace is measured: horizontally from the prevailing exterior side of an enclosing parapet (but not beyond the Property line) or from the exposed prevailing surface of an enclosing façade or exterior Building wall, or from the midpoint of a fence or barrier separating two terraces; and vertically from the Unit-side of the surface of a roof or roof setback enclosing the terrace to a height of an imaginary horizontal plane that is directly opposite and coincident with the Unit-side of the surface of the Unit's structural ceiling. The Common Elements (their surfaces, façade or exterior Building walls, party walls, chase walls, interior columns, and shafts) bordering or within the interior of a Unit or terrace are included in the computation of the floor area of the Unit and terrace, but such Common Elements are not part thereof. As a result, the indoor or outdoor floor areas of a Unit will substantially exceed the Unit's useable floor areas. The room and unenclosed area dimensions, however, are measured from the exposed surface of the prevailing walls bordering the room or unenclosed area, but cabinets, moldings, baseboards and the like are not subtracted. Each 90 degree Parking Unit is 18 feet in length and 8 feet 6 inches in width. The Handicapped Parking Unit is 18 feet in length and 11 feet 2 inches in width. Each parallel Parking Unit is 20 feet 4 inches in length and 8 feet 6 inches in width. See Section A-22.

All measurements and dimensions are approximate, rounded and within reasonable tolerances and estimates based on Sponsor's Plans and Specifications, all of which are subject to normal

construction allowances, tolerances, variances and changes pursuant to Sponsor's Right to change the number, configuration, layout, size and room dimensions of Units in compliance with Part 20, Section 20.3(k) of the regulations issued by the Department of Law and based on construction drawings. (See Sections I-4 and I-5.) An immaterial inaccuracy in the actual square footage (i.e., floor area) or the actual size of individual rooms or unenclosed areas of a Unit when built from that shown on its Floor Plan in DOCUMENT 5 in Part II of this Plan (or any other drawing or diagram) and the Offering Price Schedule (in Section E) shall not excuse a Purchaser from his or her obligation under the Purchase and Sale Agreement to pay the full Purchase Price and all Closing costs, without abatement, set-off or credit, and without liability or recourse of any kind against Sponsor or the Selling Agent.

If the actual aggregate floor area of a Unit or the individual floor area of a room or area therein when built, as similarly measured as set forth above, is materially smaller than shown on its Floor Plan in DOCUMENT 5 in Part II or in the Offering Price Schedule, this Plan will be amended to offer the affected Purchaser the right for fifteen (15) days after Presentation of the Plan Amendment to rescind and recover Purchaser's Deposit together with any earned interest thereon, which shall be the limit on Purchaser's remedy and Purchaser's sole recourse against Sponsor and its Selling Agent. Sponsor reserves the right to make changes in the planned Unit Layout. See Section I-4) and footnote (2) to the Offering Price Schedule.

Any change in the percentage of Common Interest or the reapportionment thereof may only be made by filing an amendment to this Plan and the Condominium Declaration. No material change may be made to Units in contract without the consent of a Purchaser who is not in default.

Section C-1.4. *Appliances and Finishes*. Residential Units are planned to be outfitted as set forth below, subject to the right reserved to Sponsor to substitute material and appliances of no less equal in quality or design. Kitchens equipped with a 30 inch Bertazzoni gas range will be outfitted with a 30 inch a Bertazzoni range microwave oven, a 36 inch integrated French door refrigerator by Fisher & Paykel, a 24 inch panel ready dishwasher by Cove, and natural stone Taj Mahal Quartzite Slab kitchen counter and backsplash. Kitchens equipped with a 36 inch Wolf gas range will be outfitted with a 24 inch Wolf drawer microwave oven, a 36 inch Subzero integrated French door refrigerator/freezer, a 36 inch XO Appliance hood exhaust, a 24 inch Cove ready dishwasher, and natural stone Taj Mahal Quartzite Slab kitchen counter and backsplash. All Residential Units will have a laundry closet or room outfitted with an Electrolux 24 inch compact washer/compact condensation dryer. Unit entrances, bedrooms, living/dining rooms and kitchens will have engineered hardwood European white oak 5/8 inch flooring, 7 inch wide plank. The Purchase Price of a Residential Unit includes all of the foregoing items. See Section A-33 and the Description of the Property and Specifications (DOCUMENT 4 in Part II of this Plan) for appliance makers, model numbers and further details.

Furnishing, furniture, appliances, finishes and coverings (on walls, floors and ceilings) window treatments and all other decorations in or about any sales model or office that are not

expressly set forth in this Plan as being included in the sale of a Residential Unit are for display purposes only and not included in the sale. Purchaser, at his or her sole cost and expense, will be responsible to repaint and repair any damage to the Unit or its contents that might be caused when Purchaser moves in.

Section C-1.5. *Standard Building Services and Amenities*. The planned standard Building Services to be provided to the Owners and tenants of Residential Units and their respective Households are listed below and are scheduled to be in effect from and after the First Unit Closing and occupancy of a Residential Unit. At and after the First Unit Closing, portions of the Common Elements and Units will still be undergoing construction, equipping, outfitting and decorating, which may extend up to possibly a year or more, subject to delays caused by completion of Units and Punch List Work (which will have the highest priority) and Unavoidable Causes. During this period, the electrical, plumbing, elevator and other Building Systems may be disrupted temporarily from time to time as work is performed or Building Systems are balanced and adjusted. Occupied Residential Units, however, will remain habitable and a tenant protection plan to the extent required by Laws will be in place. See Section A-16 and Section A-18.2 with respect to the foregoing, and see Section C-1.7 as to potential changes in Building Services.

The costs and expenses to provide these Building Services shall be included in the Residential Common Charges assessed to all Residential, Parking and Storage Units pro rata to their respective Common Interests, except certain Building Services (e.g., the wages and related payroll costs and benefits of the Building staff) will be a Specially Allocated Expense assessed to all Residential, Parking and Storage Units, as one group of Units, and both Retail Units, as the other group of Units, in accordance with the amount fairly attributable to each such group of Units, as explained more fully in Note 5 to Schedule B in Section F-6:

Standard Building Services and Amenities

The Building is planned to contain the following Building Services and amenities (see Section A-16.2):

Recreational Terrace: A 620 square foot 6th floor recreation terrace with a gas grille barbecue.

Exercise Room: A 580 square foot exercises room equipped with a Peloton bike treadmill, elliptical, adjustable bench and dumbbells located on floor 2, and a separate nearby lavatory.

Children's Playroom: A 240 square foot children's playroom located on floor 2.

Bike Room: A bike room with 11 bike rack spaces located on floor 1.

Pet Grooming Station: A pet grooming station will be provided in the cellar parking garage, which will be outfitted with a hose bib and floor drain.

Elevator Service: One automatic, self-service elevator will serve the cellar and floors 1 to 6.

Building Staff: one doorman working 40 hours per week, one part-time porter working approximately 16 hours per week, and one part-time visiting superintendent working 5 hours per week. The doorman's anticipated schedule is Monday to Friday, from 7:00 a.m. to 3:00 p.m. The porter will be scheduled to visit the Building 6 times per week. The superintendent will visit the Building as needed, estimated at approximately 5 hours per week, and will be on call for emergencies. All such schedules are subject to adjustment. The wages and related payroll costs and benefits of the Building staff will a Specially Allocated Expense assessed to all Residential, Storage and Parking Units, as one group, and both Retail Units, on the other group, in accordance with the amount fairly attributable to each such group of Units, as explained more fully in Note 5 to Schedule B in Section F-6. See Section A-16.1.

Building Security and Intercom Systems: A Virtual Doorman® System will be provided, which will be comprised of a Virtual Doorman Server and Interface module, card access control, digital video surveillance, and the Akuvox residents' intercom System. The Virtual Doorman® enables package reception, including dry cleaning, as well as guest access and Resident Lock Out Protection. The system is capable of time management of all vendors. Access logs can be emailed to management for record.

The Akuvox intercom system consists of one color video open microphone handset within each Residential Unit, which is actuated when a guest or visitor presses the individual Residential Unit's button at the lobby call panel station at the exterior of the Building. Alternatively, residents can use the Virtual Doorman smartphone app to grant access to the Building. The resident will not only see the visitor at the front entrance before allowing access, but also can call up the elevator camera and view the visitor from his or her Unit's station or smartphone (iOS or Android) while the Virtual Doorman app is open on their phone.

The networked video surveillance system is comprised of an enterprise-level digital video recorder that will record video of the Building's commercial grade day/night vandal resistant cameras for a minimum of thirty (30) days. The NVR has investigative tools, video enhancement and watermarking technology.

The access control system will be managed remotely by the vendor. The system is manufactured by Hartmann Controls.

Eight doors will be controlled by a card access system: the main lobby entrance doors, the package closet door, the children's playroom, the floor 2 room housing the Storage Units, the residents' floor 2 exercise room, the door between the unattended parking garage and cellar level elevator corridor, the inner lobby vestibule and the floor 1 bike storage doors. This system manages access to these proximity readers. All residents and any of their guests can be granted full or limited access. A key fob may also be provided to a service company (i.e., elevator vendor), which only has limited access during the hours specified by the Board or its managing agent. Access can be blocked by deleting a specified key fob from the list of authorized parties.

No representation, assurance or guaranty is made or given that the security system will prevent personal injury or damage to, or loss of, property.

Electricity and Gas: Electricity will be provided by Consolidated Edison Company of New York, Inc. (or any utility that subsequently supplies electricity to the Building) to each Residential Unit and Retail Unit. Gas service will be provided to each Residential Unit for cooking. Electricity will be separately metered and paid by the Residential Unit Owner directly to the utility provider as measured by the Unit's separate meter. the utility provider's rates in effect from time to time, and any taxes.

Cooling and Heating: Each Residential Unit will be provided with cooling and heating by a heat pump split system with air handler installed within the Residential Unit and condensers installed on the roof.

Telephone, Television, Cable Television and High Speed Internet: Telephone, cable television and high speed internet services will be, provided by Spectrum or Verizon FIOS and/or another service provider. All of these services will be available in each Residential Unit. The Residential Unit Owner will be required to arrange for these services with the utility provider and will pay directly to the utility provider for his or her individual: telephone charges and initial charges for activating individual outlets in the Residential Unit; charges for cable television service (including installation and subscription charges); and high speed internet.

Refuse Disposal: Each floor containing a Residential Unit will have a trash room with a refuse chute and a recycling bin. The refuse chute will lead to the cellar trash room where the refuse will be compacted by a compactor. Refuse will be loaded into plastic bags and taken by the porter to curbside for collection by the New York City Department of Sanitation.

Laundry: Each Unit will have a laundry closet outfitted with an Electrolux (or equal) compact electric washer and an Electrolux (or equal) compact electric dryer.

Other Service Contracts: Certain additional services will be covered by third-party contracts and included in standard Building Services, such as elevator maintenance.

Smoke and Carbon Monoxide Detectors: Smoke and carbon monoxide detectors shall be provided in each Residential Unit in compliance with applicable Law.

General Provisions Concerning Building Services. In all likelihood, the nature of the Building Services listed above, the hours during which they are provided, and any increase or decrease or elimination of any such Building Services may change from time to time, in the discretion of the Independent Managers when they have voting control of the Board; subject however, to the right reserved to Sponsor, during the Sponsor Veto Control Period, to veto any increase, decrease, elimination or other change in the planned Building Services set forth in this Plan. In addition, the rates charged for Building Services provided by third-parties will likely change from time to time. Sponsor and the Selling Agent do not represent, assure or guarantee that the Independent Managers will maintain the Building Services set forth above after the end of the Sponsor Veto Control Period.

All decisions concerning the Building Services summarized in this Section C-1.5 and any changes thereto will be made by the Sponsor Managers while they have voting control of the Condominium Board during only the Sponsor Board Control Period. This Plan will be amended to disclose an adverse change in a material Building Service.

Section C-1.6. *Governing Condominium Documents; Changes and Interruptions in Building Services*. The foregoing Building Services will be governed by, and subject to, the Declaration, the By-Laws and the Rules and Regulations (the latter may be amended from time to time by the Condominium Board without the consent of Unit Owners and without recording an amendment to the Declaration). The Sponsor and Managing Agent will not be responsible for changes made by the Condominium Board to: (a) the quality or level of Building Services or (b) a change, reduction or discontinuance of Building Services provided in the First Year's Budget, all of which will be within the discretion of the Condominium Board after the end of the Sponsor Veto Control Period.

Sponsor will have the unfettered right (other than the requirement to comply with the applicable Work Requirements), and without liability to Owners, tenants or occupants of Units or to the Board for any claims or liabilities, to temporarily interrupt Building Services in order to complete the construction of the Building with newly constructed and outfitted Units and Common Facilities in accordance with Sponsor's Plans and Specifications disclosed in this Plan or to perform construction obligations under this Plan, a Plan Amendment or a Purchase and Sale Agreement (whether performed before or after the Closing of Title thereunder).

The Condominium Board (including its Managers and Officers in their capacity as such), the Managing Agent and Sponsor will not be liable to Owners, tenants or occupants of Units, or their Construction Parties, or visitors, for any claims, litigations, liabilities and damages based on an interruption, reduction, change or discontinuance of a Building Service due to Unavoidable Causes or the acts or omissions of third-parties engaged to provide Building Services. The foregoing shall not excuse Sponsor from Sponsor's Obligations under this Plan (including those set forth in "Section O-2 Obligations of Sponsor"), nor excuse Sponsor or the Managing Agent from its own negligence.

Section C-2. Applicable Laws. The Property is being improved with the newly constructed and outfitted Units and Common Areas and Common Facilities in accordance in all material respects with Sponsor's Plans and Specifications (as same may be amended from time to time pursuant to this Plan) and the requirements of all Laws, including 2014 New York City Building Code for Architectural and Egress, Structural Design, Accessibility, Mechanical, Plumbing, and Fire Protection (the "**Building Code**"); the 2020 New York City Energy Code for Building Envelope, Lighting, Mechanical, and Plumbing; the New York City Zoning Resolution.

Section C-3. Construction Schedule. Based on the current schedule, the construction of the Building with a newly constructed and outfitted Units and Common Areas and Common Facilities are projected to be sufficiently completed to permit the issuance of a TCO authorizing the residential

use of at least one Residential Unit in or about January 2024. Such date is only a target and is not guaranteed. The timetable for substantial completion of all Units and the Common Elements (other than cosmetic or immaterial work, including Punch List Work items listed on a Purchaser's Final Inspection Statement, attached as Exhibit A to the Purchase and Sale Agreement) is currently scheduled to occur within approximately twelve (12) months from such date (i.e., by January 2025), unless delayed by Unavoidable Causes. While these are good faith estimates of the target dates for completion or substantial completion of construction, Sponsor does not assure, represent or guarantee that these goals will be achieved. See Section A-18.7 and Section A-4.

END OF SECTION C

SECTION D. LOCATION AND AREA INFORMATION

Section D-1. Location and Surrounding Areas.

Section D-1.1. *Location*. The Property fronts 96 feet, 0 inches on Calyer Street and fronts 100 feet, 0 inches on Lorimer Street and is in Block 2573, Lot 23 on the Block Map of the Tax Map Unit for Brooklyn. The Land comprises 9,600 square feet. In order to develop the property having a height and bulk as the Building that is being newly constructed, development rights were acquired by the then owner of the Property at 171 Calyer Street from the owner of an adjacent property under a Zoning Lot Development and Easement Agreement, dated March 28, 2019, recorded April 16, 2019 in the Kings County City Register's Office in CRFN: 2019000120785.

The ZLDA includes a cantilever easement for the construction, use and operation, maintenance, repair, replacement and reconstruction of portions of the Building being newly constructed ("**Cantilevered Portion"**) to be located over and above (not on or supported by) the building on the adjacent property and above a specified Lower Limiting Plane over that portion of land of the adjacent property which is located along the western Property line of such land running eastward six feet. The ZLDA also includes an easement for light and air that protects the windows of the following Residential Units to be located 5'-0" from the east Property line:

Residential Unit 3F: Five 3'-8" wide x 6'-8" high windows and one 3'-8" wide x 8'-8" high terrace door and transom.

Residential Unit 3G: Three 3'-8" wide x 6'-8" high windows.

Residential Unit 4A: Three 3'-4" wide x 6'-8" high windows.

Residential Unit 4D: Six 3'-4" wide x 6'-8" high windows.

The following Residential Unit to be located 6'-2" from the east Property line is also protected by the light and air easement:

Residential Unit 6A: Three 7'-4" wide x 8'-0" window wall units with operable casements or doors, One 4'-8" x 8'-0" wide window wall unit with operable casement vent.

See Section A-1.2.

Sponsor and its principals do not own, in whole or in part, or have any option or right to require, in whole or in part, any adjacent areas which are not fully developed.

Section D-1.2. *Surrounding Areas*.

Greenpoint is the northernmost neighborhood in Brooklyn, New York. Bordered by Williamsburg (southwest), East Williamsburg (southeast), Long Island City, Queens (north), and the East River (west), Greenpoint is rich with maritime history and community. Once farmland, Greenpoint became an industrial, maritime area in the 19th century, rich with history and community. Today, Greenpoint is a cultural hub for innovation and entertainment. Hundreds of

retail establishments line the main streets of Manhattan Avenue, Greenpoint Avenue, and Franklin Street. There are numerous greenspaces and parks, including McCarren Park, Transmitter Park, and McGlorick Park.

The nearest subway service is the G train from either Nassau Avenue or Greenpoint Avenue, and a short distance from the L train for direct access to Manhattan. Multiple bus routes service the location along Manhattan Avenue (B42, B62), Greenpoint Avenue and McGuiness Boulevard (B24), as well as the East River Ferry at Greenpoint Landing.

Local, public schools are listed below by grade:

PK-5**:** PS 31 Samuel F Dupont; PS 34 Oliver H Perry; and PS 110 The Monitor.

Grades 6-8: John Ericsson Middle School 126.

High Schools (9-12): Automotive High School and Frances Perkins Academy.

Sponsor does not represent, assure or guarantee which schools that children residing in the Building will attend.

While multiple medical clinics surround the location, the nearest hospital is Woodhull Hospital (760 Broadway).

Many religious institutions are in close proximity, including: Union Baptist Church, Polish National Catholic Church, Cornerstone Temple Methodist Church, St. Anthony of Padua, and Greenpoint Reformed Church, to name a few.

Often referred to as "Little Poland", Greenpoint has a large Polish-American community and is the home to many Polish restaurants and businesses.

Section D-2. Zoning. The Property is located in Zoning Map 13-A; Zoning District: C4-3A / Residential District Equivalent; R6A. Use Groups 1-4 (residential and community facilities); and Use Groups 5&6 (hotels, general retail, & offices); Use Groups 8-10 (large retail and amusement), Use Group 12 (entertainment facilities).

The Building is located in the Greenpoint Historic District. As a result, the Building is subject to the Landmarks Law. See Section A-1.1. The construction of the Building will not use all available development rights under the existing zoning law. Sponsor is not submitting to condominium ownership and is reserving for its exclusive use and enjoyment the Excess Development Rights of the Property's zoning lot after completion of construction of the Building. See Sections A-1.4, B-2 and BB.

END OF SECTION D

SECTION E. OFFERING PRICES AND RELATED INFORMATION

Section E-1. SCHEDULE A

SCHEDULE A

The Projections in this SCHEDULE A assume that the first year of Condominium operation will be from on or about January 1, 2024 to December 31, 2024. The projected July 1, 2024 to June 30, 2025 Real Estate Taxes are based on an assessment of the Property *after completion of construction*.

		APPROXIMATE FLOOR AREA (2)											
							Projected 1/1/24-12/31//24		Projected 7/1/24-6/30/25		Projected	
	No. of	Interior				Percentage	Common Charges (5)		Real Estate Taxes (6)		Total Charges (7)	
Unit No. (1)	Bedrooms/ Bathrooms (1)	Unit Sq. Ft. (2)	Terrace Sq. Ft. (2)	Unit Total Sq. Ft.	Offering Price (3)	of Common Interest (4)	Monthly	Annual	Monthly	Annual	Monthly	Annual
Res. 2A	2/3	1,593	-	1,593	$ 2,029,000	4.0861%	$1,250	$ 14,998	$2,195	$26,344.08	$3,445	$ 41,342
Res. 2B	1/2	1,047	-	1,047	$ 1,329,000	2.6856%	$ 821	$ 9,858	$1,438	$17,255.44	$2,259	$ 27,113
Res. 2C	3/2	1,531	-	1,531	$ 2,049,000	3.9271%	$1,201	$ 14,414	$2,217	$26,603.76	$3,418	$ 41,018
Res. 2D	1/1.5	803	-	803	$ 949,000	2.0597%	$ 630	$ 7,560	$1,027	$12,321.60	$1,657	$ 19,882
Res. 2E	2/2	1,531	-	1,531	$ 1,979,000	3.9271%	$1,201	$ 14,414	$2,141	$25,694.89	$3,342	$ 40,109
Res. 3A	2/3	1,585	-	1,585	$ 2,079,000	4.0656%	$1,244	$ 14,923	$2,249	$26,993.27	$3,493	$ 41,916
Res. 3B	1/2	1,047	-	1,047	$ 1,379,000	2.6856%	$ 821	$ 9,858	$1,492	$17,904.63	$2,314	$ 27,762
Res. 3C	3/2	1,531	-	1,531	$ 2,099,000	3.9271%	$1,201	$ 14,414	$2,271	$27,252.95	$3,472	$ 41,667
Res. 3D	1/1.5	803	-	803	$ 999,000	2.0597%	$ 630	$ 7,560	$1,081	$12,970.79	$1,711	$ 20,531
Res. 3E	2/2	1,297	-	1,297	$ 1,749,000	3.3269%	$1,018	$ 12,211	$1,892	$22,708.62	$2,910	$ 34,920
Res. 3F	3/2.5	1,313	235	1,548	$ 1,949,000	3.5688%	$1,030	$ 12,362	$2,109	$25,305.38	$3,139	$ 37,667
Res. 3G	1/1	778	-	778	$ 929,000	1.9956%	$ 610	$ 7,325	$1,005	$12,061.93	$1,616	$ 19,387
Res. 4A	3/3.5	1,645	522	2,167	$ 2,349,000	4.6658%	$1,291	$ 15,488	$2,542	$30,498.89	$3,832	$ 45,987
Res. 4B	4/3	2,051	884	2,935	$ 2,995,000	6.0167%	$1,609	$ 19,310	$3,241	$38,886.41	$4,850	$ 58,197
Res. 4C	4/3	2,160	586	2,746	$ 2,929,500	6.0415%	$1,695	$ 20,337	$3,170	$38,035.97	$4,864	$ 58,373
Res. 4D	3/3	1,608	-	1,608	$ 2,295,000	4.1246%	$1,262	$ 15,139	$2,483	$29,797.77	$3,745	$ 44,937
Res. 5A	3/3.5	1,611	-	1,611	$ 2,250,000	4.1323%	$1,264	$ 15,168	$2,434	$29,213.50	$3,698	$ 44,381
Res. 5C	2/2	1,021	298	1,319	$ 1,530,900	2.8737%	$ 801	$ 9,613	$1,656	$19,876.86	$2,457	$ 29,490
Res. 5D	2/2.5	1,238	407	1,645	$ 1,849,000	3.5235%	$ 971	$ 11,656	$2,001	$24,007.00	$2,972	$ 35,663
Res. 5E	2/2	981	-	981	$ 1,399,000	2.5163%	$ 770	$ 9,236	$1,514	$18,164.30	$2,283	$ 27,401
Res. PH	3/2.5	1,637	2,252	3,889	$ 2,899,000	6.1245%	$ 1,284	$ 15,412	$3,137	$37,639.97	$4,421	$ 53,052
Subtotal: 21 Residential Units		28,811	5,184	33,995	$40,014,400	78.3339%	$22,605	$ 271,258	$43,295	$519,538.00	$65,900	$ 790,796
Parking 1		153	-	153	$ 125,000	0.2616%	$120	$1,441	$42	$506.75	$162	$ 1,947
Parking 2		153	-	153	$ 125,000	0.2616%	$120	$1,441	$42	$506.75	$162	$ 1,947
Parking 3		153	-	153	$ 125,000	0.2616%	$120	$1,441	$42	$506.75	$162	$ 1,947
Parking 4		153	-	153	$ 125,000	0.2616%	$120	$1,441	$42	$506.75	$162	$ 1,947
Parking 5		153	-	153	$ 125,000	0.2616%	$120	$1,441	$42	$506.75	$162	$ 1,947
Parking 6		153	-	153	$ 125,000	0.2616%	$120	$1,441	$42	$506.75	$162	$ 1,947
Parking 7		153	-	153	$ 125,000	0.2616%	$120	$1,441	$42	$506.75	$162	$ 1,947
Parking 8		153	-	153	$ 125,000	0.2616%	$120	$1,441	$42	$506.75	$162	$ 1,947

APPROXIMATE FLOOR AREA (2)

Unit No. (1)	No. of Bedrooms/ Bathrooms (1)	Interior Unit Sq. Ft. (2)	Terrace Sq. Ft. (2)	Unit Total Sq. Ft.	Offering Price (3)	Percentage of Common Interest (4)	Projected 1/1/24-12/31//24 Common Charges (5) Monthly	Projected 1/1/24-12/31//24 Common Charges (5) Annual	Projected 7/1/24-6/30/25 Real Estate Taxes (6) Monthly	Projected 7/1/24-6/30/25 Real Estate Taxes (6) Annual	Projected Total Charges (7) Monthly	Projected Total Charges (7) Annual
Parking 9		153	-	153	$ 125,000	0.2616%	$120	$1,441	$42	$506.75	$162	$ 1,947
Parking 10		153	-	153	$ 125,000	0.2616%	$120	$1,441	$42	$506.75	$162	$ 1,947
Parking 11		201	-	201	$ 125,000	0.3437%	$158	$1,892	$42	$506.75	$200	$ 2,399
Parking 12		173	-	173	$ 125,000	0.2958%	$136	$1,629	$42	$506.75	$178	$ 2,136
Subtotal: 12 Parking Units		1,904	-	1,904	$ 1,500,000	3.2559%	$1,494	$17,926	$507	$6,081.00	$2,001	$24,007
Storage 1		35	-	35	$ 25,000	0.0599%	$27	$330	$37	$444.78	$65	$774
Storage 2		35	-	35	$ 25,000	0.0599%	$27	$330	$37	$444.78	$65	$774
Storage 3		35	-	35	$ 25,000	0.0599%	$27	$330	$37	$444.78	$65	$774
Storage 4		35	-	35	$ 25,000	0.0599%	$27	$330	$37	$444.78	$65	$774
Storage 5		35	-	35	$ 25,000	0.0599%	$27	$330	$37	$444.78	$65	$774
Storage 6		35	-	35	$ 25,000	0.0599%	$27	$330	$37	$444.78	$65	$774
Storage 7		35	-	35	$ 25,000	0.0599%	$27	$330	$37	$444.78	$65	$774
Storage 8		47	-	47	$ 33,000	0.0804%	$37	$443	$49	$587.11	$86	$1,030
Storage 9		35	-	35	$ 25,000	0.0599%	$27	$330	$37	$444.78	$65	$774
Storage 10		35	-	35	$ 25,000	0.0599%	$27	$330	$37	$444.78	$65	$774
Storage 11		35	-	35	$ 25,000	0.0599%	$27	$330	$37	$444.78	$65	$774
Storage 12		35	-	35	$ 25,000	0.0599%	$27	$330	$37	$444.78	$65	$774
Storage 13		35	-	35	$ 25,000	0.0599%	$27	$330	$37	$444.78	$65	$774
Storage 14		35	-	35	$ 25,000	0.0599%	$27	$330	$37	$444.78	$65	$774
Storage 15		34	-	34	$ 25,000	0.0581%	$27	$320	$37	$444.78	$64	$765
Subtotal: 15 Storage Units		536	-	357	$ 383,000	0.9166%	$421	$5,046	$568	$6,814.00	$988	$11,860
Subtotals Residential, Parking and Storage Units		31,251		36,435	$ 41,897,400	82.5064%	$24,519	$294,231	$44,369	$532,433.00	$68,889	$826,664
Retail 1		4,826		4,826	**Not Being Offered for Sale**	12.3789%	$915	$10,982	$5,775	$69,298.39	$6.690	$80,280
Retail 2		1,994		1,994	**Not Being Offered for Sale**	5.1147%	$379	$4,550	$2,386	$28,632.61	$2,765	$33,182
Subtotal 2 Retail Units		6,820		6,820		17.4936%	$1,294	$15,532	$8,161	$97,931.00	$9,455	$113,463
TOTALS:		**38,071**	**5,184**	**38,986**	**$41,897,400**	**100.00%**	**$25,814**	**$309,762**	**$51,456**	**$630,364.00**	**$75,355**	**$940,126**

50 Units

"**Res**": Residential

"Sq. Ft": Square Footage

Notes to Offering Price Schedule:

(1) The Building is planned to contain a total of twenty-one (21) Residential Units, twelve (12) Parking Units and fifteen (15) Storage Units, all of which are being offered for sale under terms set forth in this Plan. The Building will also contain two Retail Units, which are being reserved for future sale. Sponsor reserves the unfettered right to: (a) to change the number of Units in compliance with Part 20, Section 20.3(k) of the regulations promulgated by the Department of Law (see Sections I-4 and I-5); (b) to limit a Purchaser from buying more than one Residential Unit, one Parking Unit and one Storage Unit; (c) no Parking Unit or Storage Unit may be purchased unless the Purchaser also purchases and consummates the Closing of Title for a Residential Unit; (d) to determine the order in which Units are offered for sale; (e) to temporarily withhold or withdraw a Unit from sale without prior notice while preparing and processing a price change Plan Amendment or awaiting a signed Purchase and Sale Agreement from a prospective Purchaser; (f) to withhold a Unit for future sale, but Sponsor will amend this Plan to identify the affected Unit being so withheld; and (g) to reject any purchase offer without cause or explanation, except no purchase offer will be rejected based on grounds prohibited by civil rights Laws (see Section AA-3).

(2) Floor Plans of the planned design, configuration, room dimensions, arrangement of windows for views and "light and air" and approximate overall size of each Unit are contained in DOCUMENT 5 of Part II of this Plan. The Floor Plans and any other drawing or diagram of the Units, and all dimensions and square footages noted thereon, and the square footages set forth in this Offering Price Schedule, are only approximations, rounded and within reasonable tolerances and estimates based on Sponsor's Plans and Specifications, all of which are subject to normal construction allowances, tolerances, variances and changes pursuant to Sponsor's Right to change the number, configuration, layout, size and room dimensions of Units in compliance with Part 20, Section 20.3(k) of the regulations issued by the Department of Law (see Section I-4 and Section I-5).

In accordance with customary practice in New York City in the sale of newly constructed condominium units, the approximate floor area of each Unit shown in this Offering Price Schedule or the Unit's Floor Plan (in DOCUMENT 5 of Part II) has been measured as follows. The indoor area of each Residential, Retail and Storage Unit is measured: horizontally from the prevailing exterior side of an enclosing boundary wall or façade or exterior Building wall (but not beyond the Property line), or from the midpoint of a party wall separating two Units; and vertically from the Unit-side of the surface of the structural floor to the Unit-side of the surface of the structural ceiling. Each terrace is measured: horizontally from the prevailing exterior side of an enclosing parapet (but not beyond the Property line) or from the exposed prevailing surface of an enclosing façade or exterior Building wall, or from the midpoint of a fence or barrier separating two terraces; and vertically from the Unit-side of the surface of a roof or roof setback enclosing the terrace to a height of an imaginary horizontal plane that is directly opposite and coincident with the Unit-side

of the surface of the Unit's structural ceiling. The Common Elements (their surfaces, façade or exterior Building walls, party walls, chase walls, interior columns, and shafts) bordering or within the interior of a Residential Unit or terrace are included in the computation of the floor area of the Unit and terrace, but such Common Elements are not part thereof. As a result, the indoor and (if applicable) outdoor floor areas of a Residential Unit will substantially exceed the Unit's useable floor areas.

The room and area dimensions, however, are measured from the exposed surface of the prevailing walls bordering the room or unenclosed area, but cabinets, moldings, baseboards and the like are not subtracted.

Each 90 degree Parking Unit is 18 feet in length and 8 feet 6 inches in width. The Handicapped Parking Unit is 18 feet in length and 11 feet 2 inches in width. Each parallel Parking Unit is 20 feet 4 inches in length and 8 feet 6 inches in width.

An immaterial inaccuracy in the actual square footage (i.e., floor area) or the actual size of individual rooms or enclosed areas of a Unit when built from that shown on its Floor Plan in DOCUMENT 5 in Part II of this Plan (or any other drawing or diagram) and this Offering Price Schedule shall not excuse a Purchaser from his or her obligation under the Purchase and Sale Agreement to pay the full Purchase Price and all Closing costs, without abatement, set-off or credit, and without liability or recourse of any kind against Sponsor or the Selling Agent.

If the actual aggregate floor area of a Unit or the individual floor area of a room or area therein when built, as measured in accordance with the foregoing, is materially smaller than shown on its Floor Plan in DOCUMENT 5 in Part II or in this Offering Price Schedule, this Plan will be amended to offer the affected Purchaser(s) the right for fifteen (15) days after Presentation of the Plan Amendment to rescind and recover Purchaser's Deposit together with any earned interest thereon, which shall be the limit of Purchaser's remedy and Purchaser's sole recourse against Sponsor and its Selling Agent. See Section A-22.

The Limited Common Elements appurtenant to each Residential Unit comprise its windows, but no areas.

The type and number of total rooms and bathrooms of the indoor area of each Unit are as follows:

Residential Unit	Description	Number of Rooms/Bathrooms*	Approx. Sq. Ft.
2A	2 Bedrooms, 3 Bathrooms, Living/Dining Room, Storage Area, Foyer, Kitchenette, Laundry Room	5 Rooms 3 Bathrooms	1,593 s.f.
2B	1 Bedroom, 2 Bathrooms, Living/Dining Room, Storage Room, Foyer, Kitchenette, Landry Room	4 Rooms 2 Bathrooms	1,047 s.f.

Residential Unit	Description	Number of Rooms/Bathrooms*	Approx. Sq. Ft.
2C	3 Bedrooms, 2.5 Bathrooms, Living/Dining Room, Storage Area, Kitchenette, Laundry Closet	5 Rooms 2.5 Bathrooms	1,531 s.f.
Residential Unit	Description	Number of Rooms/Bathrooms*	Approx. Sq. Ft.
2D	1 BR, 1.5 Bathrooms, Living/Dining Room, Foyer, Kitchen, Storage Area, Laundry Closet	3 Rooms 1.5 Bathrooms	803 s.f.
2E	2 Bedrooms, 3 Bathrooms, Living/Dining Room, Foyer, Storage Room, Kitchenette, Laundry Closet	3 Rooms 3 Bathrooms	1,531 s.f.
3A	2 Bedrooms, 3 Bathrooms, Living/Dining Room, Foyer, Storage Room, Kitchenette, Laundry Room	4 Rooms 3 Bathrooms	1,585 s.f.
3B	1 Bedroom, 2 Bathrooms, Living/Dining Room, Storage Room, Foyer, Kitchenette, Landry Room	2 Rooms 2 Bathrooms	1,047 s.f.
3C	3 Bedrooms, 2.5 Bathrooms, Living/Dining Room, Storage Area, Kitchenette, Laundry Closet	5 Rooms 2.5 Bathrooms	1,531 s.f.
3D	1 BR, 1.5 Bathrooms, Living/Dining Room, Foyer, Kitchen, Storage Area, Laundry Closet	3 Rooms 1.5 Bathrooms	803 s.f.
3E	2 Bedrooms, 2.5 Bathrooms, Living/Dining Room, Foyer, Laundry Closet	3 Rooms 2.5 Bathrooms	1,297 s.f.
3F	3 Bedrooms, 2.5 Bathrooms, Living/Dining Room, Foyer, Kitchen, Laundry Room, Terrace with Barbecue	4 Rooms 2.5 Bathrooms	1,313 s.f. 235 s.f. (T)
3G	1 BR, 1,5 Bathrooms, Living/Dining Room, Kitchen, Laundry Closet	2 Rooms 1.5 Bathrooms	778 s.f.
4A	3 Bedrooms, 3.5 Bathrooms, Living/Dining Room, Kitchenette, Laundry Closet, Terrace with Barbecue	4 Rooms 3.5 Bathrooms	1,645 s.f. 522 s.f. (T)
4B (Duplex)	4 Bedrooms, 3 Bathrooms, Living/Dining Room, Mudroom, Foyer, Kitchen, Pantry, Laundry Closet, Terrace with Barbecue	7 Rooms 3.5 Bathrooms	2,051 s.f. 884 s.f. (T)
4C	4 Bedrooms, 3.5 Bathrooms, Living/Dining Room, Kitchen, Laundry Closet, Terrace with Barbecue	5 Rooms 3.5 Bathrooms	2,160 s.f. 586 s.f. (T)
4D	3 Bedrooms, 3 Bathrooms, Living/Dining Room, Storage Room, Foyer, Kitchenette, Laundry Room	5 Rooms 3 Bathrooms	1,608 s.f.
5A	3 Bedrooms, 3.5 Bathrooms, Living/Dining Room, Foyer, Kitchenette, Laundry Room	4 Rooms 3.5 Bathrooms	1,611 s.f.

Residential Unit	Description	Number of Rooms/Bathrooms*	Approx. Sq. Ft.
5C	2 Bedrooms, 2 Bathrooms, Living/Dining Room, Kitchenette, Laundry Closet, Terrace with Barbecue	3 Rooms 2 Bathrooms	1,021 s.f. 298 s.f. (T)
5D	2 Bedrooms, 2.5 Bathrooms, Living/Dining Room, Foyer, Kitchen, Laundry Closet, Terrace with Barbecue	3 Rooms 2.5 Bathrooms	1,238 s.f. 407 s.f. (T)
5E	2 Bedrooms, 2 Bathrooms, Living/Dining Room, Foyer, Kitchen, Laundry Closet	3 Rooms 2 Bathrooms	981 s.f.
PH	3 Bedrooms, 2.5 Bathrooms, Living/Dining Room, Foyer, Kitchen, Laundry Closet, Terrace with Barbecue	4 Rooms 2.5 Bathrooms	1,637 s.f. 2,252 s.f. (T)

T: Terrace

PH: Penthouse

*Each bedroom, living/dining room, storage area or room, laundry room, pantry and mudroom is counted as one room. A kitchen, kitchenette, laundry closet and foyer are not being counted as a separate room. A bathroom with a bathtub or shower is counted as one bathroom, and a powder room (i.e., a lavatory without either a bathtub or shower) is counted as a half-bathroom.

(3) The offering prices and other terms of sale of Units not under contract are negotiable and may be changed by Sponsor from time to time in accordance with the provisions set forth below in Section I-1 and Section I-2. As a result, a Purchaser may purchase on less favorable terms (including price) than other Purchasers for similar Units.

In addition to the Purchase Price, Purchasers will pay various Closing costs and if a Purchaser fails to Close Title on the Scheduled Closing Date in accordance with the Purchase and Sale Agreement, such Purchaser shall be required to reimburse Sponsor for certain cost and expenses, and losses (see Section A-2.5.3 and see Section N-1.1.7 for full discussion).

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

(5) These projections are based upon the "Projected Budget for First Year of Condominium Operation - Schedule B" (set forth in Section F-6), which were made on the assumption that the first year of Condominium operation will start on or about January 1, 2024. The actual first year of Condominium operation may be earlier or later (see Section F-2 for discussion). The collection

of the full amount of the projected Common Charges set forth in the First Year's Budget will begin at the First Unit Closing and occupancy of a Residential Unit.

Sponsor will amend the Plan to disclose any material increase in the estimated Common Charges or the estimated Common Expenses, as required by Part 20 of the regulations promulgated by the Department of Law.

The estimated Common Charges in this Offering Price Schedule are rounded and include the costs of water and sewer charges, but do not include the following Residential Unit ownership expenses that each Unit Owner will pay separately: (a) utility company bills for separately metered electricity supplied to each Residential Unit (including electricity for lighting and power to operate kitchen appliances, clothes washer and dryer, and the Unit's heating and air conditioning unit); (b) mortgage payments on any loan obtained to purchase the Unit; (c) costs to maintain, repair and keep watertight the interior of the Residential Unit (including: kitchen and bathroom appliances, cabinets, countertops and fixtures (electric and plumbing), individual facilities for heating and air-conditioning, and all other individual electric, lighting and plumbing fixtures and equipment) and the Unit's outdoor area (i.e., terrace, if any); (d) premiums for condominium homeowner's insurance a Sold Residential Unit Owner is required to maintain (see Section A-26.2) and any additional insurance an Owner may wish (or may be required by the Unit's mortgage lender, if financed) to obtain to insure his or her appliances, fixtures, cabinets, furniture, belongings and other personal property against loss from fire or other casualty or to insure against claims for personal injury or property damage arising from incidents in or on the Unit, including the Unit's terrace, if applicable (these matters will not be covered under the insurance maintained by the Condominium Board); (e) charges for telephone, Internet and any cable television service an Owner may install; and (f) real estate taxes (see Note (6) below). See Schedule B-1 in Section F-7 for the projected individual costs of electricity of each Unit and the assumptions on which such projections are based.

(6) After the Condominium is divided into individual tax lots and separately assessed and billed for real estate taxes by the taxing authority, each Unit will be taxed as a separate tax lot for real estate tax purposes and each Unit Owner will not be responsible for the payment of, nor will the Owner's Unit be subject to, any lien arising from the non-payment of, taxes on other Units.

The first year of Condominium operation is projected to be on or about from January 1, 2024 to December 31, 2024. The projected real estate taxes contained in SCHEDULE A, however, are based on the following projections of Metropolitan Realty of the estimated assessed value, tax rates and real estate taxes for all Units for the *post-completion of construction* July 1, 2024 to June 30, 2025 fiscal tax year:

Units	Assessed Value	Tax Rate[(1)]	Tax
Residential Units:	$4,235,246	12.267%	$519,538
Parking Units:	$ 57,120	10.646%	$6,081
Storage Units:	$ 55,545	12.267%	$6,814
Retail Units:	$ 919,890	10.646%	$97,931
Totals:	$5,267,801		$630,364

(1) Metropolitan Realty advises the Residential Units and the Storage Units should be designated as residential tax class 2 property and will pay on the class 2 tax rate and the Parking and Retail Units should be designated tax class 4 property and will pay on the nonresidential tax class 4 rate

For further details, see Section S-2 and Section S-3. Metropolitan Realty's opinion letter is contained in Section S-9.

For purposes only of presenting an estimate of the real estate taxes of each Unit in this Offering Price Schedule, the projected assessed valuation of the entire Property has been allocated to each Unit in the proportion that its Common Interest bears to the Common Interests of all Units, which the DOF may use if the Common Interest percentages are rationally and fairly determined. However, the method that may be used by the taxing authority to allocate the Property's assessed valuation to and among the Units is uncertain. Metropolitan Realty offers no opinion on the actual method to be used by the DOF. See Section A-10.

Until the Units are separately assessed and billed for real estate taxes by the taxing authority, real estate taxes assessed to the Property shall be included in the General Common Expenses and assessed to the Units pro rata to their respective Common Interests. The time period after construction is completed in which the taxing authority (i.e., the DOF) will separately assess and bill Units for real estate taxes is uncertain and possibly may range from three months to up to one year from recording the Declaration.

After the Units are separately assessed and billed for real estate taxes, the taxing authority will bill real estate taxes to each Unit in quarterly or semi-annual installments (as applicable).

The projection in this Offering Price Schedule of each Unit's estimated monthly real estate taxes for the 2024/2025 fiscal tax year is solely to illustrate the amount to be budgeted each month for a Unit that Closes Title at the beginning of such tax year, July 1, 2024. .

If at the time of Closing a Unit is not separately assessed and billed for real estate taxes by the taxing authority, then Purchaser and Sponsor will apportion real estate taxes in accordance with the Unit's "Tax Share" of the Property's taxes at Closing, subject to adjustment for any overpayment or underpayment, as explained in Section N-1.2. Closing Apportionments with Purchasers.

Sponsor, Selling Agent and Metropolitan Realty do not represent, assure or guarantee the actual taxable assessed valuation, tax rate, tax class or real estate taxes for any tax year or the actual apportionment of the taxable assessed value by the taxing authority among the Units, or the actual amount of the taxable assessed value of each Unit. See Section S. Real Estate Taxes for full discussion of the foregoing and see Section S-1.3 for the adjustment with the Condominium Board and Sponsor for any overpayment or underpayment of real estate taxes by a Unit Owner before the Units are separately assessed and billed by the taxing authority and other important real estate tax issues.

If Purchaser obtains financing, Purchaser's debt service will be an additional expense.

The deductibility mortgage interest (where applicable) and real estate taxes, as explained in the opinion letter of Miller & Miller LLP (see Section T), may vary from year to year due to changes (in the case of a Unit's mortgage, if any) in the interest rate or from changes in the allocation of constant debt service payments to interest and principal, or due to changes in real property taxes resulting from the expiration of real estate tax benefits (if any), or from changes in the assessed value, the tax rate or the method of assessing real property.

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

END OF SECTION E

SECTION F. BUDGET FOR FIRST YEAR OF CONDOMINIUM OPERATION

(Schedule B)

Section F-1. Projected First Year. Sponsor anticipates that the First Unit Closing will occur by January 1, 2024, which corresponds to the projected date the first year of Condominium operation is to begin in Schedule B (in Section F-6). Such projected date is only a target and is not guaranteed. Sponsor and Selling Agent do not assure, represent or guarantee when the actual date of First Unit Closing may occur, which may be earlier or substantially later than such projected date, or when the actual date of Closing of Title will occur under a Purchase and Sale Agreement, which may be held substantially later than the actual date of First Unit Closing, depending on the progress of construction, among other things. See Section A-4.

Sponsor will amend this Plan to offer Purchasers a right of rescission and a period of fifteen (15) days after the date of Presentation of such Plan Amendment to rescind and recover their Deposits with any earned interest if: (a) the actual date of closing of title to the first Residential Unit; or (b) the projected date of closing of title to the first Residential Unit occurs later than December 31, 2024, which is twelve (12) months after the projected date for the first closing of a Residential Unit. If the Plan is amended to provide for a later projected date for the first closing of a Residential Unit and the first closing of a Residential Unit occurs more than twelve (12) months beyond that amended, later date, Sponsor will also amend this Plan to offer Purchasers a right of rescission and a period of fifteen (15) days after the date of Presentation of such Plan Amendment to rescind and recover their Deposits with any earned interest. Such right to rescind shall be the limit of Sponsor's liability and Purchaser's sole recourse against Sponsor (regardless of any losses Purchaser may have sustained or incurred).

Although the first unit closing is planned to occur by January 1, 2024, the Sponsor may schedule the closings of title to other Residential Units significantly later than such date. Unless your Purchase and Sale Agreement contains an outside closing date, the Sponsor is not obligated to schedule your closing within any specified time frame or to ensure that closing of title to your Residential Unit will occur by any date certain.

PROSPECTIVE PURCHASERS SHOULD THEREFORE CAREFULLY CONSIDER SUCH RISKS IN THEIR DETERMINATION AS TO WHETHER TO PURCHASE A UNIT.

See Section A-2.13.

Any material change to this First Year's Budget will be disclosed in an amendment to this Plan.

Section F-2. Revised Budget; Rescission. If the actual or anticipated date of commencement of Condominium operation is to be delayed more than six months from the Budget year projected in this Plan, the Plan must be amended to include a revised budget disclosing current projections. If

such revised projections exceed the original projections by twenty-five percent (25%) or more, Sponsor must amend this Plan to offer all Purchasers the right to rescind and a period of fifteen (15) days after the date of Presentation of the Plan Amendment to exercise such rescission right. Sponsor must return any Deposit or down payment to Purchasers who timely rescind within such fifteen (15)-day period, together with any interest earned thereon. Such right to rescind shall be Sponsor's sole liability and Purchaser's sole recourse against Sponsor (regardless of any losses Purchaser may have sustained or incurred). Sponsor may not declare a Plan effective where there are any material changes to the First Year's Budget if these changes have not been disclosed by a duly filed amendment to this Plan.

Section F-3. Specially Allocated Expenses. The following First Year's Budget (Schedule B) itemizes those Condominium expenses comprising the Residential Common Expenses, which are charged to only the Residential, Parking and Storage Units pro rata to their respective Common Interests, or the General Common Expenses, which are apportioned either to all Units pro rata to their respective Common Interests or, as to the Specially Allocated Expenses, an amount that reflects the portion of specified budget items fairly attributable to the Residential, Parking and Storage Units, as one group of Units, or to both Retail Units, as the other group of Units, in accordance with the RPL §339-m (see Sections B-7.3.2 and C-1.5 above for full discussion and The First Year's Budget in Section F-6 for the applicable budget items for details). Any dispute with respect to the Specially Allocated Expenses shall be resolved by arbitration in New York City pursuant to Article 6 of the By-Laws (see Section R -9 below).

For purposes only of presentation, the First Year's Budget does not reflect that the real estate taxes assessed to the Property will be included in the Common Expenses until the Units are separately assessed and billed by the taxing authority. During this interim period, the Board shall allocate the real estate taxes to each Unit pro rata to its Common Interest, which Metropolitan Realty. advises in its real estate tax opinion is the method the DOF may use if the Common Interest percentages are rationally and fairly determined (see Section S-9 for the opinion letter). The amounts so allocated and assessed to each Unit shall be subject to adjustment with the Condominium Board for any overpayment or underpayment of real estate taxes, as explained in Section S-1.3.

Section F-4. Budget Procedure. When adopting a budget for each fiscal year of Condominium operation, the Condominium Board shall determine the budget items comprising the projected General Common Expenses and the Residential Managers on behalf of the Board shall determine the budget items comprising the Residential Common Expense based on and in strict compliance with this Plan, including this Section F and the following First Year's Budget (Schedule B) and the By-Laws.

Section F-5. Budget Certifications. In the opinion of Flatiron Real Estate Advisors, LLC, having offices at 119 West 23rd Street, Suite 903, New York, New York 10011:

(a) the projections in Schedule B appear reasonable and adequate under existing circumstances, and the projected income appears to be sufficient to meet the anticipated operating expenses for the projected first year of Condominium operation; and

(b) the projected Common Charges payable by the Owners of the Retail Units appear reasonable and adequate under existing circumstances to meet the anticipated operating expenses fairly attributable to such Retail Units for the projected first year of Condominium operation, and that the allocation of Common Charges attributable to the Retail Units also reflects the special or exclusive use or availability or exclusive control of particular Common Areas.

See DOCUMENTS 8B and 8C, respectively, in Part II for Flatiron Real Estate Advisors, LLC certifications. Sponsor, Selling Agent and Flatiron Real Estate Advisors, LLC cannot, and do not, represent, assure or guarantee the actual amount of the Common Expenses (or the resulting Common Charges), which may be higher or lower than the estimates in Schedule B.

END OF TEXT ON THIS PAGE

Section F-6. Schedule B

SCHEDULE B

Budget For First Year of Condominium Operation

Projected to Begin January 1, 2024 (Note 1)

Projected Income (Note 2)					
Common Charges					
Residential, Parking and Storage Units (Note 3)					$ 294,231
Retail Units (Note 3)					$ 15,532
Total First Year's Projected Income					**$ 309,762**
Projected Expenses (Note 4)					
	Residential, Parking & Storage Units*	%**	Retail Units*	%	Total All Units*
Labor (Note 5)	$ 92,500	99%	$ 1,357	1%	$ 93,857
Natural Gas (Note 6)	22,915	100%	0	0%	$ 22,915
Electricity (Note 7)	5,538	100%	0	0%	$ 5,538
Water & Sewer Charges (Note 8)	26,446	100%	0	0%	$ 26,446
Telecomm (Note 9)	4,226	99%	34	1%	$ 4,260
Repairs, Maintenance & Supplies (Note 10)	11,520	97%	480	3%	$ 12,000
Service Contracts (Note 11)	20,232	97%	429	3%	$ 20,661
Insurance (Note 12)	37,540	83%	7,960	17%	$ 45,500
Management Fee (Note 13)	26,104	99%	1,088	1%	$ 27,192
Legal, Audit & Admin Fees (Note 14)	9,528	99%	382	1%	$ 9,910
Inspections (Note 15)	4,464	87%	658	13%	$ 5,123
Reserve for Contingencies (Note 16)	7,874	96%	328	4%	$ 8,202
Reserve for Capital Replacements (Note 17)	25,344	96%	2,816	4%	$ 28,160
Total Projected Common Expenses	**$ 294,231**		**$ 15,532**		**$ 309,762**

* All amounts are approximate and estimates for the projected first year of Condominium operation.

** The percentages are rounded and reflect the percentages of budget items payable by the Residential, Parking and Storage Units pro rata to their respective Common Interests (as one group of Units) and the Retail Units pro rata to their respective Common Interests (as a separate group of Units). These percentages are not necessarily pro rata to their respective Common Interests, which are 82.5064% for all Residential, Parking and Storage Units, and 17.4936% for both Retail Units.

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

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

All amounts are projections for the first twelve months of Condominium operation, which is assumed for budget purposes, will begin on January 1, 2024, the projected date of First Unit Closing under this Plan. The actual first year of Condominium operation may begin earlier or later (see Section F-2 above for the requirements to revise the budget and to offer rescission if the amended projections exceed the original projections by 25% or more).

Note 2. **First Year's Projected Income**

No income will be provided to the Condominium Association from any contracts or leases. The Common Charges payable by Unit Owners and potential interest or investment income (if any) earned on the Working Capital Fund and the Reserve for Capital Replacements will be the only other sources of income for the Condominium Association.

The Working Capital Fund is expected to be expended during the first or subsequent years of Condominium operation and/or applied for cash flow purposes to cover (for example) unevenness in collection of Common Charges or payment of the General and/or Residential Common Expenses. While Sponsor controls the Condominium Board, the Working Capital Fund may not be used to reduce the projected Common Charges stated in this Plan. If and when this Plan is amended to offer a Retail Unit for sale, a purchaser of such Retail Unit will not contribute to the Working Capital Fund and will not benefit from its application.

The Reserve for Capital Replacements is to be established in increments at and after the First Unit Closing from Common Charge payments by all Unit Owners. Any interest or investment income earned thereon is expected to be negligible for the First Year of Condominium Operation.

Accordingly, for the purposes of presentation in this First Year's Budget, no interest or investment income is projected from these two potential sources and the only projected sources of income will be the Common Charges assessed to the Units. Nevertheless, any interest or investment income earned on said Working Capital Fund (after deducting income taxes based thereon) will be available to pay the Residential Common Expenses and the portion of the General Common Expenses payable by the Residential, Parking and Storage Units. Similarly, any interest or investment income earned on the Reserve for Capital Replacements will be applied to pay the General Common Expenses and the Residential Common Expenses in accordance with the ratio set forth in Note 17 below. No representation, assurance, warranty or guaranty is given as to the actual income realized for the projected first year of Condominium operation.

Note 3. First Year's Projected Income (Budget: $309,762)

First Year's Projected Common Charges:	
Residential, Parking and Storage Units:	$ 294,231
Retail Units:	15,532
Total Income:.....	$ 309,762

In accordance with Section F-3 above:

(a) the Parking Units and the Storage Units may be sold and conveyed to only purchasers or Owners of Residential Units;

(b) all Residential, Parking and Storage Units shall always be treated as one group of Units, which shall be assessed Common Charges pro rata to their respective Common Interests to pay the Residential Common Expenses and the portions of the General Common Expenses estimated to be fairly attributable to such group of Units; and

(c) the Retail Units shall always be treated as a separate group of Units, which shall be assessed Common Charges pro rata to their respective Common Interests to pay the projected General Common Expenses estimated to be fairly attributable to the Retail Units based strictly upon (and limited and restricted to the extent only of) those General Common Elements that actually serve or are actually utilized by the Retail Units; those services that are actually furnished by the Board to the Retail Units; and those items of projected General Common Expenses relating to the affairs of the entire Property that are allocated to all Units, all as explained in the Notes below.

Each item in this First Year's Budget allocated to the projected Residential Common Expenses and the projected General Common Expenses applies to only the first twelve (12) months of Condominium operation and may be changed thereafter to reflect the actual Residential Common Expenses payable only by all Residential, Parking and Storage Units pro rata to their respective Common Interests, and the actual General Common Expenses payable by all Residential, Parking and Storage Units and the Retail Units based on the amounts reasonably anticipated to be fairly attributable to each such group of Units, which may vary in subsequent years of Condominium operation. Any dispute or failure to agree as to a proposed budget item or the adoption of a proposed budget shall be resolved by arbitration in New York City pursuant to Section 6.4 of the By-Laws (see Section R-9. Arbitration, for discussion).

Note 4. First Year's Projected Common Expenses (Budget: $309,762)

All projected Common Expenses are for the first twelve (12) months of Condominium Operation, which is assumed (for budget purposes) will begin January 1, 2024, the projected date of First Unit Closing of a Residential Unit under this Plan and also assumes occupancy of at least one Residential Unit. The actual first year of Condominium operation may begin earlier or later. All

amounts in this budget are estimates and approximations. While they are believed to be reasonable, no representation, assurance, warranty or guaranty is given as to the actual expenses for the projected first year of Condominium operation.

The Building is being newly constructed and therefore no operating history is available for comparison purposes. The projected Common Expenses in this budget are based mostly on: (a) the estimates certified by Flatiron LLC of the reasonably anticipated recurring costs and expenses of operations for the projected first year of Condominium operation under existing circumstances; and (b) the assumption that present trends and conditions, to the extent applicable, will continue. Certain of the estimated expenses (where indicated below) may be based on proposals that are not binding.

SCHEDULE B does not reflect: (a) real estate taxes for the interim period prior to the separate assessment of Units, which will be allocated and apportioned to the Units pro rata to their respective Common Interests, as explained in footnote 6 to SCHEDULE A and Sections S-1.2 and S-1.3 below; (b) potential major or capital repairs or replacements in future years as all Building facilities will be new; (c) miscellaneous two or five year inspection fees (see NOTE 15 below). This budget has been prepared and certified by Flatiron Real Estate Advisors LLC to be adequate and to reflect the Common Charges attributable to the Retail Units also reflects special or exclusive use or availability or exclusive control of particular Common Areas (see DOCUMENTS 8C and 8D in Part II of this Plan).

Before the First Unit Closing of a Residential Unit, Sponsor has reserved the right, from time to time, to enter into, modify, renew and replace service, maintenance, employment, concessionaire, utility and other agreements and insurance policies that will be binding on the Condominium Board after such First Unit Closing. However, this Plan will be amended to disclose the terms of any service or maintenance contract not set forth in this budget that would materially increase the first year's projected Common Charges or is for a term in excess of five (5) years, other than service or utility agreements that customarily are for longer terms. After the First Unit Closing and when at least one (1) Residential Unit is occupied, the visiting superintendent, porter and doorman will be working on-site to provide the services scheduled in Note 5 of this budget.

BUDGET FORECASTS ARE INHERENTLY UNCERTAIN AS OPERATING EXPENSES WILL BE AFFECTED BY MANY AND VARIABLE FACTORS AS WELL AS UNFORESEEABLE EVENTS. THE PROJECTED COMMON EXPENSES IN THIS BUDGET ARE GOOD FAITH ESTIMATES, BUT NO REPRESENTATION, ASSURANCE, WARRANTY OR GUARANTY IS GIVEN. IN ALL LIKELIHOOD, THE ACTUAL COMMON EXPENSES WILL VARY FROM THEIR ESTIMATES.

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

Note 5. **Labor and Related Expenses (Budget: $93,857)**

All Residential, Parking and Storage Units	$ 92,500
Retail Units	1,357
Total	$ 93,857

The budgeted amount is for building workers paid based on the Office of the Comptroller, City of New York Building Service Employee Prevailing Wage Schedule published January 31, 2022. The estimated cost is for one (1) doorman working 40 hours per week, (1) part-time porter working approximately 16 hours per week, and (1) part-time superintendent working 5 hours per week. The doorman's anticipated schedule is Monday – Friday, 7 am – 3 pm. The porter will be scheduled to visit the building 6 times per week. The superintendent will visit the building as needed, estimated at approximately 5 hours per week, and will be on call for emergencies. All such schedules are subject to adjustment.

No arrangement has been made with a specific visiting superintendent at the date of this Plan. The superintendent is required to live within one (1) block or 200 feet of the Building under applicable housing code regulations. In the event the superintendent is not within the specified legal distance, a 24-hour, 7-day maintenance company will be contracted on an hourly basis for emergencies. Given the part-time nature of the porter and superintendent, it is most likely that an outside maintenance company will be engaged to provide the services described. The level of staffing described in this Schedule B complies with all applicable housing and labor laws. The budgeted amount also includes costs for FICA and Medicare Taxes, Workers' Compensation Insurance, and New York State and Federal Unemployment Taxes and Disability, for a total budget amount estimated at $93,857.

The services of the Building staff will be devoted primarily to the Residential Common Elements and the Owners of the Residential, Parking and Storage Units. The doorman will be devoted entirely to the Residential Common Elements. Accordingly, the wages and related payroll benefits and charges of the doorman shall be a Residential Common Expense assessed to only the Residential, Parking and Storage Units pro rata to their respective Common Interests. The porter and superintendent will be servicing mostly the Residential Common Elements and the services provided to the Residential, Parking and Storage Units and their respective Owners. Accordingly, Flatiron LLC projects the wages and related payroll benefits and charges of the porter and superintendent that benefit the Residential Common Elements, the Residential, Parking and Storage Units, and the portion of the General Common Elements that are fairly attributable to the Residential, Parking and Storage Units total an estimated $32,577, which shall be assessed to only the Residential, Parking and Storage Units pro rata to their respective Common Interests. Flatiron LLC projects the portion of said wages and related payroll benefits and charges of the porter and superintendent that benefit the portion of the General Common Elements that are fairly attributable to the Retail Units is estimated at $1,357, which shall be assessed to only the Retail Units pro rata to their respective Common Interests.

In the future this expense should be reviewed annually by the Condominium Board and adjusted in accordance with the experience of the actual time spent by the porter and the superintendent for these and any other services that are fairly attributable to the General Common Elements and the sidewalks.

In the opinion of Flatiron LLC, the foregoing projected labor and related expenses appear reasonable and adequate under existing circumstances and the above allocations are fairly attributable to the Residential Common Elements, the General Common Expenses and the sidewalks, and to each group of Units (i.e., the Residential, Parking, Storage Units and the Retail Units).

Note 6. **Natural Gas (Budget: $22,915)**

All Residential, Parking and Storage Units	$ 22,915
Retail Units	0
Total	$ 22,915

There will be two (2) gas meters servicing the Building, one for corridor heating and hot water, and one for domestic cooking. The projected consumptions and costs per Sharon Engineering, P.C. **("Sharon")**, with offices at 34-27 Steinway Street, Suite 201, Long Island City, NY 11101, are as follows:

Domestic Cooking:

Based on 1.5 hours of usage per day (4 Therms x 23 units = 138 Therms per month)

Based on $25.08 base rate & 143.61 cents/Therm in excess of 3 (supply & delivery), average monthly cost = $223.26, or $2,679.12/year.

for the central heating and hot water system are estimated at 22,225 Therms/Year at an estimated $1.40/Therm, for a total cost estimated at $31,115.

Corridor Make-up Air Heating:

Based on 3,560 Therms per year or 297 Therms per month

Based on $25.08 base rate & 143.61 cents/Therm in excess of 3 (supply & delivery), average monthly cost = $1,239, or $14,868/year.

Hot Water Heating:

Based on 2,760 gallons of hot water per day

Based on $25.08 base rate & 143.61 cents/Therm in excess of 3 (supply & delivery), average monthly cost = $447.29, or $5,367.48/year.

Each Retail Unit will have its own separate heat and hot water systems.

The General Common Elements will not be provided with hot water and the cellar gas room is the only General Common Element that will be provided with heat, which is considered to be

negligible or inconsequential. Accordingly, no portion of this budget amount has been allocated to the General Common Expenses.

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

In the opinion of Flatiron LLC, the foregoing projected expenses for heating and hot water appear reasonable and adequate under existing circumstances and the above allocation is fairly attributable to the Residential Common Expenses assessed to all Residential, Parking and Storage Units pro rata to their respective Common Interests for the projected January 1, 2024 to December 31 2024 budget year.

Note 7. **Electricity (Budget: $5,538**

All Residential, Parking and Storage Units	$	5,538
Retail Units		0
Total	$	5,538

Electricity to be provided to each Residential Unit and Retail Unit will be separately metered.

The amount set forth in this budget item is for electrical service provided to the General Common Elements and the Residential Common Elements, which are commonly metered.

Sharon projects the annual electric consumption at an estimated approximate **2018** kilowatt hours ("**kwhs**") per month and an estimated rate of $0.22/kwh, or an estimated electrical expense of $5,538 for the projected January 1, 2024 to December 31 2024 budget year.

This budget item represents the electrical expenses for lighting and power to be provided to the Residential Common Elements and to the General Common Elements. The portion of the projected electrical expenses allocated to the General Common Elements that is fairly attributable to the Retail Units is considered negligible or inconsequential. Accordingly, this budgeted item shall be assessed to only the Residential, Parking and Storage Units pro rata to their respective Common Interests.

In the future, if in dispute, this expense item may be determined by an electrical consumption survey conducted by an electrical or mechanical engineer engaged by the Condominium Board as a General Common Expense assessed to all Units pro rata to their respective Common Interests.

In the opinion of Flatiron LLC, the foregoing projected expenses for electricity appear reasonable and adequate under existing circumstances and the above allocations are fairly attributable to the Residential Common Expenses, the General Common Expenses and the Residential, Parking and Storage Units for the projected January 1, 2024 to December 31 2024 budget year.

Note 8. **Water Charges and Sewer Rents (Budget: $26,446)**

All Residential, Parking and Storage Units	$ 26,446
Retail Units	0
Total	$ 26,446

The City of New York will provide municipal water and sewer services to the Building. There will be a single meter serving the entire Building, which will be included in one billing from the New York City Water Board. The Retail Units will be sub-metered for water service and will be billed separately by the Condominium Board for water and sewer services based on its consumption of water as measured by said submeter, the then applicable water and sewer rates paid by the Board and sales tax (if any). The cost of submeter readings shall also be borne by the Retail Units pro rata to their respective Common Interests.

Water and sewer services will be provided to the Residential Common Elements and the Residential Units for domestic hot and cold water, lavatories and sanitary sewerage. The General Common Elements will use water service in connection with only the Building's sprinkler system systems, which do not consume water, except in the cases of testing and an emergency. The portion of the projected water expenses allocated to the General Common Elements that is fairly attributable to the Retail Units is considered negligible or inconsequential.

For purposes only of presentation in this budget, the projected costs of water and sewer services are limited to only the Residential, Parking and Storage Units, which shall be assessed to only the Residential, Parking and Storage Units pro rata to their respective Common Interests.

Sharon estimates water consumption based on building occupancy of 69 people, and usage of 70 gallons per day per occupant. 70 gallons x 69 occupants x 30 days = 144,900 gallons/month, or 194 HCF (hundred cubic feet)/month. The 7/1/22 to 6/30/23 New York City Water Board rate is $11.12/HCF. $11.12 x 194 HCF = $2,157.28/month, or $25,887/year

The combined water and sewer rate for the New York City fiscal year beginning July 1, 2022 is $11.12/HCF. The budget is predicated on an increase of 2.16% per fiscal year until the Building will commence operation. Given the first year's operation of the Building will commence mid-fiscal year for the New York City Water Board, the rate is estimated at an average of $11.36/HCF.

The projected cost of water usage related to sprinkler testing has not been estimated by Sharon. In the future, this expense may be reviewed annually by the Condominium Board and an engineer hired by the Board to determine the then current costs, if in dispute. The cost of the engineer will be a General Common Expense assessed to all Units pro rata to their respective Common Interests.

For the fiscal years beginning July 1, 2022 and July 1, 2023, the increases in the water and sewer rates are estimated at 2.16%, or an estimated average combined water and sewer rate of $11.36/HCF for the year commencing January 1, 2024. The budget amount is based upon the

estimated $11.20/HCF rate for July 1, 2023, prorated for the period January 1, 2024 through June 30, 2024; and the estimated $11.51/HCF rate for July 1, 2024, prorated for the period July 1, 2024 to December 31, 2024; which totals $26,446 for the period for all Residential, Parking and Storage Units.

The actual cost of water and sewer services will depend, in part, on the level of water consumption and the rates and formulas for these services as determined by The City of New York. Consumption will depend upon the water usage within the individual Residential Units, which may vary widely depending on the size of households and individual requirements and habits.

This budget item is based upon projections from Sharon, historical increases by the New York City Department of Environmental Protection, the experience of Flatiron LLC and its opinion of the reasonably anticipated costs of water and sewer services to the Residential Units and Residential Common Elements as indicated above for the projected budget year under existing circumstances and assuming present trends and conditions, to the extent applicable, will continue.

Note 9. **Telecomm (Budget: $4,260)**

All Residential, Parking and Storage Units	$ 4,226
Retail Units	34
Total	$ 4,260

It is anticipated that certain Building life safety systems will need to be capable of communications, such as the fire alarm system and the elevator. In addition, it is anticipated that the Building may also be equipped with security systems that require internet service. For purposes only of presentation, Flatiron LLC projects that an estimated $4,060 of this budget item is fairly attributable to the Residential Common Elements, which is a Residential Common Expense assessed to all Residential, Parking and Storage Units pro rata to their respective Common Interests, and an estimated $200 is fairly attributable to the General Common Elements, which is a General Common Expense assessed to all Units pro rata to their respective Common Interests, or $165 ($200 × 82.5064%) to all Residential, Parking and Storage Units pro rata to their respective Common Interests, and $35 ($200 × 17.4936%) to the Retail Units pro rata to their respective Common Interests. Once these services are established, the costs allocable to the Residential Common Elements and the General Common Elements will be determined and allocated accordingly. Same may be reviewed and reasonably adjusted by the Board. Any dispute with respect thereto shall be submitted to arbitration in New York City pursuant to Section 6.4 of the By-Laws (See Section R-9 "Arbitration" for discussion).

Note 10. **Repairs, Maintenance and Supplies (Budget: $12,000)**

All Residential, Parking and Storage Units	$ 11,520
Retail Units	480
Total	$ 12,000

The Condominium Board is to provide for repairs, maintenance and supplies with respect to systems, facilities and areas comprising the Residential Common Elements, the General Common Elements, the sidewalks immediately adjacent to the Property, and the Building services to be provided to the Residential Units and their respective Owners. Each Residential Unit Owner and Retail Unit Owner will be responsible to pay and perform, or provide for, any needed or desired repairs, maintenance and supplies to or for the Owner's Unit and Unit's facilities, including a Residential Unit's appliances; heating and air conditioning equipment and fixtures; bathroom and kitchen sinks, toilets, bathtub/shower, and related hardware, as well as Unit painting, washing and cleaning the both sides of Unit windows and any skylight, and decorations. Each Owner of a Retail Unit is responsible to repair and maintain its Unit's storefronts.

The budget item is for annual recurring ordinary maintenance of, and repairs to, the Residential Common Elements and the General Common Elements, including periodic painting and supplies, such as cleaning supplies, lubricants, bulbs, fixtures, hardware, rubbish bags, etc. used in connection with the foregoing and the operation of these Common Elements, and the sidewalks immediately adjacent to the Property.

Given the Building is being newly constructed with all new plumbing, electrical, mechanical and other Building-wide systems, Flatiron LLC projects a relatively low-end estimated expense of approximately $12,000 for ordinary repairs, maintenance and supplies for the projected first 12 months of Condominium operation. Flatiron LLC has allocated an estimated: $9,736 of this budgeted item to the Residential Common Elements, which is a Residential Common Expense assessed to only all Residential, Parking and Storage Units pro rata to their respective Common Interests; and $2,744 of this budget item to the General Common Elements, which is a General Common Expense assessed to all Units pro rata to their respective Common Interests. Accordingly, an estimated $2,264 ($2,744 x 82.5064%) shall be assessed to all Residential, Parking and Storage Units pro rata to their respective Common Interests and an estimated $480 ($2,744 x 17.4936%) shall be assessed to the Retail Units pro rata to their respective Common Interests (amounts are rounded).

No amounts have been budgeted for: repairs to the roof, the heating, ventilating and air-conditioning systems, or the Building's façade and exterior walls, all of which will be new; or for items to be covered by construction warranties; or any major capital expenditure, which is not expected to occur for the projected first 12 months of Condominium operation and is not a usual recurring annual expense.

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

The Building is being newly constructed and accordingly, no historical expenses are available. This projection is based upon an estimate of Flatiron LLC based on its experience and on its opinion of the reasonably anticipated expenses of Building repairs, maintenance and supplies for the projected first year Condominium operation, at which time the Building and its systems will be completed or substantially completed, under existing circumstances and assuming present trends and conditions, to the extent applicable, will continue.

In the opinion of Flatiron LLC, the foregoing projected expenses for repairs, maintenance and supplies appear reasonable and adequate under existing circumstances and the above allocations are fairly attributable to the Residential Common Expenses and the General Common Expenses, and to each group of Units (i.e., the Residential, Parking and Storage Units, and the Retail Units).

Note 11. Service Contracts (Budget: $20,661)

All Residential, Parking and Storage Units	$ 20,232
Retail Units	429
Total:	$ 20,661

No service contracts have been entered into as of the date of this Plan. However, it is anticipated that the service contracts for the following items, in addition to the Management Agreement discussed in Note 12, will be entered into at the following projected costs, based on proposals or estimates of Flatiron LLC, during the projected first year of Condominium operation:

Contractor	Type of Service	Estimated First Year's Cost *
To be Determined	Elevator Maintenance	$ 5,289
To be Determined	Virtual Doorman	8,022
To be Determined	Exterior Window Cleaning	3,000
To be Determined	Fire Alarm Monitoring	2,200
To be Determined	Gym Subscriptions	1,000
To be Determined	Fire Extinguisher Service	250
Total		$20,661

* Includes sales tax of 8.375%.

The elevator, virtual doorman, exterior window cleaning, gym subscriptions and exterminating contracts are a Residential Common Expense at a total estimated cost of $18,211, which is charged only to all Residential, Parking and Storage Units pro rata to their respective Common Interests. The projected costs of fire alarm monitoring and fire extinguisher service are applicable to the General Common Elements or all Units and are a General Common Expense at a total estimated cost of $2,450 charged to all Units pro rata to their respective Common Interests, or an estimated $2,021 ($2,450 x 82.5064%) to all Residential, Parking and Storage Units pro rata to their respective Common Interests, and an estimated $429 ($2,450 x 17.4936%) to the Retail Units pro rata to their respective Common Interests. The estimated total of $19,241 applicable to the

Residential, Parking and Storage Units is a Residential Common Expense and charged to only all Residential, Parking and Storage Units pro rata to their respective Common Interests.

After the first year of Condominium operation, the amount budgeted for service and maintenance contracts should be adjusted annually to reflect the actual amounts thereof fairly applicable to either the Residential Common Elements or the General Common Elements, or all Units, and the amount fairly allocable to the Retail Units.

In the opinion of Flatiron LLC, the projected costs for service and maintenance contracts appear reasonable and adequate under existing circumstances and the above allocations are fairly attributable to the Residential Common Expenses and the General Common Expenses, and to each group of Units (i.e., the Residential, Parking and Storage Units, and the Retail Units).

Note 12. Insurance (Budget: $45,500)

All Residential, Parking and Storage Units	$ 37,540
Retail Units	7,960
Total	$ 45,500

The budgeted amount for insurance premiums are based on a letter, dated August 10, 2022, from the insurance brokerage firm of Brown & Brown of Garden City, Inc., ("**Brown**"), 595 Stewart Avenue, Garden City, New York 11530, setting forth the following coverages:

Coverage	**Limit**
Building	
All-Risk/RC/Agreed Amount/Replacement Cost Risks of Direct Physical Loss Subject to Policy Terms and Conditions, includes Equipment Breakdown	$15,600,000 (Deductible - $5,000)
Business Income/Extra Expense	$323,000
Sewer Backup	Building Limit
Flood/Earthquake	$500,000/$1,000,000 (Deductible - $25,000)
General Liability – Each Occurrence	$2,000,000
General Aggregate	$1,000,000
Personal & Advertising Injury	$1,000,000
Non Owned/Hired Auto	$1,000,000
Medical Payments	$5,000
Fire Damage Legal Liability	$300,000
Employee Benefits Liability	$1,000,000
Fidelity Bond	
Employee Dishonesty	$500,000
Managing Agent's Rider	Included

Directors' & Officers' Liability Limit and Deductible ..... Managing Agent's Rider.....	 1,000,000 (Deductible - $5,000) Included
Umbrella – Limit	$25,000,000 each occurrence & aggregate limit

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

The total annual premiums for these coverages is estimated at $45,500. While this is a good faith estimate, insurance premiums have been subject to substantial increases in recent years. No assurance, representation or guarantee is given that the actual costs of insurance will be in accordance with this projection. Premiums for insurance coverage are a General Common Expense assessed to all Units pro rata to their respective Common Interests. Accordingly, the amount allocated to the Residential, Parking and Storage Units is estimated at $37,540 ($45,500 x 82.5064%) and the amount allocated to the Retail Units is estimated at $7,960 ($45,500 x 17.4936%).

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

The All Risk Replacement Cost coverage limit is based upon an agreed amount replacement cost for the Building. By carrying a building limit of $15,600,000 (subject to underwriting review at the time of placement as aforesaid), the insurance policy will include a provision known as an "agreed amount replacement cost endorsement" or "agreed value" whereby the insurance carrier agrees to reimburse the insured for losses up to the full amount of the policy regardless of the actual replacement value of the Building. This clause has the effect of waiving any co-insurance the insurer might otherwise require. This clause does not mean that the Condominium Association would necessarily receive sufficient proceeds to actually fully rebuild or restore the Building in the event of its substantial or total destruction. The Condominium Board should periodically review the amount of casualty insurance for the Building to insure that the amount of coverage is sufficient.

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

The liability coverage is in the amount recommended by Brown & Brown of Garden City, Inc. as being adequate.

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

(a) fire or casualty losses to the contents of the Owner's Unit, including appliances, cabinets, kitchen and bathroom fixtures, furnishings, household items and other personal property;

(b) liability for personal injury or property damage as a result of occurrences within the Owner's Unit or on its appurtenant Terrace (if any), including water damage legal liability to cover damage arising from leaks or other conditions within the Unit or on its appurtenant Terrace (if any); and

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

Note 13. Management Fee (Budget: $27,192)

All Residential, Parking and Storage Units	$ 26,104
Retail Units	1,088
Total	$ 27,192

At or prior to the First Unit Closing of a Residential Unit, the Condominium Board will enter into a management agreement with Flatiron LLC Real Estate Advisors, LLC, having an office at 119 West 23rd Street, Suite 903, New York, NY 10011. The proposed agreement with said Managing Agent is for an initial term expiring at the end of 12 full calendar months following the month of the First Unit Closing of a Residential Unit is consummated. The fee for said first 12-month period is $27,192, payable in advance in equal monthly installments. The agreement automatically will be extended from year to year thereafter until canceled by either party on giving at least 30 days' notice prior to each annual expiration date. Unless canceled, the management fee increases by 3% per annum, compounded. The fee is negotiable after expiration of said 12 month period and before each extension.

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

Flatiron LLC shall have the right to charge additional fees for the following services, if they are requested: managing capital improvement projects; providing forms and information for individual Unit sale or refinance transactions; assisting in individual Unit repairs or improvements; rent collection for any leased Units; legal support in the event of any claims, suits or litigation.

In the opinion of Flatiron LLC, most of the management services will be devoted to the Residential Common Elements and the Residential, Parking and Storage Units and their respective Owners.

Management services will be devoted primarily to the Residential Common Elements and the Owners of the Residential, Parking and Storage Units. Accordingly, Flatiron LLC projects the management services that benefit the Residential Common Elements, the Residential, Parking and Storage Units, and the portion of the General Common Elements that are fairly attributable to the Residential, Parking and Storage Units total an estimated $26,104, which shall be assessed to only the Residential, Parking and Storage Units pro rata to their respective Common Interests. Flatiron LLC projects the portion of said services that benefit the portion of the General Common Elements that are fairly attributable to the Retail Units is estimated at $1,088, which shall be assessed to only the Retail Units pro rata to their respective Common Interests.

The management services to be provided to the Retail Units involve only billing the Common Charges and other minimal services, which are considered negligible or inconsequential.

In the opinion of Flatiron LLC, the projected management fee appears reasonable and adequate under existing circumstances and the foregoing allocations are fairly attributable to the Residential Common Expenses and the General Common Expenses, and to each group of Units (that is: all Residential, Parking and Storage Units, and the Retail Units).

Flatiron LLC is not owned or controlled by Sponsor or Sponsor's principals.

Note 14. Legal, Audit & Administrative Fees (Budget: $9,910)

All Residential, Parking and Storage Units	$ 9,528
Retail Units	382
Total	$ 9,910

This budget expense includes the following items:

An estimated $1,000 for potential legal expenses in the event the Condominium Board elects to retain an attorney for immaterial legal services with respect to the operation, governance and affairs of the Condominium Association. In the opinion of Flatiron LLC these legal services will relate to matters involving primarily, if not only, the Residential Common Elements, the Residential, Parking and Storage Units and their respective Owners, which is a Residential Common Expense assessed to only all Residential, Parking and Storage Units pro rata to their respective Common Interests.

A proposed fee from a certified public accountant of $6,000 to audit and prepare the Condominium Association's first year's audited financial statements and to prepare and file its Federal, State, and City income tax and franchise tax returns.

Audit services will be devoted primarily to the Residential Common Elements and the Owners of the Residential, Parking and Storage Units. Accordingly, Flatiron LLC projects the audit services

that benefit the Residential Common Elements, the Residential, Parking and Storage Units, and the portion of the General Common Elements that are fairly attributable to the Residential, Parking and Storage Units total an estimated $5,760, which shall be assessed to only the Residential, Parking and Storage Units pro rata to their respective Common Interests. Flatiron LLC projects the portion of said services that benefit the portion of the General Common Elements that are fairly attributable to the Retail Units is estimated at $240, which shall be assessed to only the Retail Units pro rata to their respective Common Interests.

An estimated $1,210 for bank charges, office expenses, maintenance call center fees, violation monitoring, and other miscellaneous administrative expenses. These costs will be devoted primarily to the Residential Common Elements and the Owners of the Residential, Parking and Storage Units. Accordingly, Flatiron LLC projects these costs that benefit the Residential Common Elements, the Residential, Parking and Storage Units, and the portion of the General Common Elements that are fairly attributable to the Residential, Parking and Storage Units total an estimated $1,162, which shall be assessed to only the Residential, Parking and Storage Units pro rata to their respective Common Interests. Flatiron LLC projects the portion of said services that benefit the portion of the General Common Elements that are fairly attributable to the Retail Units is estimated at $48, which shall be assessed to only the Retail Units pro rata to their respective Common Interests.

An estimated $350 in connection with the annual co-op/condominium tax abatement filing, which is a Residential Common Expense assessed to only all Residential, Parking and Storage Units pro rata to their respective Common Interests.

An estimated $1,350 in Federal, State and local taxes, based on the opinion by Rosenblum & Masciovecchio, CPA. This cost is primarily incurred by the Residential Common Elements and the Owners of the Residential, Parking and Storage Units. Accordingly, Flatiron LLC projects this cost to the Residential Common Elements, the Residential, Parking and Storage Units, and the portion of the General Common Elements that are fairly attributable to the Residential, Parking and Storage Units to total an estimated $1,296, which shall be assessed to only the Residential, Parking and Storage Units pro rata to their respective Common Interests. Flatiron LLC projects the portion of said cost to the portion of the General Common Elements that are fairly attributable to the Retail Units is estimated at $54, which shall be assessed to only the Retail Units pro rata to their respective Common Interests.

In the opinion of Flatiron LLC, the foregoing estimated legal and audit fees, administrative expenses and co-op/condominium tax abatement expenses appear reasonable and adequate under existing circumstances and the above allocations are attributable to the Residential Common Expenses and the General Common Expenses, and to each such group of Units (i.e., all Residential, Parking and Storage Units, and the Retail Units).

Note 15. Inspections (Budget: $5,123)

All Residential, Parking and Storage Units	$ 4,465
Retail Units	658
Total	$ 5,123

This budget expense item includes all currently known required periodic inspections of various building systems and elements as mandated by the City or State of New York, including backflow preventor, elevator, gas piping, sprinkler and standpipe systems. Certain inspections are required annually, and certain others are at longer intervals. The inspections that have a frequency of longer than one year have been included in this budget item based on estimated average annual cost spread over its frequency. The elevator has both a 1 year and 5 year test requirements, and gas piping currently is required to be inspected once every four years.

It should be noted that the City and State have from time to time modified or increased various inspection and reporting requirements, which could in turn impact the overall budget for inspections.

Flatiron LLC allocates this budget item as follows in accordance with its opinion of the amounts fairly attributable to the Residential Common Expenses and the General Common Expenses:

$1,360 to the Residential Common Elements for Elevator Inspections, which is a Residential Common Expense assessed to only all Residential, Parking and Storage Units pro rata to their respective Common Interests; and

$3,763 to the General Common Elements, which is a General Common Expense assessed all Units pro rata to their respective Common Interests, or $3,105 ($3,763 x 82.5064%) to all Residential, Parking and Storage Units pro rata to their respective Common Interests and $658 ($3,736 x 17.4936%) to the Retail Units pro rata to their respective Common Interests.

After the first year of Condominium operation, the amount budgeted for Inspections should be adjusted annually to reflect the actual amounts thereof fairly attributable to the Residential Common Elements and to the General Common Elements.

In the opinion of Flatiron LLC, the foregoing estimated expenses for Inspections appear reasonable and adequate under existing circumstances and the above allocations are fairly attributable to the Residential Common Elements and the General Common Elements, and to each group of Units (i.e., all Residential, Parking and Storage Units ,and the Retail Units).

This projection is an estimate of Flatiron LLC, and is based on its opinion of the reasonably anticipated customary inspection expenses of the Condominium Association for the projected budget year under existing circumstances and assuming present trends and conditions, to the extent applicable, will continue.

Note 16. Reserve for Contingencies (Budget: $8,187)

All Residential, Parking and Storage Units	$ 7,874
Retail Units	328
Total	$ 8,202

This budget expense item is to provide a fund for unanticipated operating expenses during the first year of Condominium operation, including an allowance for a possible increase in one or more expense items in this budget and/or to add to this budget one or more new expense items. This item is not to provide a reserve for capital or major expenditures (see Note 17 for Reserve for Capital Replacements).

For budgeting purposes only, this contingency item consists of approximately 3.0% of all other budgeted Operating Expenses (excluding the Reserve for Capital Replacements), or $8,202 ($273,400 x 3.0%), of which $7,874 is fairly attributable as Residential Common Expense assessed to all Residential, Parking and Storage Units pro rata to their respective Common Interests. Flatiron LLC projects the portion of the Reserve for Contingency to the portion of the General Common Elements that are fairly attributable to the Retail Units is estimated at $328, which shall be assessed to only the Retail Units pro rata to their respective Common Interests.

After the first year of Condominium operation, the amount budgeted for Reserve for Contingencies will be determined annually by the Condominium Board, but cannot exceed 5% of the projected Common Expenses without obtaining the prior written consents of Sponsor during only the Sponsor Veto Control Period (see Section A-7.2).

In the opinion of Flatiron LLC, the amount budgeted as a reserve for contingencies appears reasonable and adequate under existing circumstances and the above allocations are fairly attributable to each group of Units (i.e., all Residential, Parking and Storage Units, and the Retail Units).

This projection is an estimate of Flatiron LLC based upon its experience in residential management and on its opinion of the reasonably anticipated customary contingency expenses of the Condominium Association for the projected budget year under existing circumstances and assuming present trends and conditions, to the extent applicable, will continue.

Note 17. Reserve for Capital Replacements (Budget: $28,035)

All Residential, Parking and Storage Units	$ 25,344
Retail Units	2,816
Total	$ 28,160

Many banks and Institutional Lenders require condominium budgets to comply with Fannie Mae (the Federal National Mortgage Association) guidelines in order to extend financing to Purchasers

of condominium units, refinancing of existing mortgage loans to unit owners and to provide a line of credit to a condominium board of managers. The Fannie Mae guidelines require (among other things) a budget to include a line item for a reserve for capital replacements of major components of the Building equal to not less than 10% of all budgeted expenses each budget year. The Reserve for Capital Replacements in this budget is intended to comply with Fannie Mae guidelines. Sponsor and Flatiron LLC, however, do not represent, assure, or guarantee or warrant this budget item complies with Fannie guidelines. The portion of the Common Charges attributable to the Reserve for Capital Replacements is to be maintained in a separate account and used only to replace or otherwise alter major components of the Building in accordance with Fannie Mae guidelines. Major components of the Building include the roofs; the façade and exterior Building walls; the heating, plumbing and electrical Building systems; the elevator; and the structural component of the Building. In no event may the Reserve for Capital Replacements be used for ordinary maintenance or repairs of the Common Elements.

Because the Building is being newly constructed with entirely new Units outfitted with modern Unit facilities, no major capital replacements are anticipated during the first five (5) years of Condominium operation. No representation, assurance, warranty or guaranty, however, is made or given when such capital expenditures will be required or that the Reserve for Capital Replacement will be sufficient when a capital replacement may be required. The applicable Unit Owners will be obligated to pay their share of the cost of ordinary and capital repairs, replacements and/or improvements to the General Common Elements and the Residential Common Elements as and when required. The Reserve for Capital Replacement is the only reserve fund to be provided under this Plan.

For budgeting purposes only, Flatiron allocates the Reserve for Capital Replacements to equal 10% of all other estimated Operating Expenses, or $28,160 ($281,602 x 10%). Based on its best understanding of the cost of construction and the portion of same attributable to the Residential, Parking and Storage Units, Flatiron allocates 90%, or $25,344 (90% x $28,160) to the pro rata to the Residential, Parking and Storage Units respective Common Interests. Flatiron LLC therefore projects the portion of the Reserve for Capital Replacements to the portion of the General Common Elements that are fairly attributable to the Retail Units as 10%, or $2,816 (10% x $28,160) which shall be assessed to only the Retail Units pro rata to their respective Common Interests.

In the opinion of Flatiron LLC, the above allocations are fairly attributable to each group of Units (i.e., all Residential, Parking and Storage Units, and the Retail Units).

Section F-7. SCHEDULE B-1: Unit Utility Projections

SCHEDULE B-1

Utility Projections of
Sharon Engineering P.C.

The costs of electricity for lighting, appliances (coffee maker, refrigerator-freezer, dishwasher, clothes washer/dryer, iron, television, computer and other appliances), and space heating and cooling to the Units will be paid directly to the utility provider by each Unit Owner as determined by each Unit's separate electric meter and the then current utility rates and taxes. All other utility costs to provide services to the Units (i.e., water and sewer services) and the Common Elements (i.e., electricity: for lighting; toilet, kitchen and ventilation fans; cellar and lobby heating and air conditioning; duplex booster pump; hot water heaters; elevator; and Building water and sewer services) will be included in the Residential Common Expenses and charged to all Residential, Parking and Storage Units pro rata to their respective Common Interests and/or the General Common Expenses and charged to all Units pro rata to their respective Common Interests (as applicable). The average individual cost of electricity to each Unit is projected by Sharon Engineering P.C., with offices at 34-27 Steinway Street, Suite 201, Long Island City, NY 11101, in a letter dated February 20, 2023, which follows after the end of the following table, which contains the projected average annual cost of electricity for each Unit, based on the projected consumption of electricity in kilowatt hours ("**KWH**") as estimated by Sharon Engineering P.C., and the utility rates at the date of said engineer's letter, to which Flatiron Real Estate Advisors LLC adds an inflation factor estimated at 10%:

APT #	Beds/Baths	Projected Average Electric Consumption/Month	YEARLY ESTIMATED ELECTRIC
2A	2/3	651	$2,121.50
2B	1/2	459	$1,332.94
2C	3/2	819	$2,609.38
2D	1/1.5	459	$1,332.94
2E	2/2	651	$2,121.50
3A	2/3	651	$2,121.50
3B	1/2	459	$1,332.94
3C	3/2	819	$2,609.38
3D	1/1.5	459	$1,332.94
3E	2/2	651	$2,121.50
3F	3/2.5	819	$2,609.38
3G	1/1	459	$1,332.94
4A	3/3.5	819	$2,609.38
4B	4/3	987	$3,097.25
4C	4/3	987	$3,097.25
4D	3/3	819	$2,609.38
5A	3/3.5	819	$2,609.38
5C	2/2	651	$2,121.50
5D	2/2.5	651	$2,121.50
5E	2/2	651	$2,121.50
PH	3/2.5	819	$2,609.38
Common Areas			$ 5,537.52

SHARON ENGINEERING, P.C.
34-27 STEINWAY STREET, SUITE 201
LONG ISLAND CITY, NY 11101
(718) 752-1500 FAX: (718) 752-9404
CONSULTING ENGINEERS
WWW.SHARONENGINEERING.COM

February 20, 2023

RE: new residential building at
171 Calyer Street
Brooklyn, NY 11222
Tax Block: 2573, Tax Lot: 23

To Whom It May Concern,

Sharon Engineering, P.C. is presently engaged in the MEP design of a mid-rise residential building located at 171 Calyer Street, Brooklyn. The project is approximately 74000 square feet with a total of six (6) stories and a cellar level. The building will have 23 residential units. These estimates are based on 2024 being the first year of operation (Jan 1, 2024 – Dec 31, 2024).

The residential portion will consist of the following:

(5)	1 BR units
(7)	2 BR units
(7)	3 BR units
(2)	4 BR units
21	Total Dwelling Units

The following is a preliminary breakdown of the estimated monthly costs for water & sewer and electricity.

WATER & SEWER

The estimated cost for water and sewer is based on an assumed occupancy of 69 people (2 occupants per 1 BR, 3 occupants for 2 BR, 4 occupants for 3 BR and 5 occupants for 4 BR) and usage of 70 gallons per day per occupant. The NYC Water Board currently charges $10.33 per hundred cubic feet of water and sewer (approx. 748 Gals). There will be one meter servicing the entire building.

70-Gals x 69 occupants x 30 days = 144,900 Gals = 194 HCF
Estimated monthly cost = $10.33 x 194 HCF = **$2001.09**

GAS

There will be a total of 2 gas meters in the building, one building meter and one servicing the apartments.

I. Apartment cooking
   - Based on 1.5 hours of usage per day (4 Therms x 23 units = 138 Therms per month)
   - Based on $25.08 base rate & 143.61¢/Therm in excess of 3 (supply & delivery), average monthly cost = **$223.26**

II. Corridor make-up air heating
   - Based on 3560 Therms per year or 297 Therms per month
   - Based on $25.08 base rate & 143.61¢/Therm in excess of 3 (supply & delivery), average monthly cost = **$447.29**

III. Hot water heating
   - Based on 2760 Gallons of hot water per day
   - Based on $25.08 base rate & 143.61¢/Therm in excess of 3 (supply & delivery), average monthly cost = **$1239.00**

ELECTRICITY

I. 1-Bedroom Unit (approx. 830 ft²)	
Split-type Heat Pump Unit	236 kWh
Refrigerator	44 kWh
Lights	26 kWh
Computers	30 kWh
Dishwasher	18 kWh
Clothes Washer & Dryer	45 kWh
TV & Other Appliances	60 kWh
Estimated monthly average electric use:	**459 kWh**
Estimated monthly average electric cost @ 22¢/kWh and basic service charge of $17.50:	**$100.98**
II. 2-Bedroom Unit (approx. 1,300 ft²)	
Split-type Heat Pump Unit	354 kWh
Refrigerator	44 kWh
Lights	55 kWh
Computers	60 kWh
Dishwasher	18 kWh
Clothes Washer & Dryer	45 kWh
TV & Other Appliances	75 kWh
Estimated monthly average electric use:	**651 kWh**
Estimated monthly average electric cost @ 22¢/kWh and basic service charge of $17.50:	**$160.72**
III. 3-Bedroom Unit (approx. 1,500 ft²)	
Split-type Heat Pump Unit	472 kWh
Refrigerator	44 kWh
Lights	75 kWh
Computers	90 kWh
Dishwasher	18 kWh
Clothes Washer & Dryer	45 kWh
TV & Other Appliances	75 kWh
Estimated monthly average electric use:	**819 kWh**
Estimated monthly average electric cost @ 22¢/kWh and basic service charge of $17.50:	**$197.68**
IV. 4-Bedroom Unit (approx. 2,100 ft²)	
Split-type Heat Pump Unit	590 kWh
Refrigerator	44 kWh
Lights	95 kWh
Computers	120 kWh
Dishwasher	18 kWh
Clothes Washer & Dryer	45 kWh
TV & Other Appliances	75 kWh
Estimated monthly average electric use:	**987 kWh**
Estimated monthly average electric cost @ 22¢/kWh and basic service charge of $17.50:	**$234.64**

V. Building/Common Areas	
Lights (mech. rooms, lobby, vestibules, stairs)	751 kWh
Elevator	300 kWh
Booster Pumps	153 kWh
Misc. Exhaust Fans (kitchens, bathrooms, trash room)	685 kWh
Corridor Make-Up Air Cooling	129 kWh
Estimated monthly average electric use:	**2018 kWh**
Estimated monthly average electric cost @ 22¢/kWh and basic service charge of $17.50:	**$461.46**

All estimates listed above are based on local weather and currently effective energy rates, which include adjustments for surcharges and taxes. They are only estimates of the actual energy use.

If you require any additional information, please do not hesitate to contact me.

Sincerely,



Ronen Sharon, P.E.

END OF SECTION F

SECTION G. OPINION ON COMPLIANCE WITH REAL PROPERTY LAW §339(i)

DouglasElliman EST. 1911 REAL ESTATE

575 MADISON AVE
New York, NY 10022
Off: 212.891.7000 E-fax: 212.891.7209
www.elliman.com

COMPLIANCE WITH REAL PROPERY LAW SECTION 339-(i)

August 29, 2022

Real Estate Financing Bureau
Department of Law, State of New York
28 Liberty Street – 15th Floor
New York, New York 10005

Re: *171 Calyer Street, Brooklyn,, New York (the "**Property**")*

Gentlemen:

This is with respect to the Plan of Condominium Ownership of the above Property and the allocation of the Percentage of Common Interest to the respective Units therein.

It is our opinion that the allocation of Percentages of Common Interest allocated to the respective Units as set forth in Schedule A attached to the Plan are in compliance with the regulations issued pursuant to Real Property Law Article 9-B, Section 339-i.

We have determined that the Sponsor has used the method contained in Section 339-i(1)(iv) of the New York Condominium Act, that is based upon floor space subject to relative value to the other space in the Condominium, the uniqueness of the Unit, the availability of the common elements for exclusive or shared use, and the overall dimensions of the particular Unit.

A principal of Douglas Elliman, LLC has been engaged in the real estate and the brokerage business for over thirty (30) years in the New York metropolitan area. In addition, Douglas Elliman has been actively associated with the sale and management of residential properties. The company's affiliate currently manages approximately 400 condominium or cooperative apartment buildings in New York City.

This firm will act as the selling agent for the Property. We have no beneficial interest in the Sponsor and no interest in the profits of this conversion plan other than the fee for this service.

We hereby authorize the use of our name and this letter in connection with the proposed plan of condominium operation.

Very truly yours,

DOUGLAS ELLIMAN, LLC

By: _____
Kenneth I. Haber
Executive Vice President and General Counsel

© 2020 ALL MATERIAL PRESENTED HEREIN IS INTENDED FOR INFORMATION PURPOSES ONLY. WHILE, THIS INFORMATION IS BELIEVED TO BE CORRECT, IT IS REPRESENTED SUBJECT TO ERRORS, OMISSIONS, CHANGES OR WITHDRAWAL WITHOUT NOTICE. ALL PROPERTY INFORMATION, INCLUDING, BUT NOT LIMITED TO SQUARE FOOTAGE, ROOM COUNT, NUMBER OF BEDROOMS AND THE SCHOOL DISTRICT IN PROPERTY LISTINGS SHOULD BE VERIFIED BY YOUR OWN ATTORNEY, ARCHITECT, OR ZONING EXPERT. IF YOUR PROPERTY IS CURRENTLY LISTED WITH ANOTHER REAL ESTATE BROKER, PLEASE DISREGARD THIS OFFER. IT IS NOT OUR INTENTION TO SOLICIT THE OFFERINGS OF OTHER REAL ESTATE BROKERS. WE COOPERATE WITH THEM FULLY ☎ EQUAL HOUSING OPPORTUNITY.

END OF SECTION G

SECTION H. RETAIL UNITS

Section H-1. Uses and Shared Expenses. Each Retail Unit may be used for any lawful purpose other than Prohibited Uses (see Section A-32.1) and Offensive Uses (see Sections A-42.1 and H-3).

The share of the projected expenses of Condominium operation fairly attributable to each Retail Unit shall be a Specially Allocated Expense, as provided in RPL §339-m (see Section F-6 and Schedule B contained therein for details).

Section H-2. Common Charges. The Common Charges payable by each Retail Unit Owner are sufficient to cover the Common Expenses fairly attributable to such Retail Unit Owner (see DOCUMENT 8D in Part II of this Plan for Certification of Flatiron Real Estate Advisors, LLC to the foregoing effect).

Section H-3. Changes in Use. The Retail Units are not restricted to any particular use and the Owner of a Retail Unit (including Sponsor) shall have the unfettered right to use and change the use of its Retail Unit from time to time for any lawful use, other than the restriction against Prohibited Uses and the following uses (collectively, "**Offensive Uses**"):

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

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

(c) a billiard or pool hall or parlor;

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

(e) a commercial or non-profit establishment of any type or nature whatsoever which uses any portion of a Unit: (e-1) to sell, afford or permit on premises sexual stimulation or sexual liaisons; (e-2) to permit or present obscene (in the reasonable judgment of the Board), nude or semi-nude performances to the public; (e-3) to sell, afford or permit body massages, whether or not of a sexual nature; (e-4) to sell "rubber goods" or other sexual or erotic products of a type not commonly found in high quality, national chain pharmacies; or (e-5) to sell, rent or permit the viewing of "X" rated videos, photographs, books or other material;

(f) a facility for the sale of paraphernalia for use with illicit drugs or controlled substances not commonly found in high quality, national chain pharmacies;

(g) an office, clinic or other facility of any kind which provides or counsels on abortions or pregnancy termination, or alcohol, narcotics, methadone or other substance abuse clinic or treatment facility (including medical marijuana);

(h) a military recruitment office;

(i) a homeless shelter;

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

(k) a laboratory or facility which creates or handles medical or toxic waste;

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

(m) a funeral parlor, chapel, facility for the sale or display of tombstones or monuments or other death-related business, including cremation or euthanasia;

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

(o) a church or other house of worship;

(p) a storage facility (other than ancillary to a permitted retail or commercial use);

(q) any business that uses toxic chemicals in the normal course of business, other than a drop-off dry cleaner or laundry service;

(r) a dating or escort service;

(s) an office or other facility for any local, state or federal governmental agency; and

(t) any use of "barkers", outdoor music or other outdoor solicitation.

(see Section A-42 for discussion).

Each Retail Unit may be used as a restaurant, food store, clothing store, bank and other commercial establishment, whether or not similar to the foregoing. The permitted uses of a Retail Unit may be noisy, emit odors, involve heavy traffic and cause other effects that need not necessarily be compatible with the primary use of the Building for dwelling purposes. The use and any change in use of a Retail Unit shall comply with all applicable Laws, including zoning Laws and the Building's Certificate of Occupancy, subject to the right of a Retail Unit Owner to seek a zoning variance and to amend the Certificate of Occupancy to authorize a different use, other than a Prohibited Use or an Offensive Use. The Condominium Board and other Unit Owners shall not have the right to approve the use, any change in use, or the operation, occupancy or tenancy, of a Retail Unit or the businesses conducted therein, and no representation, assurance or guarantee is made or given by Sponsor with respect thereto.

Section H-4. Subdivision and Other Unit Changes. Each Retail Unit Owner shall have the right to divide and make other "Unit Changes" (as defined in Section I-4 below) to its Unit, subject to compliance with Part 20 of the regulations promulgated by the Department of Law (see Section I-5 below) and the "Unit Change Requirements" (as defined and set forth in Section I-6 below).

Section H-5. Common Charges. The Common Charges allocated to the Retail Units reflect the Common Expenses fairly attributable to such Units, as detailed in the projected Common Charges contained in the First Year's Budget (Schedule B in Section F-6 above).

The Retail Units do not have special or exclusive use or availability or exclusive control of particular Common Areas. Each Retail Unit Owner will directly pay the expenses to operate the equipment serving exclusively its Retail Unit.

The Common Charges allocated to the Residential, Parking and Storage Units reflect their special or exclusive use or availability or exclusive control of the Residential Common Elements and/or the Building Services provided to such Units and to the Residential Common Elements. The Parking Units and Storage Units are accessory to the Residential Units. Accordingly, all Common Charges allocated to the Residential Units shall be apportioned among the Residential, Parking and Storage Units pro rata to their respective Common Interests. See Schedule B in Section F-6 above for the Common Charges allocated to the Residential, Parking and Storage Units to pay the Residential Common Expenses and the share of the General Common Expenses fairly attributable such Units as explained in the Notes to Schedule B.

Section H-6. Declaration and By-Laws. The Declaration and By-Laws authorize and require the Condominium Board to allocate and apportion the Common Expenses to the Units in accordance with Section H-5. Any dispute between a Retail Unit Owner and the Condominium Board concerning the Common Expenses allocated to its Retail Unit shall be resolved by Baseball Arbitration in New York City (see Section R-9 below for discussion).

Section H-7. Rights and Obligations. The Retail Unit Owners, including Sponsor (which will be the initial Owner of the Retail Units), will have rights and obligations that differ from those of Residential, Parking and Storage Unit Owners. These differences are explained in the preceding Sections H 1 to H 6 and in the following provisions of this Section H-7. The rights and obligations of the Retail Unit Owners will not have a material adverse impact upon the Condominium or the Residential, Parking and Storage Unit Owners.

Section H-7.1. *Budget of Condominium Operation*. Each Retail Manager, who will be appointed exclusively by a Retail Unit Owner, shall participate in (but shall not control) the determination of the Condominium Board in adopting each budget and in allocating the Common Expenses to the Unit Owners, which nonetheless are to be allocated and apportioned in strict compliance with Schedule B -- First Year's Budget (see above Section B-7.3.2, and Section F-6 and Schedule B contained therein). Each Retail Unit Owner (like all Unit Owners) is to receive a copy of a newly adopted budget or a revised budget at least thirty (30) calendar days before the effective date thereof.

Section H-7.2. *Budget Reserves for Contingencies*. If a budget includes a reserve for unanticipated Common Expenses or an allowance for an increase in one or more items of Common Expenses or for potential new or additional Common Expenses, or other contingencies included

in the Common Expenses (collectively, "**Contingency Reserve**"), such Contingency Reserve, when added to all amounts not spent in a Contingency Reserve for one or more prior budgets, shall not exceed in the aggregate five percent (5%) of the projected Common Expenses in such new budget without obtaining the consent of each Retail Unit Owner. The foregoing does not apply to a budgeted Reserve for Capital Replacements, which is to be segregated in a separate account for use solely to make capital or major repairs or alterations.

Section H-7.3. *Budget Reconciliation*. After the end of each budget year and within a deadline of sixty (60) days after the audit of the of the Common Expenses for such budget year is completed and distributed to the Unit Owners, the Condominium Board and each Retail Unit Owner shall reconcile any net underpayment or overpayment in the audited Common Expenses fairly attributable to such Owner. Any net underpayment by a Retail Unit Owner shall be included in such Owner's Common Charges next due and payable and any net overpayment shall be credited to (and reduce) such Owner's Common Charges next due and payable or (at the exclusive option of said Retail Unit Owner) refunded immediately to such Retail Unit Owner.

Section H-7.4. *Sale, Lease or Mortgage*. Each Retail Unit Owner shall have the unfettered right to sell, lease, mortgage and make any other disposition of its Retail Unit or any portion of such Unit, other than the restriction against using its Unit for any Prohibited Uses or Offensive Uses, and the requirement to comply with Part 20 of the regulations promulgated by the Department of Law to offer a Retail Unit for sale. This means that any disposition of a Retail Unit or any portion thereof may be made:

(a) without consent or approval of the Condominium Board or the other Unit Owners;

(b) without complying with any kind of condition, limitation, restriction or requirement of the Condominium Board or other authority, other than the requirement to comply with applicable Laws (including said Part 20) and said restriction against Prohibited Uses and Offensive Uses;

(c) without paying any kind of fee, flip tax, cost or expense of the Condominium Board or its then managing a or attorney;

(d) without approval or consent, and regardless, of the identity of the proposed purchaser, transferee, tenant or mortgagee;

(e) without requiring the proposed purchaser, transferee or tenant to submit an application, financial statement, income tax return, references or other documents, or attend a personal interview;

(f) without any Right of First Refusal in favor of the Condominium Board or Unit Owners;

(g) without approval or consent, and regardless, of the form or content of the contract of sale, lease or mortgage; and

(h) without in any way sharing or participating in the income or revenues derived from a sale, rental, mortgage, operation or use of a Retail Unit.

Section H-7.5. *Alterations*. Each Retail Unit Owner shall have the unfettered right to alter its Unit, other than the requirement to comply with the applicable Work Requirements. Such right to alter a Retail Unit includes the same right as Sponsor to make "Unit Changes" as defined and set forth in Section I-4, but subject to compliance with the requirements in Sections I-5 and I-6 below.

Section H-7.6. *Rights and Easements*. Each Retail Unit Owner, its authorized tenant, and the respective authorized agents, employees and contractors of each of the foregoing, shall have rights and easements:

(a) to install facilities (including telecommunication equipment) to exclusively serve its Retail Unit in, on and along the non-habitable or non-public portions of the General and Residential Common Elements (e.g., the façade or exterior Building walls, the roofs (but not any terrace located thereon) and roof structures, and the cellar, unenclosed areas and rooms comprising the General Common Elements and the Residential Common Elements);

(b) to install Lines and Conduits in, on and along the non-habitable or the non-public portions of the General and Residential Common Elements to connect such facilities to equipment serving said Retail Unit;

(c) to access said General and Residential Common Elements in order to maintain, repair, restore, alter and operate such facilities and to transport materials, supplies and equipment to, from, on and across said Common Elements;

(d) to temporarily interrupt Building Services in connection with the performance of the foregoing work; and

(e) for Emergency egress to, on and across the public portions of the General and Residential Common Elements leading to a street.

Section H-7.7. *Work Requirements*. All of the rights and easements in Section H-7.6 are unfettered and may be exercised and performed freely (i.e., without payment of any fee or charge, and without restriction or limitation), other than the requirement to comply with the applicable Work Requirements, which include:

(a) the requirement to comply with all applicable Laws;

(b) the requirement to not permanently diminish or adversely and unreasonably affect the proper and efficient performance, function, capacity or utility of another Owner's Unit or the Common Elements serving another Unit;

(c) the requirement to not impair or threaten the structural components or the structural integrity, stability and soundness of the Building, or the life, health, safety, protection or security of Owners or permitted tenants or occupants of other Units; and

(d) the requirement to not unreasonably interfere with the peaceful possession or proper use of the Units or the Common Elements as permitted or stated in this Plan and the Condominium Documents.

Section H-7.8. *Damages*. In the event of damage to a Common Element caused by the performance of the rights and easements under Section H-7.6, whether undertaken by the Owner of a Retail Unit or its tenant, the Owner shall reimburse the Condominium Board for the reasonable costs and expenses incurred by the Board to repair the damage and to restore the impacted Common Elements to as near as commercially reasonable and economically practicable to the condition existing immediately before being damaged. The amount to be reimbursed shall be due and payable within ten (10) days after a reasonably detailed and itemized written statement is given to such Retail Unit Owner accompanied by supporting invoices or statements from contractors and vendors of supplies or materials engaged in repair and restoration.

Section H-7.9. *Exemptions*. The alterations, installations and related work to be performed pursuant to Sections H 7.5 and H 7.6 are exempt from the approvals, consents and other requirements of the Condominium Board applicable to alterations of Sold Residential Units. The Condominium Board, other Unit Owners and their Unit mortgage lenders will not have the right to approve or consent to or to review the plans and specifications of the proposed alterations to a Retail Unit or the proposed installations of facilities and Lines and Conduits to exclusively serve a Retail Unit in, on and along said General Common Elements and said Residential Common Elements, or the right of an Owner or its authorized tenant to access such Common Elements in order to maintain, repair, replace, alter and operate such facilities and to transport materials, supplies and equipment to, from, on and across said Common Elements. A Retail Unit Owner and its authorized tenant, and the respective agents, employees and contractors of each of the foregoing, will not be required to enter into any agreement or comply with any requirements or work rules of the Condominium Board or pay any charge or other fee, including those (if any) that may be imposed or adopted by the Condominium Board for alterations to Sold Residential Units, but all such alterations of a Retail Unit and said installations, connections and operation of any existing or newly installed facilities exclusively serving a Retail Unit shall be performed in accordance with the applicable Work Requirements.

Section H-7.10. *Obligation for Maintenance and Repairs*. The Owner of a Retail Unit shall, at its sole cost and expense, or shall cause a tenant of its Unit at such tenant's sole cost and expense, to maintain and repair its Unit's facilities in accordance with the Building Standard.

Section H-7.1. *Signs*. Each Retail Unit Owner and its authorized tenant shall have rights and easements to erect, install, maintain, repair, restore and alter in accordance with the applicable Work Requirements one or more signs on:

(a) the façade or exterior Building walls enclosing such Owner's Retail Unit, extending horizontally along the entire length of the Retail Unit and vertically from the sidewalk to a point opposite the top of the structural ceiling enclosing such Retail Unit, and on the Unit-side of its storefronts and street entrance; and

(b) the portions of a sidewalk along and adjacent to such Owner's Retail Unit.

The signs may be of any nature, size, content, composition, material, design, illumination, configuration, fabrication, quality, color, appearance, content or character whatsoever, and may be used for any promotional, advertising, display, sales, rental, identity, business, operation and/or other lawful purpose.

The Condominium Board and other Unit Owners shall not have the right to approve or consent to the signs or impose any charge, fee, limitation, restriction or requirement to erect, install, maintain, repair, restore or alter such signage. In no event will the Owner or a tenant of a Retail Unit be required to enter into any agreement or comply with any work rules of the Condominium Board, including those that may be adopted for alterations to Sold Residential Units.

Section H-7.2. *Condominium Board*. From and after the election of the first Condominium Board by the Unit Owners following the First Unit Closing of a Residential Unit, the Condominium Board shall at all times comprise two Retail Managers, each of whom shall be appointed exclusively by a Retail Unit Owner (including Sponsor while it owns a Retail Unit).

The Retail Managers may be removed "with" or "without" cause by only the Retail Unit Owner who appointed such Retail Manager. A Retail Manager may be removed solely for bad faith, breach of a fiduciary duty or obligation, self-dealing, dishonesty, fraud, theft, gross negligence, willful misconduct, illegality or similar misconduct, by a vote of a majority in number and Common Interest of Owners of all Units cast at a duly constituted meeting of Unit Owners at which a quorum is present. In determining such majority vote, the Unit and Common Interest owned by the Retail Manager to be removed, or the Owner who appointed such Retail Manager, shall be excluded from the count of the base number of Unit Owners and Common Interests for quorum and voting purposes.

A vacancy on the Board of a Retail Manager, whether resulting from removal ("with" or "without" cause), resignation, incompetency, incapacity, death or otherwise, shall be filled by appointment exclusively by the Retail Unit Owner who appointed such Retail Manager.

Each Retail Manager, in the name and on behalf of the Condominium Board, shall make all decisions to be made by the Condominium Board that affects only the Retail Unit or its Limited Common Elements of the Retail Unit Owner who appointed such Retail Manager. The Residential

Managers and the Residential, Parking and Storage Unit Owners will not have the right to vote on any matter that affects only a Retail Unit or its Limited Common Elements. Likewise, the Retail Managers and Retail Unit Owners will not have the right to vote on any matter that affects only the Residential, Parking and Storage Units or the Residential Common Elements.

Each Retail Manager shall have the exclusive right to appoint a co-Vice President and co-Secretary, who shall have all of the same powers and duties of the equivalent officer of a stock corporation organized under the Business Corporation Law of the State of New York, but may act in connection with only the operation, business and affairs of the Owner of the Retail Unit who appointed such Retail Manager.

Section H-7.3. *Casualty*. In the event a Retail Unit is damaged by fire or other casualty, the Owner of such Retail Unit shall have the sole right: (a) to arrange for the repair and restoration of its Unit; and (b) to adjust and settle with the Condominium Association's insurance carrier any insurance claim for the loss or damage to the Unit, provided the insurance proceeds to be received by any other Unit Owner or the Condominium Board are not reduced thereby.

Section H-7.4. *Cooperation of Condominium Board*.

Section H-7.4.1. Cooperation. The Condominium Board shall fully cooperate with each Retail Unit Owner, freely and without consent, payment or restriction (except for certain out of pocket costs set forth below) in connection with:

(a) the sale, lease, mortgage or other disposition of all or a portion of such Owner's Retail Unit;

(b) a Unit Change and alteration to such Owner's Retail Unit; and

(c) the exercise of the rights and performance of the duties and obligations of such Owner under the Condominium Documents.

Section H-7.4.2. Certain Rights and Requirements. In furtherance of such cooperation:

(a) each Retail Unit Owner and its authorized agents, employees and contractors shall be given reasonable access (including for ingress and egress) to, from, on and across the General and Residential Common Elements (including the vestibule, lobby and elevator) to the extent reasonably necessary and provided the permitted use and enjoyment of any Residential Unit is not unreasonably interfered with; and

(b) the Condominium Board shall properly complete, sign and return to the Owner of a Retail Unit, and such Owner shall receive within ten (10) days after written request therefor is given, any Government Document, Litigation Document or amendment to the Condominium Documents in accordance with Section H-7.16 below.

The Retail Manager appointed by such Retail Unit Owner shall be authorized to complete, sign in the name and on behalf of the Condominium Board, and return such Government Document

(including documents of the DOB and other Governmental Authorities which are applicable to the maintenance, repair, restoration, alteration or operation of such Owner's Retail Unit), Litigation Document and an amendment to the Condominium Documents.

Section H-7.4.3. Payments and Indemnity. The applicable Retail Unit Owner shall:

(a) pay or reimburse the Condominium Board for the governmental fees and charges or court costs in connection with a Government Document or Litigation Document, respectively, executed by the Condominium Board at the request of a Retail Unit Owner or by a Retail Manager in the name and on behalf of the Condominium Board; and

(b) indemnify the Condominium Board, its Officers and Managers, employees and agents, and all other Unit Owners, from and against all claims arising or resulting from:

(b-1) the execution by the Condominium Board of a Government Document, Litigation Document or an amendment to the Condominium Documents;

(b-2) access to, from, on and across the General and Residential Common Elements under clause (a) of the preceding Section H-7.4.2; or

(b-3) any other action performed, taken or omitted at the request such Retail Unit Owner.

Section H-7.5. *Indemnity and Self-Help*. If the Condominium Board violates any of its duties, obligations or requirements under the Condominium Documents while the Independent Managers are a majority of the Board:

(a) the Condominium Board shall indemnify the aggrieved Retail Unit Owner from and against all claims, litigations, liabilities and losses arising or resulting therefrom; and

(b) (if such violation adversely affects the operation or the business conducted in one or more portions of a Retail Unit, or any of the rights, powers, easements, privileges, exemptions, indemnities, remedies, protections or other benefits of a Retail Unit Owner) such Retail Unit Owner shall have the right of self-help, but will not be obligated, to perform or fulfill such defaulted duty, obligation or requirement, at the cost and expense of the Condominium Board, after first complying with the following:

(b-1) such Owner shall give the Board written notice of its intention to exercise the right of self-help; and

(b-2) the Condominium Board shall have the opportunity to cure the violation, but must begin to cure same within ten (10) days after being given said notice and must complete the cure within thirty (30) days thereafter or (if not reasonably capable to cure the violation with prompt diligence and continuity to completion within said thirty (30)-day period) a reasonable period but not to exceed ninety (90) days thereafter.

In the event the Condominium Board elects not to, or fails to timely, cure the violation and said Retail Unit Owner elects to exercise and implement such right of self-help, the Condominium Board shall reimburse such Owner promptly after written demand is made, for the costs and expenses incurred by such Owner to cure the violation. The demand notice shall be accompanied by copies of all supporting or relevant bills and statements. If full payment of such costs and expenses is not received by said Retail Unit Owner within ten (10) days after giving the demand notice, the Condominium Board shall pay such Owner, if contested and awarded in a final non-appealable order or judgment of a court having competent jurisdiction, Per Diem Interest on the amount owed (computed from the first day following the ten (10)-day period through the date payment is received), for lost opportunity of potential earnings, together with all costs and expenses (including Legal Expenses and Per Diem Interest thereon) to collect the amount owed.

Section H-7.6. *Amendments to Condominium Documents*. Each Retail Unit Owner, at its sole cost and expense, shall have the right from time to time, without the consent or approval of the Condominium Board, and without the express consent or approval of other Unit Owners, all of whom automatically and irrevocably shall be deemed to have given their consents or approvals, and without paying the Condominium Board any fees, charges or expenses, to amend the Condominium Documents to reflect a Unit Change to such Owner's Retail Unit and the reallocation of the Common Interest of the Retail Unit affected by such Unit Change; provided, however:

(a) such reallocation will not change the Common Interest of any other Unit without the written consent of the Owner of such other Unit; and

(b) the total of all Common Interests shall equal 100%.

Such Retail Unit Owner will pay the fees of its attorney and all governmental recording charges in connection with said amendments to the Condominium Documents.

Any amendment to the Declaration, By-Laws and Rules and Regulations that adversely affects the special rights, powers, easements, privileges, exemptions, indemnities, remedies, protections or other benefits of a Retail Unit Owner shall not be binding upon or enforceable against such Retail Unit Owner without obtaining the written consent of the affected Retail Unit Owner in each instance, which consent must be duly executed, acknowledged and recorded together with such amendment.

Section H-7.7. *Building Walls; Sidewalk Structure*.

Section H-7.7.1. Building Walls. The façade or exterior Building walls are part of the General Common Elements. The costs and expenses to perform the Façade Inspection Safety Program, formerly known as Local Law 11, and the related costs and expenses to erect, maintain, disassemble and remove a sidewalk bridge and scaffold, and to repair any damage to the sidewalk and Building caused by its installation, existence, disassembly or removal, or the work performed

thereon, and restore the damaged elements to as near as commercially reasonable and economically practicable to the condition existing immediately before being damaged, shall be included in the General Common Expenses and assessed to all Residential, Parking and Storage Units and to the Retail Units in the proportion that the square footage of the areas of the façade and exterior walls of the Building (excluding windows and storefronts) that enclose the Residential, Parking and Storage Units or the Retail Units bear to the aggregate square footage of all areas of the façade and exterior walls of the Building (excluding windows and storefronts).

Section H-7.7.2. Sidewalk Structure. If the work on the façade or exterior Building walls requires the erection or use of a sidewalk bridge, scaffolding or other structure, or a scaffold hanging from the Building's roof, the Condominium Board shall exclusively control and determine the timing, duration, specifications and manner of performance of the work to stage, erect, disassemble and remove the sidewalk bridge and scaffold, including the design, fabrication and composition thereof and all work incidental thereto; the Construction Parties to perform the work; the plans and specifications (including the height and design) of the sidewalk bridge and scaffold; and the commencement date and duration of the work, except as otherwise provided below.

The erection, disassembly and removal of the sidewalk bridge and scaffold, including a scaffold to hang from a roof, shall be performed with commercially reasonable diligence and continuity to completion in accordance with all applicable Laws.

With respect to only the Retail Units, any bridge or scaffold to be erected or installed by or on behalf of the Condominium Board:

(a) shall be double height and shall clear and not obstruct a Retail Unit's storefronts and street entrance door(s);

(b) shall not block or interfere with access to a Retail Unit's street entrance;

(c) to the extent practicable, shall not diminish the visibility of any storefronts and signs of a Retail Unit's Owner or tenant, except on a temporary basis;

(d) shall not be erected without first giving the affected Retail Unit Owner, at least twenty (20) business days' advance notice stating in reasonable detail the purpose and anticipated start date and duration of the bridge or (if applicable) scaffold; provided, however, in the case of an Emergency, no advance notice shall be required and, to the extent commercially feasible and economically practicable, the Condominium Board will endeavor to contact each affected Retail Unit Owner by telephone or mobile phone, or (if unsuccessful) by email (with electronic transmission of delivery) of the Emergency and the forthcoming erection of the bridge and (if applicable) scaffold;

(e) shall not be erected or (if feasible and economically reasonable) remain during the months of November, December and January, unless required by Laws or to remediate an Emergency condition, or necessary to continue to completion with work in progress;

(f) shall have all exposed bolts protected and bridge supporting poles wrapped with bright yellow or luminous tape to prevent pedestrian accidents;

(g) shall have lighting below the scaffolding as required by applicable Laws;

(h) if reasonably possible, shall not affect or interfere with exhaust ducts or vents (if any); and

(i) shall be disassembled and removed with commercially prompt diligence as soon as practicable when the work is completed.

Each affected Retail Unit Owner shall have the right, on the following terms and at its sole expense, to install on and under the bridge appropriate signs at or opposite the Unit's storefront or street entrance to identify the Unit's tenant or occupant. At least ten (10) business days before a sign is to be installed, the Owner shall submit to the Condominium Board, for acceptance by the Board's Construction Parties, the proposed plans and specifications for each sign, detailing its size, fabrication, material and weight. Each sign must comply Laws, cannot contain lighting or impair pedestrian passage on and across the sidewalk, or impact the structural integrity or soundness of the bridge or scaffold. Such Owner, at its sole cost and expense, shall be responsible to maintain, or to cause its tenant to maintain, each sign in good condition and appearance, and to remove the sign with prompt diligence when notified in writing that the bridge is ready to be disassembled. Such Owner shall reimburse the Board for the reasonable fees and charges of the Board's Construction Parties to review, consult with the Board and pass upon each sign. All notices to be given under this Section H-7.7.2 that do not involve an Emergency may be sent by first class mail or email (with electronic transmission of delivery) or by FedEx or other nationally recognized courier service for overnight delivery.

Section H-7.8. *Sidewalks*.

Section H-7.8.1. Sidewalk Obligations. Except as otherwise as provided in Section H-7.8.2 below, all obligations to maintain, repair and restore the sidewalks adjacent to the Property shall be performed and paid by the Condominium Board as a General Common Expense, which shall be allocated and assessed to all Unit Owners and apportioned among them pro rata to their respective Common Interests. The Board shall perform such obligations in a commercially reasonable manner and in accordance with good construction practices, and otherwise in a manner that shall not unnecessarily prevent or unreasonably and materially interrupt or interfere with the use, occupancy or operation of a Retail Unit or the business being conducted in a Retail Unit.

The Condominium Board shall not store trash containers or other objects anywhere on the portions of the sidewalks opposite the storefronts or entrances to a Retail Unit or otherwise obstruct or impede access to a Retail Unit's storefronts or entrance, or use said portions of the sidewalks to a Retail Unit in a manner that interferes with the use, occupancy or operation of a Retail Unit or the business being conducted therein.

Section H-7.8.2. Use by Retail Unit Owner. Each Retail Unit Owner and its authorized tenant shall have preferential and priority use of the portions of the sidewalks adjacent to its Retail Unit (including its entrances and storefronts) to operate a sidewalk café or outdoor food and beverage services, including to place thereon in connection therewith outdoor portable racks, seating, tables, umbrellas or other weather protector, lighting, heat lamps, fencing, enclosure, menu and signage identifying the tenant, and for any other legal use ancillary to its business. The sidewalk, however, shall not be used in a manner that prevents or unreasonably obstructs pedestrian passage on and across the sidewalks.

A Retail Unit Owner using or whose tenant is using a sidewalk, at its sole cost and expense:

(a) shall obtain, or cause its tenant to obtain from the applicable Governmental Authority having competent jurisdiction, and give to the Board before implementing such use of the sidewalk, originals or copies of all required Governmental Work Permits for the work in question, including a certificate of appropriateness or a certificate of no effect (as applicable) from the Landmarks Commission, and insurance certificates or policies as required in the By-Laws; and

(b) shall promptly and diligently endeavor to obtain from the appropriate Governmental Authority having competent jurisdiction and give to the Board with reasonable diligence when the work in question is completed, all required Governmental Approvals, and shall promptly and diligently endeavor to close all related open applications; and

(c) shall be responsible to keep, or cause its tenant to keep, the sidewalk in neat, clean and sanitary condition and appearance, free of debris caused by such use of the sidewalk, and if damaged by reason of such use, to repair and restore the impacted sidewalk to as near as commercially reasonable and economically practicable to the condition existing immediately before being damaged.

Such Retail Unit Owner shall indemnify the Condominium Board and all other Unit Owners from and against all claims, litigations, liabilities and losses arising from the use of the sidewalk by such Owner or its tenant.

Section H-7.9. *Building Violations*. The Condominium Board shall diligently and in good faith correct and cause to be removed of record all governmental violations noted or issued with respect to conditions in or on the Common Elements, other than the Limited Common Elements, which shall be the responsibility of the Owner of the Unit to which such Limited Common Elements are appurtenant.

Section H-7.10. *Lease of Retail Unit*.

Section H-7.11. Subject to Condominium Documents. Any lease entered into for all or a portion of a Retail Unit after the recording of the Declaration and establishment of condominium ownership of the Property shall provide that the lease is subject to the Condominium Documents and shall be so subject thereto whether or not such instrument expressly so provides.

Section H-7.12. Subordination, Non-disturbance and Attornment Agreement. At the written request of a Retail Unit Owner, the Board, without the approval or consent of other Unit Owners, shall duly sign, acknowledge and deliver to a "Registered Tenant" (as defined in the By-Laws) of a Retail Unit a so-called subordination, non-disturbance and attornment agreement ("**SNDA**") with such Registered Tenant pursuant to which the lease of such Registered Tenant shall not be terminated and such Registered Tenant's tenancy shall not be disturbed based solely on a foreclosure of the Board's lien on a Retail Unit leased or occupied by such Registered Tenant. The SNDA shall be on the terms contained in Section 3.14.2 of the By-Laws.

Section H-7.13. Tenant Violation. If a tenant of a Retail Unit shall violate any of the provisions of the Condominium Documents, the sole right and remedy of the Condominium Board shall be to enjoin the continuation of such violation by appropriate court action or proceeding, but in no event shall the Owner of a Retail Unit be liable, directly or indirectly, for any damages, costs or expenses based thereon. This does not limit the Board's remedies against a Retail Unit Owner for any violation committed by a Retail Unit Owner under the Declaration or By-Laws or for work authorized by the Owner that is performed by its tenant. Nothing contained herein shall limit the liability of a tenant of a Retail Unit for violating any provision of the Condominium Documents to which it may be subject.

END OF SECTION H

SECTION I. CHANGES IN PRICES AND UNITS

Section I-1. Changes in Offering Prices. Sponsor shall have the right, in its sole discretion, without the approval or consent of the Condominium Board, Unit Owners or Purchasers, to change offering prices from time to time by a duly filed Plan Amendment when the change in price is an across the board increase or decrease affecting one or more lines of Units or Unit models, or is to be advertised, or is a price increase for an individual Unit or Units. Individual offering prices may be decreased by Sponsor without filing a Plan Amendment. No change in offering price will affect the Purchase Price stated in a fully executed and delivered Purchase and Sale Agreement.

Section I-2. Offering Prices and Price Related Terms are Negotiable. Offering prices and other price-related terms are negotiable on an individual basis, except Sponsor may not change the trust fund and escrow provisions of the Purchase and Sale Agreement or any other provisions in violation of Article 23-A of the General Business Law or Part 20 of the regulations issued by the Department of Law. In addition, Sponsor may not modify a Purchase and Sale Agreement to waive Sponsor's Obligations or representations in this Plan or to reduce or abridge any rights Purchasers may have under said Article 23-A.

The following is a sample of individually negotiable price-related terms, in addition to the Purchase Price: the amount of the contract Deposit; the right to cancel the Purchase and Sale Agreement and recover the Deposit if a Purchaser is unable to obtain financing or close by a specified date; the Closing Date and the minimum period required to fix a new Closing Date following an adjournment; free upgraded appliances, fixtures or equipment; free alterations, additions or other improvements to the Unit; waiver of Closing costs and/or delinquency payment for Closing late; longer time periods to pay or perform obligations under the Purchase and Sale Agreement; elimination of deadline or "TIME OF ESSENCE" provisions; Sponsor financing (which must be disclosed in this Plan or a Plan Amendment); paying Purchaser's lender to buy down the interest rate; Sponsor paying or guaranteeing Common Charges and/or real estate taxes for a given period; allowances or credits against the Purchase Price for decorations, the fee paid under an Interim Use and Occupancy Agreement for the Unit or otherwise; abatements or reductions of the fee payable under an Interim Use and Occupancy Agreement for the Unit; consent to harboring pets, or combining two Units; or installing a whirlpool bathtub or other appliances or fixtures; and giving a Purchaser the benefit of any more favorable terms offered or given to another Purchaser.

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

Section I-3. Impact of Changes on Other Purchasers. No changes in prices or price-related terms will change or otherwise affect the Purchase Price or price related terms under Purchase and Sale Agreements with other Purchasers. Purchasers will not benefit from a more favorable price

or price-related terms offered or given to other Purchasers or prospective Purchasers and will not be excused from Purchaser's obligation to timely consummate the Closing of Title, without a Purchase Price abatement, set-off or credit, and without liability or recourse of any kind against Sponsor or Selling Agent. As a result, a Purchaser may pay more or less than another Purchaser for a comparable Unit.

Section I-4. Changes in Units. In order to meet the possible demand for Residential Units of different sizes and/or configurations, or to meet particular requirements of Purchasers or prospective Purchasers, or for any other reason or no reason, Sponsor reserves the right from time to time, both before and after the First Unit Closing, to make the following changes to Residential Units, including Residential Units for which no Purchase and Sale Agreement is in effect or whose Purchasers have consented in writing to the changes (collectively, "**Unit Changes**" and individually, "**Unit Change**"), subject to the restrictions set forth in Section I-5 and Section I-6, and the requirement to file an amendment to this Plan to make the Unit Changes set forth in clauses (a) through (c) below in compliance with Part 20 of the regulations issued by the Department of Law and amendments to the Declaration and Floor Plans to make the Unit Changes set forth in clauses (a) through (c) below; provided, however, no material Unit Change may be made to a Residential Unit under contract without the consent of the Purchaser:

(a) divide a Residential Unit ("**Unit Division**") into two or more Residential Units ("**Subdivided Units**") and in connection therewith: to erect new boundary walls enclosing or separating the Subdivide Units established on such Unit Division and to alter the facilities of the original Residential Unit being divided and construct new facilities to serve each Subdivided Unit;

(b) combine two or more of Residential Units or Subdivided Units ("**Unit Combination**"), horizontally and vertically, into one integrated Residential Unit ("**Combined Unit**") and in connection therewith: to remove the party wall separating the Residential Units being combined horizontally; to pierce, remove and leave openings in the structural floors and ceilings separating the Residential Units being combined vertically; to alter the facilities of the original Residential Units or Subdivided Units being combined and construct new facilities to serve the Combined Unit;

(c) to reconfigure portions of two or more of Residential Units or Subdivided Units ("**Unit Reconfiguration**"), horizontally and vertically, into reconfigured Units ("**Reconfigured Units**") and in connection therewith: to raze, remove and relocate the party walls separating the Units being reconfigured horizontally; to pierce, remove and leave openings in the structural floors and ceilings separating the Residential Units being reconfigured vertically; to alter the facilities that are part of the original Units being reconfigured and construct new facilities to serve each Reconfigured Unit;

(d) to alter a Unit (each, a "**Unit Alteration**"), to change the number of rooms and bathrooms, the layout, the configuration, and the Unit's facilities.

The facilities affected by a Unit Change shall automatically become part of a Unit involved in the Unit Change if they are accessible from within the interior of the Unit or part of the Residential Common Elements if they are inaccessible from within the interior of a Unit.

Section I-5. Compliance with Part 20. All Unit Changes by Sponsor shall comply with Part 20, Section 20.3(k) of the regulations issued by the Department of Law, which requires that:

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

(b) unless an affected Purchaser consents, no material change will be made in Unit size, layout, or percentage of Common Interest if a Purchase and Sale Agreement for such Unit has been executed and delivered to Sponsor and is in force and effect; and

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

Section I-6. Unit Change Requirements. All Unit Changes by Sponsor or a Sold Unit Owner must comply with the following terms and requirements (collectively, "**Unit Change Requirements**"):

(a) until the issuance of the Final Certificate of Occupancy of the Building, all Unit Changes that require an application to a Governmental Authority or the issuance of a Governmental Work Permit or other Government Document, and all Unit Changes by a Sold Residential Unit Owner shall not be undertaken without the consent of Sponsor (including, if given, such terms and conditions as Sponsor may require in its sole and absolute discretion):

(b) all Unit Changes shall comply with the applicable General Requirements, which include the applicable Work Requirements;

(c) each Unit Division, Unit Combination and Unit Reconfiguration shall be made:

(c-1) pursuant to Condominium Amendments to the Declaration and to the Floor Plan(s) of the Unit or Units involved in such Unit Division, Unit Combination or Unit Reconfiguration (as applicable), duly executed, acknowledged and recorded and filed in the City Register's Office at the sole cost and expense of the Owner or Owners making such Unit Change; and

(c-2) in addition, when made by Sponsor, pursuant to a filed amendment to this Plan; provided, however, no material Unit Change may be made to a Unit under contract without the consent of the Purchaser;

(d) the Common Interest of a Unit involved in a Unit Division or a Unit Reconfiguration shall be apportioned between or among the resulting Subdivided Units or Reconfigured Units pro rata to the square footages of the Subdivided Units involved in such Unit Division or the Reconfigured Units involved in such Unit Reconfiguration; provided, however, that the aggregate Common Interests of all Subdivided Units or all Reconfigured Units shall equal exactly the Common Interest of the Unit being divided or the aggregate of the Units being reconfigured;

(e) the Common Interest of a Combine Unit shall equal exactly the aggregate of the Common Interests of the Units being combined;

(f) the Common Interests of all Units following a Unit Division, Unit Combination or Unit Reconfiguration shall total one hundred percent (100%);

(g) no Unit Change shall:

(g-1) change or affect the floor area or size of another Unit or penetrate the interior of another Unit (that is, the space within the Unit's enclosing façade or exterior Building walls, party walls, structural floors and structural ceilings) without obtaining the consent of the Owner of such affected Unit, duly executed, acknowledged and recorded with the Condominium Amendment implementing the Unit Change;

(g-2) change or affect a Building Service to another Unit by more than a *de minimis* extent or the Common Elements serving another Unit for their intended purposes without obtaining the consent of the Owner of such affected Unit, duly executed, acknowledged and recorded with the Condominium Amendment implementing the Unit Change;

(g-3) change or affect the Common Interest of another Unit without obtaining the consent of the Owner and any mortgagee of such affected Unit, duly executed, acknowledged and recorded with the Condominium Amendment implementing the Unit Change;

(g-4) use, impair, infringe or otherwise affect the Excess Development Rights without obtaining the consent of Sponsor, duly executed, acknowledged and recorded with the Condominium Amendment implementing the Unit Change;

(g-5) prevent or unlawfully impair legal access by another Unit to fire-safety egress stairs, the elevator, lobby or street entrance; or

(g-6) shall be made to a Parking Unit or Storage Unit;

(h) no license or use fee or rental or other charge may be levied or imposed by the Condominium Board in connection with any wall, space, structural component of the Building or other portion of the Common Elements affected by a Unit Change, other than the regular Common

Charges and Special Assessments, if any, levied on (in the case of a Unit Change to a Residential Unit) all Residential, Parking and Storage Unit Owners or (in the case of a Unit Change to a Retail Unit) all Units;

(i) each Unit Change shall be made at the sole cost and expense of the Owner or Owners undertaking the Unit Change;

(j) the obligations, requirements, limitations and restrictions applicable to the use, occupancy, maintenance, repair, restoration and alteration of a Unit shall likewise apply to a Common Area permitted to be enclosed within the interior of a Unit;

(k) the Owner making a Unit Change (including an Unsold Unit Owner) shall indemnify the Condominium Board and all other Unit Owners from and against all claims, actions, proceedings, liabilities and losses arising from a Unit Change or the work in performing such Unit Change and any defects in such work;

(l) the Condominium Board shall reasonably cooperate with the Owner or Owners making a Unit Change;

(m) any Unit Change requiring an application to a Governmental Authority for the issuance of a Governmental Work Permit or other document required by a Governmental Authority shall be signed by only the following:

(m-1) in the case of a Sold Unit, the Owner of such Sold Unit and an Officer of the Condominium Board;

(m-2) in the case of an Unsold Unit, Sponsor or other Owner of such Sold Unit (as applicable) and an Officer appointed by a Sponsor Manager, in the name and as an authorized signatory of the Board; or

(m-3) in the case of a Retail Unit, the Owner of such Retail Unit and an Officer appointed by a Retail Manager appointed by such Retail Unit Owner, in the name and as an authorized signatory of the Board;

(n) all Unit Changes made by Sponsor to its Unsold Units or pursuant Sponsor's Obligations under this Plan or a Purchase and Sale Agreement shall require the consent of the Construction Lender (which consent shall not be unreasonably withheld, conditioned or delayed, as provided in the Construction Loan Documents) and shall comply with all applicable Laws and Part 20 of the regulations issued by the Department of Law, but shall not require:

(n-1) the consent of the Condominium Board or any Unit Owners or their respective mortgagees or lienors;

(n-2) complying with any regulations, rules or other requirements of the Condominium Board for Unit Alterations or other Unit Changes;

(n-3) paying any kind of fee, charge or imposition of the Condominium Board or its Managing Agent or attorneys or other professionals or consultants; and

(n-4) the plans or specifications of the proposed Unit Change being submitted to or reviewed by, or the work being supervised or monitored by, the Condominium Board or an architect, engineer or other professional or consultant chosen by the Condominium Board; and

(o) no Unit Change to a Sold Unit shall be undertaken that requires an application to a Governmental Authority for the issuance of a Governmental Work Permit or other document of a Governmental Authority without the Owner of such Sold Unit first signing, notarizing and submitting to the Board an alteration agreement for such Unit Change, in form and content required by the Board, together with:

(o-1) the plans and specifications of the Unit Change;

(o-2) such insurance certificates or policies and endorsements, and other documents, instruments as the Board shall require; and

(o-3) payments (in the form and to the order required by the Board) for fees, charges, security or otherwise, as required by the Board.

Section I-7. Rights of Owners of Unsold Units and Retail Units. The respective Owners of Unsold Units and the Retail Units shall each have all of the same Sponsor's Rights with respect to such Owner's Unsold Unit or Retail Unit (as applicable) as Sponsor has with respect to the Unsold Units owned by Sponsor under this Plan (including the right to make all Unit Changes in accordance with this Section I), the Declaration and the By-Laws, but subject to all of the same restrictions and limitations imposed on Sponsor, including compliance the Part 20, Section 20.3(k) of the regulations promulgated by the Department of Law (see Section I-5 above) and the Terms of Unit Changes (see Section I-6 above).

END OF SECTION I

SECTION J. INTERIM USE AND OCCUPANCY AGREEMENT

Section J-1. Sponsor's Exclusive Option to Allow Use and Occupancy by Purchaser. If a Purchaser requests to be given possession of a Residential Unit prior to Closing of Title, Sponsor has the exclusive option (but shall not be obligated) to enter into a "use and occupancy agreement" with such Purchaser for the interim period prior to the Closing of Title ("**Interim Use and Occupancy Agreement**"), provided a Temporary Certificate of Occupancy or Final Certificate of Occupancy has been issued authorizing such Residential Unit for use as set forth in this Plan and the Construction Lender consents to such Interim Use and Occupancy Agreement (which consent shall not be unreasonably withheld, conditioned or delayed, as provided in the Construction Loan Documents). Unless Sponsor (in its sole and absolute discretion) elects to permit such use and occupancy of the Unit, Purchaser will not have the right to rent, use, occupy, decorate, alter or store belongings or other personal property in the Unit prior to the Closing. If no Interim Use and Occupancy Agreement is offered to Purchaser when Purchaser signs and delivers the Purchase and Sale Agreement, Purchaser will not have the right, nor be obligated, to rent or to use and occupy the Unit and Sponsor will not enter into any lease or use and occupancy agreement for the Unit with anyone else while Purchaser's Purchase and Sale Agreement remains in effect.

Section J-2. No Rent Laws Applicable to Interim Use and Occupancy Agreement. No laws regulating rent or continued occupancy are applicable to the Units or an Interim Use and Occupancy Agreement. As a result, if a Use and Occupancy Agreement for a Unit is signed, the charge or fee for use and occupancy will not be subject to any rent limitations or laws regulating rents and shall be a "free market", unregulated use and occupancy charge or fee as determined by Sponsor, in its sole and absolute judgment.

Section J-3. Cross-Default Provision. The Interim Use and Occupancy Agreement, if permitted by Sponsor, will be on a standard form adopted by Sponsor which will provide that a default under the Purchase and Sale Agreement shall automatically be a default under the Interim Use and Occupancy Agreement and the Purchaser, as occupant under the Interim Use and Occupancy Agreement, shall have only the single grace period stated in the Purchase and Sale Agreement to cure the default under both instruments. As a result, if the default under the Purchase and Sale Agreement is not timely remedied within the applicable cure period and the Purchase and Sale Agreement is cancelled, the Interim Use and Occupancy Agreement shall automatically and simultaneously be cancelled. See Section J-4 for further discussion.

The Purchase and Sale Agreement (Document 1 in Part II of this Plan) contains a similar cross-default provision and the single grace period stated in the Interim Use and Occupancy Agreement to cure the default under both the Interim Use and Occupancy Agreement and the Purchase and Sale Agreement. Pursuant to this provision, a default under the Interim Use and Occupancy Agreement is a default under the Purchase and Sale Agreement, but Sponsor may not cancel the Purchase and Sale Agreement based on a default under the Interim Use and Occupancy Agreement unless and until Sponsor obtains an order of eviction or other judgment or order of

possession of the Unit from a court of competent jurisdiction or the Purchaser vacates the Unit. Effective on the date such order of eviction is issued or the Unit is vacated (as applicable), the Purchase and Sale Agreement shall automatically and simultaneously be cancelled, and Sponsor shall be entitled to receive and retain Purchaser's Deposit and any earned interest thereon (and certain other amounts, if applicable, as discussed in Section K-5(a)) without giving the Purchaser any further grace period to cure the default under the Purchase and Sale Agreement.

Section J-4. Thirty (30) Days to Vacate. If the Purchase and Sale Agreement is cancelled based on an uncured default or Sponsor's election to abandon or withdraw this Plan, or the Purchaser's exercise of a right of rescission under the Purchase and Sale Agreement or this Plan or a Plan Amendment, the Purchaser shall have only thirty (30) days from cancellation or rescission of the Purchase and Sale Agreement within which to vacate and surrender vacant possession of the Unit to Sponsor, free and clear of all occupants, furniture, furnishings, Household items and personal belongings, broom clean, and in the same condition as existed at the start of the Interim Use and Occupancy Agreement (reasonable wear and tear excepted). Pending such surrender of vacant possession, the Purchaser shall pay Sponsor for use and occupancy a sum equal to the use and occupancy charge or fee stated in the Interim Use and Occupancy Agreement, appropriately prorated for the period beginning with the date of cancellation of the Interim Use and Occupancy Agreement and ending on the date of surrender of vacant possession. Sponsor's acceptance of such payment shall not constitute a waiver of Purchaser's obligation to timely vacate the Unit. Upon surrender of vacant possession in accordance with the foregoing, any unapplied security deposited under the Interim Use and Occupancy Agreement will be returned to the Purchaser together with any interest earned thereon. Sponsor will have the right to deduct and retain from such security deposit, any unpaid use and occupancy charge or fee and any costs and expenses incurred to repair any damage or destruction to the Unit (including its contents) and the Common Elements resulting from the acts or omissions of the Purchaser, or his or her immediate family, agents, contractors or movers, and to restore any damaged or destroyed areas to the condition existing before being damaged or destroyed, and if contested and awarded in a final non-appealable order or judgment of a court having competent jurisdiction, together with any Legal Expenses and Per Diem Interest thereon to enforce and defend this provision and to collect any amounts owed.

SPECIAL RISK: The thirty (30)-day period to surrender vacant possession is a "TIME OF ESSENCE", or deadline, period. If the Purchaser fails to timely surrender vacant possession in accordance with the foregoing before the thirty (30)-day period expires, the Purchaser shall also be liable for all costs and expenses incurred or paid by Sponsor for the delay and to recover vacant possession, including: (a) (if contested and awarded in a final non-appealable order or judgment of a court having competent jurisdiction) Legal Expenses and Per Diem Interest incurred or paid; (b) the carrying costs of the Unit (i.e., a sum equal to the projected or actual Common Charges and real estate taxes for the Unit (as applicable), plus the Unit's allocable share (based on Common Interest) of the debt service on any mortgage on the Unit or Property (as applicable), less the use

and occupancy charge or fee for the Unit actually collected by Sponsor); and (c) Per Diem Interest on the Unit's Purchase Price, prorated for the period beginning with the last day of said thirty (30)-day period and ending on the date Sponsor recovers vacant possession of the Unit, to reimburse Sponsor for loss of potential earnings on investment of the Unit's Purchase Price. Sponsor shall also have the right to deduct and retain from said security deposit (if any) given under the Interim Use and Occupancy Agreement and (in the case of a rescission of the Purchase and Sale Agreement by the Purchaser) the Deposit monies otherwise to be returned to the Purchaser to reimburse Sponsor all of the foregoing costs and expenses. See Section A-12.

END OF SECTION J

SECTION K. PROCEDURE TO PURCHASE

Section K-1. Procedure to Purchase. The procedure to purchase a Residential, Parking and/or Storage Unit and the essential terms of the Purchase and Sale Agreement are set forth below. The documents indicated are reproduced in Part II of this Plan.

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

(a) Purchase and Sale Agreement: Purchaser is to complete information on the first page, sign (with actual or electronic signature) and return two originals of the Purchase and Sale Agreement on the form reproduced as DOCUMENT 1 in Part II of this Plan; and

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

Sponsor's attorney, Seyfarth Shaw LLP, will provide copies of these documents to prospective Purchasers or their attorneys for execution and will be available to assist prospective Purchasers and their attorneys, and to answer questions as to completing these documents.

NOTE: The Unit deed and Closing documents must match exactly the name or names of Purchaser as signed on the Purchase and Sale Agreement. If legal ownership of a Unit is to be in the name of two individuals (e.g., husband and wife), both must sign the Purchase and Sale Agreement, unless the Purchaser is permitted to assign or transfer the Purchase and Sale Agreement. This Plan limits and restricts Purchaser's right to assign or transfer the Purchase and Sale Agreement (see Section K-18 for discussion).

Section K-1.2. *Deposit*. Purchaser is to pay a Deposit in an amount equal to ten percent (10%) of the Purchase Price when Purchaser signs and delivers the Purchase and Sale Agreement to Sponsor or its attorney. The Purchase and Sale Agreement will be the dated the date Sponsor signs and delivers a counterpart Purchase and Sale Agreement to Purchaser or Purchaser's attorney.

Section K-1.3. *Balance of Purchase Price*. The balance of the Purchase Price ("**Balance**") is to be paid after the filing of the Effectiveness Amendment and at Closing of Title under the Purchase and Sale Agreement.

Section K-1.4. *Where and When Delivered*. The Purchase and Sale Agreement and the applicable Internal Revenue Service Form, together with the check for the Deposit, are to be delivered or sent to Sponsor's attorney, Seyfarth Shaw LLP, at 620 Eighth Avenue, New York, NY 10018, Attention: Alan L. Kazlow, Esq. (or such other attorney or legal assistant as may be directed by Sponsor's counsel).

Section K-2. Statutory Requirement. Sponsor shall comply with the escrow and trust fund requirements of Article 23-A of the General Business Law of the State of New York (the "**GBL**") Section 352-e(2-b) and Section 352-h, Lien Law Section 1-a(3), and Part 20 of the Department of Law's regulations, and all funds paid by Purchasers shall be handled in accordance with these statutes and regulations.

Section K-3. Terms of Escrow Agreement.

Section K-3.1. *Establishment of the Escrow Account*.

Section K-3.1.1. The Escrow Agent. The law firm of Seyfarth Shaw LLP ("**Escrow Agent**"), with an office at 620 Eighth Avenue, New York, New York 10018, telephone number (212) 218-5500, shall serve as Escrow Agent for Sponsor and Purchaser. The Escrow Agent has established an escrow account for the purpose of holding the Deposit made by a Purchaser pursuant to the Purchase and Sale Agreement (attached as Document 1 in Part II of this Plan) for the purchase and sale of a Unit at Israel Discount Bank of New York ("**Bank**"), at its office located at 1114 Avenue of the Americas, New York, New York 10036, a bank authorized to do business in the State of New York. The escrow account is entitled "Seyfarth Shaw LLP Master Escrow Account" ("**Escrow Account**"), which is a master escrow account. The Deposit of Purchaser shall be maintained in a separate sub-account of this master Escrow Account.

Escrow Agent has designated Cynthia Mitchell, Esq., Marc Gurell, Esq. and Mitchell Kaplan, Esq. as the only signatories on the Escrow Account and the sub-account in which the Deposits of Purchasers are to be maintained, each of whom is admitted to practice law in the State of New York.

All of the signatories on the Escrow Account have an address at Seyfarth Shaw LLP, 620 Eighth Avenue, New York, New York 10018, telephone number (212) 218-5500.

Escrow Agent and all authorized signatories hereby submit to the jurisdiction of the State of New York and its Courts for any cause of action arising out of this escrow agreement or otherwise concerning the maintenance of or release of the Deposit from escrow.

Neither Escrow Agent nor any authorized signatories on the Escrow Account are the Sponsor, Selling Agent, Managing Agent, or any principal thereof, or have any beneficial interest in any of the foregoing.

The master Escrow Account is not an interest bearing account. The sub-account of the master Escrow Account in which Deposits are placed and maintained is not an "Interest on-Lawyer's-Account". The said subaccounts are federally insured by the FDIC at the maximum amount of $250,000 per Deposit. Any Deposit in excess of $250,000 will not be insured. If a Purchaser maintains an account at the Depository, the funds in such account factor into the $250,000. Escrow Agent, Sponsor and Selling Agent, and their respective managers, members, partners, directors, officers, principals, representatives, agents and employees will not be liable for

the amount collected on checks given in payment of the Deposit or any other purchase monies, or for any losses resulting from the failure of the Depository. See Section A-1.

Section K-3.2. *Deposits into the Escrow Account*.

Section K-3.2.1. Payment of Deposit. All Deposits received from Purchaser prior to the Closing, whether in the form of checks, drafts, money orders, wire transfers, or other instruments which identify the payor, shall be placed into the Escrow Account. All instruments to be placed into the Escrow Account shall be drawn on (and payable by) a member bank of the New York Clearing House Association L.L.C. or a local bank or other Institutional Lender acceptable to Sponsor in its sole discretion, unendorsed and made payable to the direct order of "Seyfarth Shaw LLP as Escrowee" pursuant to the terms set forth in this Plan. Any instrument payable to, or endorsed other than as required hereby, and which cannot be deposited into such Escrow Account, shall be returned to 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 the Deposit, the instrument shall be deemed not to have been delivered to Escrow Agent pursuant to the terms of the Purchase and Sale Agreement.

Within five (5) business days after the Purchase and Sale Agreement has been tendered to Escrow Agent along with the Deposit, Escrow Agent shall place the Deposit into the subaccount of the Escrow Account. Within ten (10) business days of placing the Deposit in the subaccount of the Escrow Account, Escrow Agent shall provide written notice to Purchaser and Sponsor, confirming the Deposit. Such notice shall set forth the Bank, the subaccount number, and the initial interest rate earned thereon. The interest rate for the Deposit placed into said sub-account of the master Escrow Account will be a fluctuating rate for such accounts established from time to time by the Bank. Interest shall begin to accrue upon placing the Deposit into the sub-account and collection of the Deposit check or instrument. All interest earned thereon shall be paid or credited to Purchaser at Closing. The prevailing annual rate of interest at December 14, 2022 are as follows for Deposits in the amounts indicated: $10,000 to $50,000: 0.30%; $50,001 to $100,000: 0.50%; $100,001 to $250,000: 0.70%; $250,001 to $500,000: 1.00%; and $500,0001 and above: 1.50%. The actual initial interest rate will be determined at the time the Deposit check is placed in the subaccount of the Escrow Account and will vary from time to time.

If the Purchaser does not receive notice within fifteen (15) business days after tender of the Deposit, the Purchaser may cancel the Purchase and Sale Agreement within a deadline of ninety (90) days after tender of the Deposit. Complaints concerning the failure to honor such cancellation requests may be referred to the New York State Department of Law, Real Estate Finance Bureau, 28 Liberty Street, New York, NY, 10005. Rescission shall not be afforded where proof satisfactory to the Attorney General is submitted establishing that the Deposit was timely placed in the Escrow Account in accordance with the New York State Department of Law's regulations concerning the Deposit and requisite notice was timely mailed to the Purchaser.

Section K-3.3. *Release of Funds*.

Section K-3.3.1. Requirement. Under no circumstances shall Sponsor seek or accept release of the Deposit of Purchaser to Sponsor until after consummation of the Plan, as evidenced by the acceptance of a post-closing amendment by the New York State Department of Law, subject to Section K-3.3.2. Consummation of the Plan shall not relieve Sponsor or Escrow Agent of any obligation to Purchaser as set forth in GBL §§ 352-e(2-b) and 352-h.

Section K-3.3.2. Terms to Release Funds. Escrow Agent shall release the Deposit to Purchaser or Sponsor as directed:

(a) pursuant to terms and conditions set forth in the Purchase and Sale Agreement upon Closing of Title to the Unit;

(b) in a subsequent writing signed by both Sponsor and Purchaser; or

(c) by a final, non-appealable order or judgment of a court.

If Escrow Agent is not directed to release the Deposit pursuant to the preceding paragraph, and Escrow Agent receives a request by either Sponsor or Purchaser to release the Deposit, then Escrow Agent must give both the Purchaser and Sponsor prior written notice of not fewer than thirty (30) days before releasing the Deposit. If Escrow Agent has not received notice of objection to the release of the Deposit prior to the expiration of the thirty (30)-day period, the Deposit shall be released to the requesting party and Escrow Agent shall provide further written notice to both Purchaser and Sponsor informing them of said release. If Escrow Agent receives a written notice from either Purchaser or Sponsor objecting to the release of the Deposit within said thirty (30)-day period, Escrow Agent shall continue to hold the Deposit until otherwise directed pursuant to the preceding paragraph. Notwithstanding the foregoing, Escrow Agent shall have the right at any time to deposit the Deposit contained in the Escrow Account with the Clerk of the county where the Unit is located and shall give written notice to both Sponsor and Purchaser of such deposit. In addition, if the Escrow Agent is uncertain as to Escrow Agent's responsibilities or doubts the genuineness of any document or signature, Escrow Agent also may refrain from taking any action and continue to hold the escrowed funds until the uncertainty or genuineness is resolved.

Sponsor shall not object to the release of the Deposit to:

(x) Purchaser, if Purchaser timely rescinds in accordance with an offer of rescission contained in the Plan or a Plan Amendment; or

(y) Purchaser after an amendment abandoning the Plan is accepted for filing by the New York State Department of Law.

Section K-3.4. *Record Keeping*. Escrow Agent shall maintain all records concerning the Escrow Account for seven years after release of the Deposit.

Upon the dissolution of the law firm which was Escrow Agent, the former partners or members of the firm shall make appropriate arrangements for the maintenance of these records by one of the partners or members of the firm or by the successor firm and shall notify the New York State Department of Law of such transfer.

Escrow Agent shall make available to the Attorney General, upon request, all books and records of Escrow Agent relating to the funds deposited and disbursed hereunder.

Section K-3.5. *General Obligations of Escrow Agent*. Under the Purchase and Sale Agreement:

(a) Escrow Agent shall maintain the Escrow Account under its direct supervision and control.

(b) a fiduciary relationship shall exist between Escrow Agent and Purchaser, and under the Purchase and Sale Agreement, Escrow Agent acknowledges its fiduciary and statutory obligations pursuant to GBL§§ 352-e(2-b) and 352-h; and

(c) Escrow Agent may rely upon any paper or document which may be submitted to it in connection with its duties under this Agreement and which is believed by Escrow Agent to be genuine and to have been signed or presented by the proper party or parties and shall have no liability or responsibility with respect to the form, execution, or validity thereof.

Section K-3.6. *Responsibilities of Sponsor*. Under the Purchase and Sale Agreement:

(a) Sponsor agrees that it shall not interfere with Escrow Agent's performance of its fiduciary duties and statutory obligations as set forth in GBL §§ 352-e(2-b) and 352-h and the New York State Department of Law's regulations; and

(b) Sponsor shall obtain or cause the Selling Agent to obtain a completed and signed Form W-9 or W-8, as applicable, from Purchaser and deliver such form to Escrow Agent together with the Deposit and the Purchase and Sale Agreement.

Section K-3.7. *Termination of Agreement*. The agreement with the Escrow Agent to act in such capacity under the Purchase and Sale Agreement shall remain in effect unless and until it is canceled 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 to the Plan with the Department of Law providing for a successor escrow agent that meets the requirements set forth in applicable regulations of the New York State Department of Law. Purchaser shall be deemed to have consented to such cancellation; or

(b) the resignation of Escrow Agent, which shall not take effect until Escrow Agent is replaced by a successor escrow agent that meets the requirements set forth in applicable regulations of the New York State Department of Law, and notice is given to Purchaser of the identity of the

successor escrow agent, the bank in the State of New York where the Deposit is being held, and the account number therefor.

Upon termination of the duties of Escrow Agent as described clause (a) or (b) above, Escrow Agent shall deliver the Deposit held by Escrow Agent and the Purchase and Sale Agreement and any other documents maintained by Escrow Agent relating to the Deposit to the successor escrow agent.

Before funds are transferred to any new escrow account, or if the Escrow Agent is replaced, this Plan must be amended to provide the same full disclosure with respect to any new account, the escrow agent and the escrow agreement as was originally provided.

Section K-3.8. *Successors and Assigns*. This escrow provisions of Purchase and Sale Agreement shall be binding upon Sponsor, Purchaser and Escrow Agent and their respective successors and assigns.

Section K-3.9. *Governing Law*. The Purchase and Sale Agreement, including the escrow provisions contained therein, shall be construed in accordance with and governed by the laws of the State of New York.

Section K-3.10. *Escrow Agent's Compensation*. Prior to release of the Deposit, Escrow Agent's fees and disbursements shall neither be paid by Sponsor from the Deposit nor deducted from the Deposit by any financial institution under any circumstance.

Section K-3.11. *Severability*. If any provision of the Purchase and Sale Agreement, including the escrow provisions contained therein, or the application thereof to any person or circumstance is determined to be invalid or unenforceable, the remaining provisions of the Purchase and Sale Agreement, including the escrow provisions contained therein, 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.

Section K-3.12. *Indemnification*. Sponsor agrees to defend, indemnify, and hold Escrow Agent harmless from and against all costs, claims, expenses, and damages incurred in connection with or arising out of the escrow provisions contained in the Purchase and Sale Agreement or the performance or non-performance of Escrow Agent's duties thereunder, except with respect to actions or omissions taken or suffered by Escrow Agent in bad faith or in willful disregard of thereof or involving gross negligence of Escrow Agent. This indemnity includes disbursements and attorneys' fees either paid to retain attorneys or representing the hourly billing rates with respect to legal services rendered by Escrow Agent to itself.

Section K-3.13. *Entire Agreement*. The escrow provisions contained in the Purchase and Sale Agreement, read together with GBL §§ 352-e(2-b) and 352-h and the New York State Department of Law's regulations, constitute the entire agreement among Sponsor, Purchaser and Escrow Agent with respect to the subject matter thereof.

Section K-3.14. *Litigation*. Escrow Agent may represent Sponsor in any litigation, whether or not related to the Purchase and Sale Agreement and irrespective of Escrow Agent being in possession of the escrowed funds.

Section K-3.15. *Records on File*. The Escrow Agent shall maintain all records concerning any escrow account for seven years after release of the escrowed funds. Upon the dissolution of the Escrow Agent, the former members or partners of the Escrow Agent shall make appropriate arrangements for the maintenance of these records by one of them or by the successor firm and shall notify the Department of Law of such transfer.

Section K-3.16. *Review and Audit*. The Department of Law may perform random reviews and audits of any records involving the Escrow Account to determine compliance with all applicable statutes and regulations.

Section K-3.17. *Waiver Void*. Any provision of any Purchase and Sale Agreement or separate agreement, whether oral or in writing, by which a Purchaser purports to waive or indemnify any obligation of the Escrow Agent holding any Deposit in trust is absolutely void. The provisions of Section 20.3(o)(3)(xii) of Part 20 and GBL §§352-e(2-b) and 352-h concerning escrow trust funds shall prevail over any conflicting or inconsistent provisions in the Purchase and Sale Agreement, this Plan or any Plan Amendment.

Section K-3.18. *Trust Obligations of Sponsor*. Nothing contained herein shall diminish or impair the Sponsor's statutory obligations to each Purchaser pursuant to GBL §352-h to hold in trust all Deposits, advances or payments made in connection with the offer until consummation of the transaction with such Purchaser. Consummation of the Plan does not relieve Sponsor of its obligations pursuant to GBL §352-h. Funds from any escrow account remain the property of the Purchaser until employed in connection with the consummation of the transaction. Such funds shall not be a part of the estate of the Sponsor or the Escrow Agent upon any bankruptcy, incapacity or death.

Section K-4. Lien Law Section 71-a(3). The Purchase and Sale Agreement and this Plan must comply with Section 71-a(3) of the Lien Law and any other applicable provisions of Law. Said Section 71-a(3) provides, among other things, for the handling of the Deposit and the interest accumulated thereon as set forth in Section K-3. Such Deposit, together with the interest accumulated thereon, shall remain the property of Purchaser, except as otherwise provided in said statute.

Section K-5. "TIME OF ESSENCE" Provisions. The time periods that are expressly stated in the Purchase and Sale Agreement to be a deadline or "TIME OF ESSENCE" or similar words are absolute deadlines, which cannot be extended by Purchaser, regardless of inability or other excuse for not meeting the specified deadline period, include the following:

(a) if, within a deadline of sixty (60) days after the Unit is separately apportioned for real estate taxes, Purchaser does not give Sponsor written notice to adjust post-Closing any overpayment of real estate taxes apportioned at Closing, Purchaser shall lose such right to adjust any said overpayment of real estate taxes (see paragraph 13.1 of the Purchase and Sale Agreement);

(b) if, within a deadline of six months after Closing, Purchaser does not give Sponsor written notice to correct any errors or omissions in the calculation of the items apportioned at Closing, Purchaser shall lose such right to correct any such errors or omissions (see paragraph 13.5 of the Purchase and Sale Agreement);

(c) Sponsor's obligation to correct: (c-1) Patent Construction Defects in Purchaser's Residential Unit is contingent upon Purchaser giving Sponsor notice thereof within a deadline of six months from the Closing; or (c-2) Latent Construction Defects in Purchaser's Unit or Latent Construction Defects in the Common Elements that affect Purchaser's Unit is contingent upon Purchaser giving Sponsor notice thereof within a deadline of one year following the Closing(see paragraph 18.5 of the Purchase and Sale Agreement);

(d) if Purchaser does not give Sponsor and its agents, employees and Construction Parties reasonable continuous access to the Unit to correct any Punch List Work or alleged Patent or Latent Construction Defects and Purchaser continues to do so within a deadline of thirty (30) days after being given written notice thereof, Purchaser shall lose such right to require Sponsor correct any Punch List Work or alleged Patent or Latent Construction Defects (see paragraph 20.5(b) of the Purchase and Sale Agreement);

(e) if, within thirty (30) days after the Unit and personal property are damaged or destroyed, Sponsor does not give Purchaser notice of Sponsor's intention restore the Unit and personal property, and Purchaser does not cancel the Purchase and Sale Agreement in a notice to Sponsor within a deadline of seven days after such thirty (30)-day period expires, Purchaser shall lose such right to cancel the Purchase and Sale Agreement (see paragraph 21.4 of the Purchase and Sale Agreement);

(f) if Purchaser defaults under the Purchase and Sale Agreement and fails to cure such default within a deadline of thirty (30) days after Sponsor gives Purchaser notice canceling the Purchase and Sale Agreement due to such default, Purchaser shall lose the Deposit and any interest earned thereon (see paragraph 22.2 of the Purchase and Sale Agreement);

(g) if Sponsor gives Purchaser written notice of its inability to perform an obligation under the Purchase and Sale Agreement and Purchaser does not, within a deadline of five business days thereafter, choose either (g-1) to proceed with the Closing without abatement in, credit or set-off against, the Purchase Price or recourse of any kind against Sponsor or (g-2) to cancel the Purchase and Sale Agreement and recover the Deposit and any interest earned thereon, Purchaser shall conclusively be deemed to have elected to cancel the Purchase and Sale Agreement and recover said monies (see paragraph 23.7 of the Purchase and Sale Agreement);

(h) if Purchaser does not receive notice of placement of the Deposit in the Escrow Account within fifteen (15) business days after tender of the Deposit to the Escrow Agent and Purchaser does not give Sponsor, within a deadline of ninety (90) days after such fifteen (15)-business day period expires, written notice canceling the Purchase and Sale Agreement, Purchaser shall lose such right to cancel the Purchase and Sale Agreement (see paragraph 25.2.2 of the Purchase and Sale Agreement); and

(i) if Purchaser is given fewer than three business days to review the Plan and any Plan Amendment and Purchaser does not give Sponsor, within a deadline of seven days after delivering the executed Purchase and Sale Agreement and check for the Deposit to the Escrow Agent, written notice canceling the Purchase and Sale Agreement, Purchaser shall lose such right to cancel the Purchase and Sale Agreement (see paragraph 28 of the Purchase and Sale Agreement).

See Section A-2.3.

Section K-6. Closing Date. After the Effectiveness Amendment is accepted for filing by the Department of Law, Sponsor will from time to time fix the date for Closing of Title to each Unit ("**Closing Date**") for which Purchase and Sale Agreements have been executed and are still in effect. Sponsor will give each Purchaser not less than thirty (30) days prior written notice of the date, time and location (in New York City) set by Sponsor for him or her to Close Title. Purchasers may waive this thirty (30)-day period and Close Title sooner on a date and at a time mutually convenient to Purchaser and Sponsor. After the First Unit Closing is consummated, Purchasers and Unit Owners will be served with a Plan Amendment disclosing (among other matters) the date of the First Unit Closing.

If Purchaser enters into one or more Purchase and Sale Agreements to purchase more than one Unit, all such Units must Close Title simultaneously, provided that a TCO or (at Sponsor's exclusive option) FCO is issued authorizing the such Units for the uses set forth in this Plan.

Section K-6.1. **Projected Date of First Unit Closing**. The Sponsor anticipates that the first closing of a Unit will occur by January 1, 2024. Purchasers will be offered a right of rescission if: (a) the actual date of closing of title to the first unit; or (b) the projected date of closing of title to the first unit occurs later than December 31, 2024, twelve months after the projected date for the first closing. If the Plan is amended to provide for a later projected date for the first closing, Purchasers will be entitled to an offer of rescission if the first closing occurs more than 12 months beyond that amended, later date.

However, if the first unit closing occurs before January 1, 2025, the Sponsor may schedule the closings of title to other Units significantly later than such date. Unless your Purchase and Sale Agreement contains an outside closing date, the Sponsor is not obligated to schedule your closing within any specified time frame or to ensure that closing of title to your Unit will occur by any date certain.

PROSPECTIVE PURCHASERS SHOULD THEREFORE CAREFULLY CONSIDER SUCH RISKS IN THEIR DETERMINATION AS TO WHETHER TO PURCHASE A UNIT.

See Section A-2.13.

Section K-7. Purchaser's Thirty (30)-Day Grace Period. Sponsor must make a written demand for payment after default and allow Purchaser thirty (30) days to make the payment before Purchaser's Deposit shall be forfeited. Such thirty (30) days is a "TIME OF ESSENCE" or deadline period. See Section A-2.3 and Section K-5.

Section K-8. Power of Attorney. Each Purchaser, by accepting or recording a deed to a Unit or otherwise succeeding to title to a Unit, shall thereupon automatically and conclusively be deemed to have irrevocably and unconditionally granted to Sponsor, each Unsold Unit Owner, each Retail Unit Owner and the Managers (in their capacity as Managers, and by resolution adopted by a majority of Managers attending a duly constituted Board meeting at which a quorum is present), a limited power of attorney to exercise, perform, implement and conduct all affairs, business and transactions given to each of them in the Declaration and the By-Laws, including those set forth in Article 12 of the Declaration. Purchaser shall not be required to sign a separate power of attorney.

Section K-9. Period to Review Plan and Plan Amendment. At Sponsor's option, prospective Purchasers will be afforded either: (a) three business days to review this Plan and every filed Plan Amendment (if any) before executing a Purchase and Sale Agreement; or (if afforded fewer than three business days) (b) seven days after delivering an executed Purchase and Sale Agreement to rescind the Purchase and Sale Agreement and have the full Deposit refunded promptly. In the latter case, Purchaser must mail the notice of rescission to Sponsor at the address set forth on the cover page of this Plan and have the mailing post marked within the seven-day period. The seven (7)-day period to rescind is a "TIME OF ESSENCE" or deadline period, which means that unless Purchaser timely rescinds as provided above, Purchaser may not rescind or recover the Deposit based on being given fewer than said three-business day period. See Section A-2.3 and Section K-5.

Section K-10. Risk of Loss. The risk of loss from fire or other casualty remains with Sponsor unless and until Purchaser is given possession of a Unit pursuant to an Interim Use and Occupancy Agreement or legal title to the Unit has passed to Purchaser, at which time (in either such case) the risk of loss shall be assumed by the Purchaser. Purchaser should consider obtaining, at Purchaser's expense, insurance to insure the Unit, its contents and Purchaser's personal property against such loss. See Section A-2.8 and see Section M-2 for additional discussion.

Section K-11. Purchase and Sale Agreement. A complete copy of the Purchase and Sale Agreement is reproduced as DOCUMENT 1 in Part II of this Plan. Before signing a Purchase and Sale Agreement, prospective Purchasers are urged to consult an attorney or legal adviser for a full

understanding of Purchaser's rights, obligations and liabilities under the Purchase and Sale Agreement and this Plan.

Section K-12. No Mortgage Contingency. The Purchase and Sale Agreement is not contingent upon Purchaser obtaining financing (secured or unsecured) to pay the Purchase Price of a Unit or any portion thereof. If Purchaser desires financing, Purchaser assumes and accepts the full and sole risk to obtain and close the loan simultaneously with the Closing of Title to the Unit. Under no circumstance shall Purchaser have the right to cancel the Purchase and Sale Agreement, or to delay the Closing of Title, or to be relieved or excused from paying the Purchase Price, without abatement, set-off or credit, and without liability or recourse of any kind against Sponsor or Selling Agent in the event:

(a) Purchaser is unable to arrange financing; or

(b) Purchaser receives a loan commitment letter, but before the Closing of Title:

(b-1) the interest rate or other terms change unfavorably, or a "lock-in" interest rate is lost, because the Closing of Title under Purchaser's Purchase and Sale Agreement fails to occur before the expiration of the period within which the loan must close; or

(b-2) such commitment expires and is not extended or renewed; or

(b-3) is extended or renewed on less favorable terms; or

(b-4) Purchaser is required to make additional payments to the lender to extend the loan commitment period; or

(b-5) the Building fails to qualify for federally insured or provided financing under federal home loan programs (e.g., FHA or Fannie Mae); or

(b-6) the loan commitment terminates because of: (b-6.1) an adverse change in Purchaser's financial condition (e.g., an unfavorable change in Purchaser's income, financial condition or employment status, failure to sell an existing residence, etc.); or (b-6.2) an appraisal of the Unit is not satisfactory to the lender; or (b-6.3) any other lender required condition or factor is not met; or

(c) the lender fails to fund the loan at Closing.

By assuming these risks, Purchaser will not be excused from the obligation to complete the purchase without abatement in, or set-off or credit against, the Purchase Price and without liability or recourse of any kind against Sponsor or the Selling Agent. Sponsor and Selling Agent do not represent, assure or guarantee a Purchaser's ability to obtain financing or (if obtained) the terms of financing, or whether the Closing of Title will occur before the loan commitment or any lock-in rate expires, or (if it expires) whether the commitment will be extended or the costs to obtain an extension or the terms and conditions thereof, which may be less favorable than the original commitment. See Section A-2.4.

Section K-13. Plan and Plan Amendment Governs. If the provisions of this Plan or any Plan Amendments filed before or after the date of the Purchase and Sale Agreement, but before Closing, conflict or are inconsistent or ambiguous with the Purchase and Sale Agreement, such conflict, inconsistency or ambiguity shall be resolved according to the terms of the Plan and said filed Plan Amendment, which are paramount and shall govern. See Section A 2.10.

Section K-14. Sponsor's Period to Accept or Reject Purchase and Sale Agreement. Within ten (10) business days after a prospective Purchaser delivers to Sponsor, Selling Agent or Sponsor's attorney an executed Purchase and Sale Agreement together with the required purchase documents and check for the Deposit, Sponsor must either accept or reject the Purchase and Sale Agreement and (if rejected) return to Purchaser the Deposit, without interest. If Sponsor fails to sign and return a fully executed Purchase and Sale Agreement to the prospective Purchaser within such ten (10)-business day period, the Purchase and Sale Agreement will be deemed rejected and Sponsor will return or cause to be returned to Purchaser the full amount of the Deposit, without interest. Until the Purchase and Sale Agreement is rejected or deemed rejected by Sponsor, Purchaser is irrevocably bound to purchase and may not revoke or cancel the Purchase and Sale Agreement or recover the Deposit. Sponsor will not be obligated to accept, nor be bound by, the Purchase and Sale Agreement unless and until Sponsor executes and delivers a fully executed Purchase and Sale Agreement to Purchaser. No inference may be drawn that Sponsor has accepted or is bound by a Purchase and Sale Agreement because: (a) a prospective Purchaser is given this Plan, the Purchase and Sale Agreement or other documents; or (b) Sponsor, Selling Agent or Sponsor's attorney accepts delivery of a signed Purchase and Sale Agreement and the Deposit check; or (c) the Deposit check is placed in the Escrow Account (whether or not inadvertent).

Section K-15. No Waiver or Abrogation of Article 23-A of GBL. The Purchase and Sale Agreement, this Plan and any Plan Amendment may not contain, or be modified to contain, a provision waiving Purchaser's rights or abrogating Sponsor's Obligations under Article 23-A of the GBL.

Section K-16. Restriction Against Assignment. Purchaser may not assign the Purchase and Sale Agreement without obtaining Sponsor's consent. Sponsor may (in its sole and absolute discretion) permit the Purchase and Sale Agreement to be assigned, for example, to allow Purchaser to add, delete or substitute the name of a member of Purchaser's immediate family or to take title in the name of an entity related to or controlled by Purchaser. If Sponsor consents to an assignment, Sponsor's attorneys must receive at least twenty (20) days prior to the date scheduled by Sponsor for Closing of Title: (a) two originals of an Assignment and Assumption Agreement (on Sponsor's standard form) pursuant to which Purchaser assigns the Purchase and Sale Agreement and Deposit to the new party or parties named as Purchaser, who shall assume all of Purchaser's obligations thereunder; (b) two originals of Internal Revenue Service Form W-8 or W-9 (as applicable) for the new Purchaser; and (c) an unendorsed personal check in the sum of $500, made payable to the order of Sponsor's attorneys, Seyfarth Shaw LLP, for services in connection with the assignment.

In no event will Purchaser be entitled to delay or postpone Closing of Title to effectuate such name change or assignment.

Section K-17. Events of Default. The following are events of default under paragraph 22 of the Purchase and Sale Agreement:

(a) Purchaser fails to timely and properly pay the full amount of the Balance of the Purchase Price;

(b) Purchaser fails to pay any of Purchaser's Closing costs;

(c) Purchaser fails to pay the net Closing apportionments, if in favor of Seller;

(d) Purchaser fails to deliver any of the required Closing documents (properly completed and signed in recordable form, where applicable);

(e) Purchaser advertises or publicizes in any media (including newspaper, magazine, television, radio, Internet or other print, broadcast, electronic or other form of public or social media or communication) the availability of the Unit for sale or lease prior to the Closing;

(f) Purchaser fails to pay, perform, observe, fulfill or to otherwise comply with any of Purchaser's other obligations in this Agreement or any other Purchase and Sale Agreement between Sponsor and Purchaser for one or more other Units of the Condominium, or any of Purchaser's representations in the Purchase and Sale Agreement or such other Purchase and Sale Agreement shall not be true, accurate or correct in all respects (a default by Purchaser under the Purchase and Sale Agreement or such other Purchase and Sale Agreement shall be a default under both of said Agreements and Purchaser shall have only one grace period (if any) to cure the default as set forth in the applicable Purchase and Sale Agreement that first went into default); or

(g) if Purchaser is given an Interim Use and Occupancy Agreement for the Unit and defaults in making any payment or in performing, observing, fulfilling or otherwise complying with any obligation thereunder, which is not remedied within the applicable cure period (if any) set forth therein, such uncured default shall become a default under the Purchase and Sale Agreement if a final judgment or order is issued by a court of competent jurisdiction granting Sponsor possession of the Unit or Purchaser vacates or abandons the Unit (in such case, Purchaser shall have only the single grace period stated in the Interim Use and Occupancy Agreement to cure such default).

(h) Purchaser assigns any of Purchaser's property for the benefit of creditors, or Purchaser files a voluntary petition in bankruptcy; or

(i) 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

(j) a judgment or tax lien is filed against Purchaser and Purchaser does not pay or bond the same within thirty (30) days.

Section K-18. Sponsor's Remedies on Purchaser's Default. If Purchaser defaults, Sponsor may not seek specific performance compelling Purchaser to Close Title and pay the full amount of the Purchase Price. Instead, Sponsor's sole remedy shall be to cancel the Purchase and Sale Agreement effective at the end of thirty (30) days from giving Purchaser written notice of the default, unless Purchaser cures the default within such thirty (30)-day period, and to receive and retain as Liquidated Damages the Deposit, the interest earned thereon and (if applicable) the other amounts set forth in Section A-2.1. Such thirty (30)-day grace period is a "TIME OF ESSENCE" or deadline period. The Liquidated Damages provision is subject to review by a court or other authority having jurisdiction as to whether the liquidated amount is an unenforceable penalty designed to coerce performance of a Purchaser.

Section K-19. Purchaser's Remedies on Sponsor's Default or Inability to Perform.

Section K-19.1. *Grace Period*. Purchaser must give Sponsor written notice of any default by Sponsor under the Purchase and Sale Agreement and allow Sponsor an opportunity to cure the default within a period of thirty (30) days from giving of the default notice or (if not reasonably curable in thirty (30) days) such reasonably longer period (not to exceed ninety (90) days) from giving the default notice.

Section K-19.2. *Remedies*. If Sponsor fails to cure the default within the applicable grace period, Purchaser's sole remedy shall be either: (a) to compel Sponsor to specifically perform; or (b) to cancel the Purchase and Sale Agreement and recover Purchaser's Deposit together with any interest earned thereon. Purchaser shall conclusively be deemed to have elected to cancel and recover said sums if Purchaser fails to consummate the Closing of Title on the date or any postponed date set by Sponsor. Sponsor, however, shall not be excused from a willful default for intentionally causing a title objection to frustrate a sale in bad faith, nor from Sponsor's Obligation to obtain a release of a mortgage lien on the Unit.

Section K-19.3. *Sponsor's Inability*. If Sponsor is unable, in good faith, to perform Sponsor's Obligations or to satisfy any condition applicable to Sponsor or the Unit, or title shall not be in accordance with the Purchase and Sale Agreement, Purchaser's sole remedy shall be either: (a) to consummate the Closing of Title without delay and accept such title to the Unit as Sponsor is able to convey without abatement in, or set-off against, the Purchase Price, without escrowing monies and without liability or recourse of any kind against Sponsor or Selling Agent by reason thereof; or (b) to cancel the Purchase and Sale Agreement and recover Purchaser's Deposit together with any interest earned thereon, and Purchaser's costs to search title to the Unit, if any. Purchaser shall conclusively be deemed to have elected to cancel and recover said sums if Purchaser fails to consummate the Closing of Title on the date or any postponed date set by Sponsor.

Section K-20. Release of Claim. Upon cancellation of the Purchase and Sale Agreement and payment of the funds escrowed with the Escrow Agent and any earned interest thereon to the

proper party, and (if applicable) recovery of any sums due Sponsor, all rights, obligations and liabilities of Purchaser and Sponsor under the Purchase and Sale Agreement, this Plan and any Plan Amendment shall end and all liabilities of each party and Sponsor's employees, agents (including the Selling Agent) and attorneys, and the Escrow Agent, shall be released and discharged, except the parties shall remain liable for those indemnities, obligations and liabilities expressly stated to survive cancellation of the Purchase and Sale Agreement.

Section K-21. Purchaser's Closing Costs and Apportionments. Purchaser's Closing costs include (among others) the state and city transfer taxes and the legal fees of Sponsor's attorney for Unit Closing services. At Closing, Sponsor and Purchaser shall apportion the Common Charges, real estate taxes and (if applicable) any use and occupancy charge or fee for the Unit. See Sections A-2.5, A-2.6, N-1.1 and N-1.2 for details.

Section K-22. Closing Payments and Documents.

Section K-22.1. *Closing Payments*. Purchaser's Closing payments consist of the Balance of the Purchase Price, Purchaser's Closing costs and the net Closing apportionments, if in favor of Sponsor. If Purchaser is permitted to use and occupy the Unit pursuant to an Interim Use and Occupancy Agreement, any unapplied security will be refunded to Purchaser at the Closing together with any earned interest.

Section K-22.2. *Closing Documents*. The principal documents to be signed or delivered at Closing of Title include:

(a) a bargain and sale deed of the Unit with covenant against grantor's acts to be signed by Sponsor and Purchaser (see DOCUMENT 3 in Part II of this Plan);

(b) ACRIS documents (e.g., the New York State Real Property Transfer Report and New York City Real Property Transfer Tax Return, New York City Department of Housing Preservation and Development Affidavit in Lieu of Registration Statement, Smoke Detector Affidavit, Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate and Certification of Exemption from the Payment of Estimated Personal Income Tax for the Conveyance of Real Property Located in New York City), and the DEP Customer Registration Form for Water and Sewer Billing;

(c) a carbon monoxide detector affidavit to be signed by Sponsor;

(d) a release of lien and UCC-3 Financing Statement with respect to any mortgage on the Unit (other than any mortgage obtained by Purchaser), which are to be obtained by Sponsor (see Section M-7);

(e) a multiple dwelling affidavit to be signed by Sponsor;

(f) Sponsor's certification of non-foreign status;

(g) (if Purchaser is obtaining mortgage financing) a Purchaser's affidavit with respect to the mortgage tax credit (if applicable);

(h) an insurance certificate naming Purchaser as an additional insured party under the Condominium's policy, which is to be obtained by Sponsor; and

(i) a statement on the payment status of Common Charges from the Condominium Board or Managing Agent, which is to be obtained by Sponsor.

See paragraph 14 of Purchase and Sale Agreement (Document 1 in Part II of this Plan) for the full list.

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

Section K-24. Possession. Purchaser is not entitled to possess, occupy or in any way use the Unit prior to Closing of Title, unless at the time of entering into the Purchase and Sale Agreement, Sponsor elects (at its exclusive option and discretion) to give Purchaser an Interim Use and Occupancy Agreement for the Unit (see "Section J. Interim Use and Occupancy Agreements" for discussion). At Closing, Sponsor will deliver possession of the Unit to Purchaser, vacant, broom clean, and free of rights of others to possession.

Section K-25. State of Title. The Unit and its Common Interest will be conveyed at Closing free and clear of all liens, encumbrances and title exceptions other than the "Permitted Encumbrances" described in this Plan (see Section M-4). Purchaser shall accept title to the Unit subject only to the Permitted Encumbrances. The Permitted Encumbrances include: (a) the state of facts shown on a specified survey; (b) any additional states of facts a subsequent survey would show, provided that such additional state of facts would not render title unmarketable or prevent the use of the Unit for the purpose set forth in this Plan; and (c) with respect to any encroachments, Purchaser will be insured, without additional premium, that such encroachments may remain for so long as the Building shall stand. If Sponsor is required to postpone the date scheduled by Sponsor for Closing of Title to remove an objection to title that existed but was not included in a written notice or title report received from Purchaser or Purchaser's attorney at least ten (10) days before the date scheduled by Sponsor for Closing, Purchaser will be at fault for causing the postponement and will incur the delinquent Closing costs set forth in Section N-1.1.7. See Section A-2.5.3.

Section K-26. Personal Property Included in Sale. The sale of a Residential Unit includes only the personal property (e.g., appliances, fixtures and other equipment, and finishes) set forth in the

Description of Property and Specifications (DOCUMENT 4 in Part II) and summarized in part in Section C-1.4. Each Residential Unit is being sold unfurnished. Furniture, floor coverings, wall coverings, window treatments, furnishings and other decorations, finishes and treatments in or about any model or hallway are for display purposes only and are not included in the sale. There will be no modifications or extras unless agreed to in writing by Sponsor. Unsold Units used from time to time as sales offices or models (if any) are not being offered and are reserved for future sale. In addition, Sponsor reserves the right to sell a model Unit (if any) with its furnishings. This Plan will be amended to disclose the additional price to purchase the furnishings once Sponsor determines to offer a model Unit for sale.

Section K-27. Pre-Closing Inspection of the Unit By Purchaser. Until Sponsor notifies Purchaser in writing that construction of the Unit is sufficiently completed and ready for inspection, Purchaser and Purchaser's representatives (including architect, engineer, contractor, decorator and appraiser) shall not, nor have the right, to inspect or visit the Unit or Building or any portion thereof.

Sponsor shall notify Purchaser in writing when construction of the Unit is sufficiently completed and is ready for inspection. The inspection is to occur on a business day that falls within five (5) days from the giving of such inspection notice, and during business hours, fixed by Sponsor. Sponsor will endeavor (but shall not be obligated) to fix such inspection to occur on a business day and at a business hour that shall be mutually convenient to Sponsor and Purchaser. Sponsor's representative shall be present during the period of inspection. At conclusion of the inspection, Purchaser shall complete, and Purchaser and Sponsor or Sponsor's representative are to sign and deliver to each other, a Final Inspection Statement (on the form annexed as Exhibit A to the Purchase and Sale Agreement) containing all items to be corrected and any unfinished work (collectively, **"Punch List Work"**).

Sponsor shall be obligated to correct or cause to be corrected any personal property (including appliances, electrical and plumbing fixtures, and heating and air conditioning units) that are not in working order and are listed on the Final Inspection Statement signed by both Purchaser and Sponsor or Sponsor's representative. Sponsor shall not, and shall not be required to, perform any Punch List Work that is not noted on the Final Inspection Statement or in a reasonably detailed Defect Notice received by Sponsor within a deadline of six months from the Closing to the Unit (any item noted to be in working order in the Final Inspection Statement signed by Purchaser shall govern and control any conflict or inconsistency in the Defect Notice). Purchaser shall consummate the Closing and pay the full Balance of the Purchase Price on the date fixed by Sponsor in accordance with this Agreement (all: without escrowing monies, without delay; and without abatement, set-off or credit against the Purchase Price) notwithstanding:

(a) Purchaser's failure to arrange or attend the Unit inspection prior to Closing or to complete, sign and deliver the Final Inspection Statement; or

(b) the failure of Purchaser and Sponsor or Sponsor's representative to agree upon the Punch List Work (such disagreement shall not excuse Sponsor to complete or correct any proper Patent Construction Defects listed on the Final Inspection Statement signed by Purchaser and delivered to Sponsor or Sponsor's representative at the time of inspection or at Closing); or

(c) the existence of required Punch List Work not performed or completed (which Sponsor shall complete or correct in accordance with Sponsor's obligations under this Agreement), provided only that: (c-1) the Unit is authorized for the use contained in the Plan on a temporary, partial or final (at Sponsor's exclusive option) Certificate of Occupancy of the Building, as required herein; (c-2) the Unit is substantially completed with an operable kitchen and bathroom, and with the appliances, electrical and plumbing fixtures, and heating and air conditioning units in working order; and (c-3) the Unit is substantially in broom clean condition (subject to the conditions to be corrected by the Punch List Work, if any).

Sponsor shall endeavor in good faith to complete all Punch List Work within approximately thirty (30) days after the Closing Date or such longer period as may be reasonable in light of the extent of the work involved, but not to exceed ninety (90) days after Closing, unless:

(x) delayed due to Unavoidable Causes, in which case such incomplete work shall be completed with reasonable diligence and continuity after the event or circumstance causing the delay ceases; or

(y) Purchaser refuses or fails to give Sponsor and Sponsor's Work Parties reasonably continuous access to the Unit (Sponsor shall be excused, released and discharged from its obligation to correct Punch List Work and Latent Construction Defects if such reasonably continuous access is prevented and not given within a deadline of thirty (30) days after giving written notice requesting access).

Sponsor's obligation to perform and complete the required Punch List Work in accordance with the Purchase and Sale Agreement shall survive Closing.

If Sponsor fails to complete the Punch List Work within the applicable time period, Purchaser's sole right and remedy shall be to compel Sponsor to so do in a court action or proceeding for specific performance. In no event shall Sponsor be liable for any loss, damage, cost or expense, or legal expense, incurred by Purchaser due to Sponsor's failure or default. The provisions of this paragraph shall survive the Closing.

During the inspection, Purchaser's and Purchaser's representatives shall not: (i) probe, penetrate or disturb the surfaces of the walls, floors or ceilings of the Unit or any portion of the Building; or (ii) make any alterations or changes to the Unit; or (iii) store any furniture or other belongings in the Unit or elsewhere in the Building prior to Closing.

Sponsor's obligations to correct Patent and Latent Construction Defects in the Unit or Patent and Latent in the Common Elements that affect the Unit are contained in this Plan and

control any provision in the Purchase and Sale Agreement that is inconsistent therewith. Se Section A-18.9.

Section K-28. Prices and Price Related Terms are Negotiable. The offering price and price related terms of the Purchase and Sale Agreement are negotiable (see Section I-2 for full discussion).

Section K-29. Broker. Sponsor shall be responsible for, and shall indemnify Purchaser from and against, all claims, litigations, liabilities and damages with respect to, the fee or commissions if and when earned by the Selling Agent and such other participating broker (if any) that may be specified in the Purchase and Sale Agreement, pursuant to a separate agreement with the Selling Agent. Apart from said specified participating broker (if any), Purchaser shall be responsible for, and shall indemnify Sponsor from and against, all claims, litigations, liabilities and damages with respect to, the fee or commission if and when earned by any broker with whom Purchaser dealt or is alleged to have dealt. Each party's indemnity shall survive the Closing of Title to the Unit or the cancellation of the Purchase and Sale Agreement (as applicable).

Section K-30. Abandonment of Plan. Sponsor has the exclusive right and absolute discretion to abandon this Plan at any time before Sponsor declares this Plan effective or (under certain very limited circumstances) thereafter (see Section L-6 and Section L-7 for discussion). If Sponsor elects to abandon this Plan, all Purchase and Sale Agreements will automatically be cancelled and the Deposits refunded to Purchasers together with any earned interest.

Section K-31. Purchaser's Representations. The Purchase and Sale Agreement will include certain representations with respect to Purchaser, which will include the following representations to be made before the filing of the Effectiveness Amendment: (a) Purchaser is a Bona Fide Purchaser; (b) Purchaser is not related to the Sponsor, the Selling Agent or the proposed Managing Agent, or to any of their respective principals, by blood, marriage or adoption or as a business associate, an employee, a shareholder or a limited partner; and (c) Purchaser is not purchasing as an accommodation to, or for the account or benefit of, Sponsor or a principal of Sponsor.

Section K-32. Litigation. Any suit, action, proceeding, whether legal or equitable, brought in or before any court (whether federal, state or otherwise) or arbitration, mediation or other dispute resolution body having jurisdiction arising out of the Purchase and Sale Agreement shall be governed by the internal Laws of New York, shall be brought in Kings County or New York County and shall be determined by the judge presiding at the trial without a jury (which the parties waive).

Section K-33. Purchase and Sale Agreement Is Not a Lien. The Purchase and Sale Agreement and the Deposit are not, and shall not be regarded as, a lien against the Property or the Unit. Purchaser may not record the Purchase and Sale Agreement and will be in default if Purchaser attempts to record it.

Section K-34. Prohibition Against Advertising. Until the Closing of Title, Purchaser is prohibited from advertising or publicizing the availability of the Unit for sale or lease. Any violation of this prohibition shall be a material event of default by Purchaser under the Purchase and Sale Agreement. See Section A-2.7.

Section K-35. Deposit for Plan and Plan Amendments. A prospective Purchaser may be required to deposit one hundred and fifty dollars ($150) to obtain this Plan and any Plan Amendment. The deposit will be held by Sponsor and credited to the Unit's Purchase Price or will be refunded if this Plan and every Plan Amendment (if any) are returned within thirty (30) days in reasonably good, reusable condition.

Section K-36. Waiver of Jury Trial. EACH PARTY WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY LAWSUIT ARISING FROM THE PURCHASE AND SALE AGREEMENT OR THIS PLAN OR PLAN AMENDMENTS, OTHER THAN A LAWSUIT IN WHICH A JURY TRIAL CANNOT LEGALLY BE WAIVED. ANY CLAIM FOR WHICH A JURY TRIAL CANNOT LEGALLY BE WAIVED SHALL NOT BE ASSERTED AS A COUNTERCLAIM OR JOINED WITH ANY LAWSUIT IN WHICH A JURY TRIAL IS WAIVED, UNLESS THE FAILURE TO ASSERT IT WOULD PREVENT THE CLAIM FROM BEING MADE LATER. THIS PROVISION SHALL SURVIVE THE CLOSING OR (IF THE CLOSING DOES NOT OCCUR) THE CANCELLATION OR TERMINATION OF THE PURCHASE AND SALE AGREEMENT.

Section K-37. Purchaser's Changes, Extras and Upgrades. Sponsor shall not be obligated to make any changes to the Unit or provide any extras or upgrades that might be requested by Purchaser. Any changes, extras or upgrades requested by Purchaser and agreed to be made by Sponsor shall not be binding on either party unless and until the terms thereof, including the additional amount to be paid and when same is payable by Purchaser are set forth in writing signed and exchanged by Sponsor and Purchaser as part of the Purchase and Sale Agreement. Any additional payment made by Purchaser will initially be placed in the subaccount with Purchaser's Deposit and may immediately thereafter be withdrawn from the subaccount and used to pay for the agreed upon changes, extras and/or upgrades (as applicable), in which case the additional payment shall not be refundable.

Section K-38. Legal Expenses. In any litigation between Purchaser and Sponsor, Purchaser will not be obligated to pay Sponsor's Legal Expenses unless awarded in a final non-appealable order or judgment of a court having competent jurisdiction. See Section A-2.13.

END OF SECTION K

SECTION L. EFFECTIVE DATE

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

Section L-2. Procedure to Declare Plan Effective. This Plan may be declared effective by:

(a) a Plan Amendment; or

(b) by notice stating that this Plan is declared effective served on every Purchaser by personal service or by commencement of service by regular mail or registered or certified mail, with or without return receipt requested, in the manner required by Section 20.1(d) of Part 20 of the Department of Law's regulations, and submitting a Plan Amendment to the Department of Law within five days confirming that this Plan was declared effective on a specified date.

The Plan Amendment declaring this Plan effective or disclosing the notice of effectiveness given to Purchasers ("**Effectiveness Amendment**"), as applicable, will also disclose the names of the Purchasers who are being counted toward effectiveness, the Residential Units for which Purchase and Sale Agreements are in effect and will otherwise conform to said Section 20.5(e) of Part 20. The First Unit Closing shall not be fixed until this Plan is declared effective and the Effectiveness Amendment is accepted for filing by the Department of Law.

Section L-3. Minimum Percentage of Sales. This Plan may not be declared effective unless Purchase and Sale Agreements for at least fifteen percent (15%) of the Residential Units offered for sale under this Plan, or four (4) Residential Units (21 Units x 15%, rounded up) have been entered into with Purchasers ("**Bona Fide Purchasers")** who are buying in good faith for personal occupancy or occupancy by a member of Purchaser's family, or for rental investment or resale, but are not the Sponsor, the Selling Agent or the Managing Agent or a principal of the Sponsor, the Selling Agent or Managing Agent or related to the Sponsor, the Selling Agent or the Managing Agent or to any principal of the Sponsor, the Selling Agent or the Managing Agent by blood, marriage or adoption or as a business associate, an employee, a shareholder or a limited partner, except that such a Purchaser, other than the Sponsor or a principal of the Sponsor, may be included if the Sponsor has submitted proof satisfactory to the Department of Law establishing that the Purchaser is bona fide. Purchase and Sale Agreements for Parking and Storage Units shall not be counted to declare this Plan effective.

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

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

(b) if the Purchaser was not afforded the protections required by Section 20.3(o)(10) of said Part 20, which provides for a minimum period of three business days for Purchaser to review this Plan and every Plan Amendment before signing the Purchase and Sale Agreement or (if afforded fewer than three business days) seven days to rescind in writing after delivering an executed Purchase and Sale Agreement (see Section K-10); or

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

Section L-5. Effective When 80% Sold. This Plan must be declared effective when Purchase and Sale Agreements with Bona Fide Purchasers have been accepted by Sponsor for eighty percent (80%), or seventeen (17) Residential Units (21 Residential Units x 80%, rounded up) being offered for sale under this Plan.

Section L-6. Abandonment Prior to Effectiveness. Sponsor has the exclusive option and discretion to abandon this Plan any time before it is declared effective. If Sponsor (in its sole and absolute discretion, but subject to obtaining the consent of the Construction Lender, which consent shall not be unreasonably withheld, conditioned or delayed, as provided in the Construction Loan Documents) elects to abandon this Plan, then within five days after Sponsor receives the letter from the Department of Law accepting the filing of a Plan Amendment abandoning this Plan, all monies paid by Purchasers toward the Purchase Price shall be refunded to such Purchasers in full, together with any interest earned thereon.

Sponsor shall promptly following Sponsor's election to abandon this Plan submit to the Department of Law for filing a Plan Amendment abandoning this Plan together with form RS-3, except if there are no outstanding Purchase and Sale Agreements, Sponsor shall submit to the Department of Law only form RS-3, as required by Section 20.1(l)(2) of Part 20 of the Department of Law's regulations.

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

(a) a defect in title which cannot be cured without litigation or cannot be cured for less than one half of one percent (0.5%) of the total offering price at the date the Plan is declared effective, as reasonably estimated by Sponsor (i.e., $209,305.00), based on the current total

offering price of $41,861,000.00 in the Offering Price Schedule, subject to adjustment based on the actual total offering price in effect when the Plan is declared effective;

(b) substantial damage or destruction of the Building by fire or other casualty which cannot be cured for less than one half of one percent (0.5%) of said total offering price at the date the Plan is declared effective, as reasonably estimated by Sponsor; or

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

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

Section L-8. Consummation of Plan. Notwithstanding the Plan being declared effective, in order to consummate the Plan, the Declaration must be recorded and the Floor Plans must be filed in the City Register's Office, the First Unit Closing must be completed with at least one Purchaser of a Residential Unit under this Plan following Sponsor declaring the Plan effective and the acceptance and filing by the New York Department of Law of a Plan Amendment declaring this Plan effective. If before the Plan is consummated in accordance with the foregoing, all Purchasers being counted toward effectiveness properly and timely terminate their respective Purchase and Sale Agreements pursuant to the terms of said Purchase and Sale Agreements or an offer of rescission contained in a Plan Amendment, the Plan must again be declared effective in accordance with the terms of this Section L. In such event, no Unit Closings may be conducted until the acceptance and filing by the New York Department of Law of a Plan Amendment declaring the Plan effective.

END OF SECTION L

SECTION M. TERMS OF SALE

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

Section M-2. Risk of Loss. Prior to Closing of Title, the risk of loss or damage to a Purchaser's Residential Unit and its contents from casualty or other cause is assumed by Sponsor, unless Purchaser is given possession pursuant to an Interim Use and Occupancy Agreement or other agreement or Purchaser is at fault for causing the loss or damage, in either of which case Purchaser shall assume the risk of loss and damage. Sponsor's assumption of the risk of loss does not obligate Sponsor to repair the loss or damage or to restore a Purchaser's Residential Unit or its contents. If Sponsor (in its sole and absolute discretion) elects to repair, or if the First Unit Closing has occurred and the Condominium Board is obligated to repair the loss or damage, the Closing of Title will be postponed to the later to occur of the date fixed by Sponsor for Closing in accordance with the Purchase and Sale Agreement or ninety (90) days from the date the loss or damage occurs in order to permit the repairs to be completed.

If Sponsor assumes the risk of loss, Purchaser shall not be required to Close Title until the Residential Unit and its contents are made habitable in the condition required in the Purchase and Sale Agreement and the Residential Unit has all essential Building Services (e.g., heat, air conditioning and utilities) and a reasonable means of access to and from the street. If Sponsor elects not to repair, the Purchase and Sale Agreement will be canceled and the Deposit returned to Purchaser together with any earned interest thereon.

If Purchaser is given possession under an Interim Use and Occupancy Agreement or other agreement, or Purchaser is at fault for causing the loss or damage, then Purchaser shall assume the risk of loss to the Residential Unit and its contents, regardless of whether the fire or other casualty causing the loss or damage originates inside or outside of the Residential Unit. In such case, Purchaser shall be obligated to consummate the Closing of Title on the date set by Sponsor in accordance with the Purchase and Sale Agreement, without delay, and pay the full Purchase Price without abatement, set-off or credit, and without liability or recourse of any kind against Sponsor or the Selling Agent by reason thereof. Such Purchaser should consider obtaining, at Purchaser's expense, insurance to insure Purchaser against such loss. See Section A-2.8.

Section M-3. Certificate of Occupancy. The Closing of Title to a Unit will take place only after or concurrently with the issuance of a TCO or (at Sponsor's exclusive option) a FCO, in either case, authorizing the use of the Unit to be closed in accordance with the terms of this Plan.

Section M-4. Title Exceptions. Title to each Unit and its appurtenant interest in the Common Elements and the Association's Assets will be conveyed at the Closing free and clear of all liens, encumbrances and title exceptions other than the encumbrances ("**Permitted Encumbrances**") described below in this Section M-4 and the proposed Unit deed (contained in DOCUMENT 3 of Part II). Title exceptions may include the state of facts shown on a stated survey and any additional

state of facts a subsequent survey would show, provided that such additional state of facts does not render title unmarketable. A summary of all leases, mortgages, liens, encumbrances and title exceptions that will affect the Unit and Property after Closing is set forth below. Each Unit will be conveyed and purchased (without abatement in, set-off or credit against, the Purchase Price and without liability or recourse of any kind against Sponsor or Selling Agent), subject to the following Permitted Encumbrances, which shall not be objections to title; provided none of the Permitted Encumbrances shall render title unmarketable or prevent the use of a Unit for the purposes set forth in this Plan:

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

(b) State of facts shown on survey made by Apple Surveying Services of New York City last dated 12/06/2021, which shows the following variations, defects, encroachments and/or projections:

(b-1) Cellar doors from 3.9 feet to 4.0 feet south of parts of southerly record line and onto Calyer Street.

(b-2) Siamese connection projecting an undisclosed distance onto Lorimer Street.

(b-3) Metal cover on Lorimer Street.

(b-4) Independent wall at easterly side of building.

No other variations or encroachments.

(c) Any additional state of facts that an accurate updated survey or personal inspection of the Land and Building (when constructed) would show, including encroachments of the Building on adjoining property and/or street, and encroachments of adjoining buildings on the Property, provided that Purchaser's title insurer or agent, or First American Title Insurance Company ("**Title Insurance Company**"), will insure, at its regular rate, without additional premium, in a fee title policy that such encroachments may remain for so long as the Building shall stand, provided further that such additional state of facts would not prevent the use of Purchaser's Unit for the purpose set forth in this Plan, and provided still further that such additional state of facts does not render title unmarketable.

(d) Any state of facts an accurate survey of the Unit would disclose, including:

(d-1) encroachments by the Unit on adjoining Units and on Common Elements; and

(d-2) encroachments by adjoining Units or Common Elements on the Unit, provided Purchaser's title insurer or agent, or the Title Insurance Company, will insure, at its regular rate, without additional premium, in a fee title policy that any encroachments of a portion of the Unit upon any other Unit or the Common Elements, or vice versa, may remain for so long as the Building shall stand.

(e) The terms, provisions, burdens, covenants, restrictions, conditions, options, duties, limitations, licenses, powers, easements, encroachments and rules and regulations set forth in, or permitted by, the Declaration, the By-Laws and the Rules and Regulations, as any of the foregoing might be amended from time to time, provided that the title insurance policy will insure against loss or damage occasioned by the Unit not being part of a condominium validly created pursuant to Article 9-B of the Real Property Law, as amended.

(f) Consents by Sponsor, the Condominium Board or any former owner of the Land, for the erection of any structure or structures on, under or above any street on which the Land abuts.

(g) Sewer, water, electric, plumbing, heating, gas, telephone, cable, electronic and other utility easements and any and all rights of use in favor of any utility company for construction, use, maintenance, repair, removal, relocation and replacement of utility lines, wires, terminal boxes, mains, pipes, cables, conduits, poles, connections and other equipment and other facilities on, under and across the Land and Building.

(h) Encroachments of stoops, steps, areas, cellar steps or doors, trim, copings, retaining walls, footings, bay windows, balconies, sidewalk hatches, fences, fire escapes, cornices, foundations, footings, parapets, cornices, chutes, fuel oil lines, drainage and stand pipes, Building wall fixtures and similar projections, if any, on, over, or under the Property or the street or sidewalk abutting the Property, and the rights of a Governmental Authority to require the removal of any such projections, and variations between record lines of the Property and retaining walls and the like, if any.

(i) Leases and service, maintenance, management, employment, concessionaire and license agreements, if any, of other Units or portions of the Common Elements or made with or assumed by the Condominium Board, as disclosed or permitted in this Plan or a Plan Amendment or made after the end of the Sponsor Board Control Period.

(j) The lien of any unpaid Common Charge and real estate taxes, which shall be apportioned at the Closing of Title as set forth in the Purchase and Sale Agreement. The lien for any unpaid water charges and sewer rents will be payable by the Condominium Board and included in the Common Charges, and thus are deemed apportioned as part of the Common Charges.

(k) The lien of any unpaid assessment (including both a real estate tax assessment and a Condominium Board Special Assessment) payable in installments, except that:

(k-1) Sponsor will pay all such assessments due prior to the Closing Date; and

(k-2) Purchaser will pay all assessments due from and after such date.

However, the then current installment of an assessment will be appropriately apportioned at Closing.

(l) Unpaid fees or charges of any Governmental Authority for inspections, re-inspections, examinations, services, permits and licenses, which shall be apportioned between

Sponsor and the Condominium Board as provided in this Plan or, if arising after the First Unit Closing, shall be payable by the Condominium Board and included in the Common Charges, and thus are deemed apportioned as part of the Common Charges (all such unpaid fees or charges due and payable prior to the First Unit Closing shall be paid by Sponsor as provided in this Plan).

(m) Unpaid costs, charges and amounts owed by the Condominium Board after the First Unit Closing for work performed by a Governmental Authority, including the New York City Office of Rent and Housing Maintenance, Emergency Services Division, and the New York City Department of Health (all such unpaid costs, charges and amounts owed prior to the First Unit Closing shall be paid by Sponsor pursuant to this Plan).

(n) Any encumbrance as to which the Title Insurance Company or Purchaser's title insurer or agent would be willing to insure, at Purchaser's expense, at its regular rate and without additional premium, in a fee policy issued by it to Purchaser:

(n-1) will not be collected out of, or enforced against, the Unit or its Common Interest if it is a lien; or

(n-2) will not prevent the use of the Unit for the purpose set forth in this Plan, whichever is applicable.

Any exception that the Title Insurance Company has omitted or insured at its regular rates and without additional premium will not be collected out of, or enforced against, another Unit, in a fee title insurance policy for such other Unit, regardless of which title insurer or agent Purchaser uses, will not be a valid objection to title.

(o) Any declaration or other instrument affecting the Property that the Condominium Board or Sponsor considers necessary or appropriate to comply with any Law (including ordinance, regulation, zoning resolution or requirement of the DOB, the City Planning Commission, the Board of Standards and Appeals or any other public or quasi-public Governmental Authority) in connection with the demolition, construction, alteration, repair, use, occupancy, operation or restoration of the Building.

(p) Covenants, conditions, easements, leases, agreements of record (if any), provided the Unit under contract shall not be subject to a lease or Use and Occupancy Agreement with other than Purchaser, and provided further that none of same shall prevent the use of the Unit for the purpose set forth in this Plan and excluding any title exception and lien excluded in clauses (q-1) and (q-2) in the following paragraph (q).

(q) Covenants. Declarations, restrictions, easements and agreements of record, including:

(q-1) Covenants and restrictions contained in Indenture recorded on 02/08/1861 in (as) Liber 546 Cp 367, provided the Title Insurance Company will insure that the same will not prevent the use of Residential, Storage, Parking and Retail Units against loss for residential or commercial purposes;

(q-2) Declaration contained in Indenture recorded on 10/30/1866 in (as) Liber 727 Cp 373 (Affects old Lot 17), provided the Title Insurance Company will insure that the same will not prevent the use of Residential, Storage, Parking and Retail Units against loss for residential or commercial purposes;

(q-3) Railroad Agreement contained in Instrument recorded on 01/26/1892 in Liber 2092 Cp 235, provided the Title Insurance Company will insure that the same will not prevent the use of Residential, Storage, Parking and Retail Units against loss for residential or commercial purposes;

(q-4) Declaration of Zoning Lot Restrictions made by Brooklyn Rainbow Associates LLC, dated as of 03/28/2019 and recorded on 04/16/2019 in (as) CRFN 2019000120783;

(q-5) Zoning Lot Certification dated as of 03/28/2019 recorded on 04/16/2019 in(as) CRFN 2019000120784; and

(q-6) Zoning Lot Development and Easement Agreement dated as of 03/28/2019 by and between Brooklyn Rainbow Associates LLC and 171 Calyer Main Owner LLC recorded on 04/16/2019 in (as) CRFN 2019000120785.

(r) Any other covenants, declarations, restrictions, easements or agreements, whether of record or unrecorded, affecting the Property or any portion thereof, and the title exceptions set forth in the title report issued by the Title Insurance Company, provided none of the foregoing prevent the use of a Unit for the purpose set forth in this Plan, and excluding:

(r-1) any title exception to be removed in order to insure the valid establishment of the Condominium as provided in this Plan; and

(r-2) the lien of any mortgage or UCC-1 financing statement, which are to be released or terminated, respectively, from the Unit.

(s) Any violations against the Property (other than the Unit) after the First Unit Closing that are the obligation of the Condominium Board or another Unit Owner to correct (all such violations existing at the First Unit Closing shall be corrected by Sponsor pursuant to this Plan).

(t) The Certificate of Occupancy of the Building (whether a TCO or a FCO), provided it authorizes use of the Unit in question for the purpose set forth in this Plan.

(u) Leases, Use and Occupancy Agreements and rights of tenants and occupants of other Units and portions of the Property other than the Unit in question, as tenants only, and any lease, Use and Occupancy Agreement, tenancy and occupancy of Purchaser's Unit by Purchaser, as and if provided in the Purchase and Sale Agreement.

(v) Any lien (including any mortgage lien) or other encumbrance granted, created or obtained by Purchaser.

(w) Easements for ingress and egress for construction, installation, operation and maintenance of municipal service facilities and utilities.

(x) Any easement or right of use required by Sponsor or its Designee to obtain a Temporary Certificate of Occupancy or Final Certificate of Occupancy or any part thereof. Any other covenants, restrictions, easements or other encumbrance (other than for the payment of money), provided that they do not prohibit the existence and use of a Unit for the purpose set forth in this Plan.

(y) Any lien, encumbrance or *lis pendens* either:

(y-1) for which the instrument required to remove said encumbrance of record is delivered at or prior to the Closing Date to the proper party or to Purchaser's title insurer or agent together with the required recording or filing fee; or

(y-2) as to which Purchaser's title insurer or agent, or the Title Insurance Company, will insure that the lien, encumbrance or *lis pendens* will not be collected out of, or enforced against, the Unit.

(z) Party walls and party wall agreements, if any.

(aa) Judgments, bankruptcies or other returns against other persons having names the same as or similar to Sponsor or any of Sponsor's principals, provided Sponsor or any such principals, as the case may be, deliver to Purchaser or Purchaser's title insurer or agent, or the Title Insurance Company, an affidavit showing that such judgments, bankruptcies or other returns are not against Sponsor or any such principal, as the case may be.

(bb) Uniform Commercial Code financing statements or conditional bills of sale, provided that:

(bb-1) such statements were filed on a date more than five years prior to the Closing Date;

(bb-2) Sponsor executes and delivers to Purchaser an affidavit setting forth that the property covered thereby is no longer in the Unit or is fully paid for; or

(bb-3) a tenant is the debtor thereunder.

(cc) Service, labor, concessionaire and maintenance agreements with the Condominium Board as disclosed or permitted in this Plan or a Plan Amendment, or made after the end of the Sponsor Board Control Period.

(dd) Liens of mortgages created by Sponsor and related financing statement (UCC-1), provided the Unit is released and discharged from same at Closing.

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

(ff) Franchise taxes and New York City business corporation taxes of any organization in the chain of title, provided that Purchaser's title insurer or agent, or the Title Insurance Company, would be willing to insure at its regular rate, without additional premium, in a fee policy that such taxes will not be collected out of the Unit.

Section M-5. Personal Property. The conveyance of a Residential Unit includes all personal property located within the Unit on the date the Purchase and Sale Agreement is signed or is to be installed in the Unit by Sponsor pursuant to this Plan (see Section C-1.4 and DOCUMENT 4 in Part II), and a Purchaser's undivided interest, in common, in all personal property located within, and part of, the Common Elements on the date the Declaration is filed or is to be installed in the Common Elements pursuant to Sponsor's Plans and Specifications (see said DOCUMENT 4 for summary) that is owned by Sponsor.

Section M-6. Condominium Documents. The Declaration, By-Laws, Rules and Regulations and Floor Plans for the Condominium and such other documents as may be required by Law, will be recorded or filed by Sponsor, at its expense, prior to the first conveyance of title to a Unit in accordance with the Condominium Act. The place of recording or filing is the Kings County City Register's Office, New York State.

Section M-7. Construction Loans. The existing construction loans will not be satisfied at or prior to the First Unit Closing. Instead, at the time of first conveyance of a Unit, each mortgagee will either: (a) consent to the formation of the Condominium and acknowledge that its lien will be limited to Unsold Units; (b) subordinate the lien of its mortgage to the Declaration of Condominium; or (c) release its lien on the Unit and its Common Interest being conveyed.

END OF SECTION M

SECTION N. UNIT CLOSING COSTS AND APPORTIONMENTS

Section N-1. Closing Costs and Apportionments.

Section N-1.1. *Purchaser's Closing Costs*. At Closing, Purchaser shall pay the Closing costs, fees and charges listed below.

Section N-1.1.1. New York City and New York State Transfer Taxes. Under the Purchase and Sale Agreement, the Purchaser is obligated to pay the transfer taxes imposed by law on the Seller. Before 2021, in computing the New York State transfer tax, the amount of such transfer tax imposed on Seller being paid by Purchaser is added to the consideration (i.e., Purchase Price), which is a tax on a tax (also called "grossed-up consideration"). New York State Tax Law Section 1404(a) was amended in 2021 to exclude from the computation of the State transfer tax said amount of the State transfer tax imposed on Seller being paid by Purchaser. The amendment to Section 1404(a) can be accessed at the following web address:

https://www.nysenate.gov/legislation/laws/TAX/1404 [nysenate.gov]

The Section 1404(a) amendment to the New York State Tax Law does not apply to the New York City Real Property Transfer Tax (New York City Administrative Code § 11-2102), which continues to calculate the New York City transfer tax on the grossed-up consideration.

The current applicable residential New York State transfer tax of consideration is as follows: 0.4% thereof up to less than $3 million and 0.65% thereof from $3 million or more. The current residential New York State transfer imposes on the purchaser payment of a so-called "mansion tax" and a recently enacted "supplemental tax" added thereto, which equals:

1.00% of consideration of $1 million to less than $2 million

1.25% of consideration of $2 million to less than $3 million

1.5% of consideration of $3 million to less than $5 million,

2.25 of consideration of $5 million to less than $10 million

3.25% of consideration of $10 million to less than $15 million

3.5% of consideration of $15 million to less than $20 million

3.75 of consideration of $20 million to less than $25 million

3.9%. of consideration of $25 million and above

The current applicable residential New York City transfer tax of grossed-up consideration is 1% thereof up to $500,000 and 1.425% thereof over $500,000.

In addition, if Purchaser buys two or more Units, the New York City transfer tax for all Units may be computed at the then applicable commercial tax rate, which currently is higher than

the residential rate. However, the New York State "mansion tax" is not applicable to transfers of commercial real estate. See Section A-2.5.1.

Section N-1.1.2. Title Insurance. If Purchaser elects to insure title to the Unit, Purchaser will pay a premium for title insurance based upon the Purchase Price of the Unit. The premium may vary depending upon the title insurer or agent, which Purchaser is free to choose without penalty.

At the date of this Plan, the premiums for title insurance available from First American Title Insurance Company of New York, having offices at 633 Third Avenue, New York, New York 10017 (telephone: (212) 922-9700) are stated below.

PURCHASE PRICE UNDER ONE MILLION (DEVIATED RATES)

0 TO $35,000.	$	325.00	FLAT
$35,001 TO $50,000.	$	5.39	PER THOUSAND
$50,000. TO $100,000.	$	4.39	PER THOUSAND
$100,001 TO $500,000.	$	3.52	PER THOUSAND
$500,001 TO $999,999.99	$	3.21	PER THOUSAND

PURCHASE PRICE ONE MILLION OR MORE (NON-DEVIATED RATES)

0 TO $35,000.	$	382.00	FLAT
$35,001 TO $50,000.	$	6.34	PER THOUSAND
$50,001. TO $100,000.	$	5.16	PER THOUSAND
$100,001 TO $500,000.	$	4.14	PER THOUSAND
$500,001 TO $1,000,000.	$	3.78	PER THOUSAND
$1,000,001. TO $5.000,000.	$	3.48	PER THOUSAND
$5,000,001. TO $10,000,000.	$	3.09	PER THOUSAND
$10,000,001. TO $15,000,000.	$	2.92	PER THOUSAND
OVER $15,000,000.	$	2.62	PER THOUSAND

BASIC MORTGAGE RATES PER THOUSAND

0 TO $35,000.	$	327.00	FLAT
$35,001 TO $50,000.	$	5.27	PER THOUSAND
$50,001. TO $100,000.	$	4.31	PER THOUSAND
$100,001 TO $500,000.	$	3.46	PER THOUSAND
$500,001 TO $1,000,000.	$	3.14	PER THOUSAND
$1,000,001. TO $5.000,000.	$	2.90	PER THOUSAND
$5,000,001. TO $10,000,000.	$	2.57	PER THOUSAND
$10,000,001. TO $15,000,000.	$	2.42	PER THOUSAND
OVER $15,000,000.	$	2.19	PER THOUSAND

If a purchaser elects to simultaneously obtain both fee title insurance and mortgage title insurance from First American, the premium for the mortgage title insurance is computed at the simultaneous rate. The premium for the mortgage title insurance would be computed using the basic Mortgage rate schedule above. Then the premium on the liability amount of the loan policy that does not exceed the owner's policy shall be calculated at 30% of the regular rate for loan policies. If the mortgage policy exceeds the owner's policy the excess would be computed at the full rate per thousand, starting in the correct loan policy rate bracket.

Section N-1.1.3. Governmental Recording Charges and Fees, and Title Insurer's Service Fee. Purchaser will pay the governmental charges to record the Unit deed and (if Purchaser is obtaining financing) the lender's mortgage, which at the date of this Plan are in the amount of $225.00 for each document, plus $5.00 per page (including the cover page) and a filing fee of $125.00 for the ACRIS forms.

Purchaser will pay the service fee of Purchaser's title insurer or agent to record these documents and to prepare the ACRIS forms, which will vary depending upon title insurer or agent. First American Title Insurance Company of New York service fees at the date of this Plan are $25.00 to record each document and $150.00 to prepare the ACRIS forms.

Section N-1.1.4. Working Capital Contribution. At Closing, Purchaser will make a contribution to the Condominium Association's Working Capital Fund in an amount equal to two months' projected Common Charges for each Unit being purchased, as shown in the Offering Price Schedule in Section E, as such projection may change in a Plan Amendment filed prior to the First Unit Closing. Sponsor will advance an initial contribution to the Working Capital Fund at the First Unit Closing and will be reimbursed for such payment from the first Working Capital Fund contributions made by Purchasers of Units under this Plan. See Section V-2.

Section N-1.1.5. Mortgage Loan Fees and Costs. If Purchaser obtains a mortgage loan, Purchaser will be responsible to pay all fees and costs required by the lender. These will include the following (if and as applicable): (a) mortgage broker's fee; (b) commitment or origination fee; (c) appraisal fee; (d) lender's attorney fee; (e) mortgage loan title search and insurance fee; (f) mortgage recording tax; (g) flood certification fee; and (h) any other Closing costs of the lender. Purchaser also may be required to deposit with the mortgage lender monthly amounts for the Unit's real estate taxes and insurance premiums. For example, possibly a sum equal to one-twelfth (1/12) of the estimated annual real estate taxes and tax assessments which are assessed or to be assessed against the Unit, together with one-twelfth (1/12) of the annual fire and casualty insurance policy premiums for the Unit, and/or other amounts.

The mortgage recording tax at the date of this Plan is in the amount equal to 1.05% for mortgage loans of less than $500,000 and 2.175% for mortgages in the amount of $500,000 or greater. The mortgagee pays an amount equal to 0.25% of the face amount of the mortgage and the tax is reduced for Residential Units by $30.00 if the mortgage principal exceeds $10,000. No

representation or warranty is made with respect to the amounts of such Closing costs and expenses or the availability or cost of mortgage loans from any sources.

If Purchaser is entitled to a savings in the mortgage recording tax, whether such savings results from an assignment of an existing mortgage on the Unit being conveyed to Purchaser or pursuant to Section 339-ee of the Condominium Act, Purchaser shall assign to Sponsor an amount equal to such savings.

Section N-1.1.6. Closing Fees Payable to Sponsor's Attorney. At Closing, Purchaser shall pay the following fees to Seyfarth Shaw LLP, Sponsor's attorney, to pay for services to arrange the attendance of all parties at Closing, to prepare the Closing report of payments to be made and documents to be executed and/or delivered at Closing, and to attend the Closing:

(a) $3,000.00 if Purchaser Closes without mortgage financing; or

(b) $3,500.00 if Purchaser Closes with mortgage financing.

Section N-1.1.7. Sample of Purchasers Closing Costs. The Closing costs, fees and charges to be paid by Purchaser and their estimated amounts based on an assumed Purchase Price of $2,500,000, an assumed mortgage loan of 80% of the Purchase Price, or $2,000,000, and the rates in effect on the date of this Plan, are as follows (amounts are rounded and approximate):

(a) New York State transfer tax (at the rate of 0.4% x the Total Consideration, rounded up to the nearest $500, plus a so called Mansion Tax of 1.25% of the taxable consideration, if the taxable consideration is $2,000,000 to $2,999,999):	$41,250
(b) New York City transfer tax (at the rate of 1% of the taxable consideration of $500,000 or less, or at the rate of 1.425% of an taxable consideration of more than $500,000):	$35,625
(c) estimated governmental recording fees and charges for the Unit deed (assuming 8 pages plus cover page), and Purchaser's mortgage (assuming 20 pages plus cover page) (fees at the rate of $225 per instrument and $5 a page), the New York State equalization and assessment form ($75), the UCC-1 Financing Statement (filing and service fees of $50) and miscellaneous recording, document and title insurer service fees (estimated at $275)[(1)]:	$900
(d) mortgage recording tax at the rate of 1.05% of the mortgage (if less than $500,000) or 2.175% of the mortgage (if $500,000 or more); minus $30 and minus 0.25% payable by the mortgage lender (before deducting the savings arising from the statutory credit, which is payable to Sponsor):	$38,470
(e) premium for simultaneous fee ($4,968) and mortgage title insurance ($6,476) [(2)]:	$11,174
(f) projected mortgage loan fees and costs (based on the following assumptions and estimates): $20,000 for loan commitment fee at 1% of loan amount; $750 for appraisal; $300 for loan application; $150 for document preparation; $50 for UCC-1 filing fee; $5,000 for lender's legal fee; $8,800 for three months real estate taxes and $2,000 for one year's premiums for insurance, and $500 allowance for potential miscellaneous expenses:	$37,250
(g) Working Capital Fund Payment (equal to two months' projected Common Charges):	$5,900

(h)	legal fees to Sponsor's designated attorney[3]:	$3,500
(i)	allowance for gratuity to closer for title insurer and contingencies:	$350
	Total Projected Closing Costs:	$174,419

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(1) Governmental recording fees and charges may vary from time to time. Title insurer's service charges may vary and differ, depending upon the title insurer or agent.

(2) Based on 70% bulk rate.

(3) $3,000 without financing plus $500 if financed (See Section A-11).

Purchaser's actual Closing costs, fees and charges will be based on the applicable governmental and title insurer rates in effect on Purchaser's Closing Date. The foregoing projections are believed to be reasonable, but are not assured or guaranteed. A number of unknown and varying factors (e.g., mortgage financing costs and escrows if Purchaser is obtaining financing) will affect the actual Closing costs, fees and charges, which may vary, perhaps substantially, from the above projections.

If Purchaser's Institutional Lender or its attorney refuses to hold the Closing at the office of Sponsor's attorney, Purchaser will pay a travel fee to Sponsor's attorney of $350 (if the Closing is held in Manhattan) or $500 (if the Closing is held elsewhere in New York City). See Section A-2.5.2.

If Purchaser is at fault for not Closing title on the date set by Sponsor in accordance with this Plan and the Purchase and Sale Agreement, Purchaser will pay the following additional "delinquent closing costs" at Closing of Title: (a) Purchaser shall pay Sponsor Per Diem Interest on the Purchase Price, prorated for each day's delay from the date set by Sponsor for Closing through the end of the day prior to the actual Closing Date, to compensate Sponsor for loss of potential earnings on investment of the Purchase Price; (b) Purchaser shall reimburse Sponsor for the Unit's Common Charges and real estate taxes for the period of such delay, after deducting any use and occupancy charge or fee or rent received and collected from Purchaser if Purchaser is given possession prior to Closing; and (c) Purchaser shall pay Sponsor's designated attorney $250 for each default notice, and $250 for each time the Closing is rescheduled. See Section A-2.5.2 above.

Section N-1.2. *Purchaser's Closing Apportionments*. At Closing, Purchaser and Sponsor shall apportion as of end of the preceding day: (a) real estate taxes for the Unit for the tax period within which the Closing occurs; (b) Common Charges; and (c) (if Purchaser is given possession of the Unit prior to Closing) the use and occupancy charge or fee (as applicable) payable for the Unit for the month of Closing (based on the actual number of days in such month). Common Charges will commence at the First Unit Closing. Accordingly, Common Charges will not be apportioned for only those Units that Close Title on the day of the First Unit Closing; however, the Purchasers of such Units may be required to pay at Closing the Common Charges for the Units

(including real estate taxes, if the Units are not separately assessed and billed) for the remaining days of the month in which the Closing occurs and/or for the ensuing month.

Until the Units are separately assessed and billed by the taxing authority for real estate taxes, the real estate taxes assessed to the Property will be included in the General Common Expenses and allocated and assessed to each Unit pro rata to its Common Interest (see Section S-1 for full discussion). If title closes before said separate assessment and billing for real estate taxes, the apportionment for real estate taxes assessed to the Property will be based on the Unit's Common Interest or, if paid to the Condominium Board, as part of the Unit's Common Charges (see below for requirement to adjust any overpayment or underpayment of the amount so apportioned).

The net amount resulting from these apportionments will be paid to the proper party at the Closing of Title. If the payment is to be made to Sponsor, it will be in addition to Purchaser's payments for the Purchase Price and Closing costs.

Installments for any Special Assessments for real estate taxes or for Common Expenses will be paid by the party owning the Unit at the time the installments are payable. However, the then current installment of any Special Assessment for real estate taxes or Common Expenses for the period in which the Closing occurs will be equitably apportioned as of the end of the day preceding the Closing (based on the actual number of days in the installment period) and paid to the appropriate party at Closing.

The "Customs in Respect of Title Closings" recommended by The Real Estate Board of New York, Inc., as amended to date, will apply to all apportionments, except as may otherwise expressly be provided in this Section N-1.2. Any errors or omissions in computing the apportionments discovered after Closing will be corrected and payment made to the proper party promptly after receipt of a written notice detailing the calculation of the amount owed, provided notice thereof is given within a deadline of six months following the Closing Date. The six-month deadline period to send such notice is a "TIME OF ESSENCE" period (see Section A-2.3 above). This provision will survive the Closing of Title.

If at Closing of Title the Unit is not separately assessed and billed for real estate taxes, Purchaser and Sponsor may adjust any overpayment or underpayment of the real estate taxes apportioned at Closing when the Unit is so separately assessed and billed by the taxing authority. The adjustment shall be based on the formula set forth in Section S-1.3.

The amount of the overpayment or underpayment is required to be paid within ten (10) days after Purchaser or Sponsor is sent written notice detailing the calculation of the amount owed, provided such notice is sent within a deadline of sixty (60) days after the Unit is separately assessed and billed for real estate taxes. The sixty (60)-day period to send such notice is a "TIME OF ESSENCE" period (see said Section A-2.3 above). This means that if notice is not timely sent within such sixty (60)-day deadline period, no adjustment will be made. The notice must be

accompanied by suitable proof of the real estate tax for the Unit (such as a real estate tax bill or title report). If the amount due is not paid within said ten (10)-day period, then the party owed payment will be reimbursed by the other party: (a) Per Diem Interest on the unpaid amount, computed from the end of the ten (10)-day period until payment is received (to compensate for loss of potential earnings on investment of the amount past due); and (b) if contested and awarded in a final non-appealable order or judgment of a court having competent jurisdiction, the Legal Expenses and Per Diem Interest thereon to enforce and defend this provision and to collect the amounts owed. The obligation to adjust the apportionment for real estate taxes and to pay the appropriate party will survive the Closing of Title.

Section N-1.3. *Sponsor's Closing Costs*. Sponsor's Closing costs, fees and charges shall include: (a) all fees and governmental charges to record the Declaration of Condominium and file the tax lot Floor Plans establishing the Condominium regime on the Property; and (b) the payments to the Construction Lender holding mortgages on the Property to obtain a release of the mortgage liens from the Unit being conveyed and the related UCC-3 Termination Statements releasing the lien on fixtures in the Unit. Sponsor will also pay all other amounts as required elsewhere in this Plan (see Section O-2).

Section N-1.4. *Sponsor's Closing Apportionments with Condominium Board*. At the First Unit Closing, Sponsor and the Condominium Board will apportion as of the end of the immediately preceding day, all Building expense items customarily apportioned in New York City by a seller and purchaser of a multiple dwelling (apart from real estate taxes and mortgage debt service), including: (a) all payments and obligations relative to the Building's staff; (b) the payments under any assignable service, maintenance and concessionaire agreements; (c) the premiums for transferable insurance policies; (d) the water charges and sewer rents based on the fiscal or calendar year for which assessed; (e) the cost of unused Building supplies on hand, at Sponsor's cost (including sales tax) (the Managing Agent will verify the inventory of such supplies); (f) the charges for electricity and gas for the Common Elements and deposits with utility companies; (g) the fees of any Governmental Authority for inspections, permits and licenses; (h) the management fee; and (i) the fee to the Realty Advisory Board on Labor Relations, Inc. or similar real estate industry group (if any and if applicable).

The "Customs in Respect to Title Closings" recommended by The Real Estate Board of New York, Inc., as amended to date, will apply to these apportionments, except as may otherwise expressly be provided in this Section N-1.4. Any error or omission in computing the apportionments discovered after the First Unit Closing will be corrected and payment made to the proper party promptly after receipt of a written notice detailing the calculation of the amount owed, provided such notice is sent within a deadline of six months following the election of an Independent Manager. The six-month period to send such notice is a "TIME OF ESSENCE" period (See Section A-2.3). This provision will survive the First Unit Closing.

If the Closing apportionments results in a "net amount" to be paid by the Condominium Board to Sponsor, the Condominium Board will pay such net amount to Sponsor at the First Unit Closing from the Initial Working Capital Fund and the payment of the first month's Common Charges. If such payments are insufficient, the balance owed shall be paid, without interest, in twelve (12) equal, consecutive monthly installments on the first day of the month, starting with the first full calendar month after the First Unit Closing, or sooner as, when and from the first Working Capital Fund Payments paid by Purchasers are received by Sponsor that otherwise would have been delivered to the Board, all pursuant to a promissory note to be signed and delivered by the Condominium Board at said First Unit Closing. If the net amount of the Closing apportionments is in favor of the Condominium Board: (a) Sponsor's reimbursable payment of the Initial Working Capital Fund will be credited against the net amount owed and (if insufficient) the deficiency will be paid by Sponsor to the Condominium Board at the First Unit Closing and added to the Working Capital Fund; and (b) an amount equal to such credit that otherwise is to be reimbursed to Sponsor from the first Working Capital Fund contributions of Purchasers of Units from Sponsor will not be paid to Sponsor and instead will be paid to the Condominium Board. See Section A-17.

The Plan Amendment filed after the First Unit Closing will disclose the net amount of the Closing apportionments set forth above and whether in favor of the Condominium Board or Sponsor.

Section N-2. Mortgage Tax Credit. A mortgage tax credit is provided in RPL §339-ee based on the mortgage recording taxes paid by Sponsor in connection with Sponsor's construction loan financing to develop the Property. The statutory credit applicable to each Unit is prorated in accordance with the Unit's percentage of Common Interest. The statutory credit is not available where the first Unit is sold and conveyed more than two years after the blanket mortgage is recorded.

Under this Plan and the Purchase and Sale Agreement, a Purchaser who obtains mortgage financing to purchase a Unit and is entitled to the mortgage tax credit, is required to reimburse Sponsor at Closing of Title an amount equal to the savings on Purchaser's mortgage recording tax due to the mortgage recording taxes paid by Sponsor. The net result to Purchaser of such payment to Sponsor is to eliminate any benefit to Purchaser for the statutory mortgage tax credit and, in effect, for Purchaser to pay overall an amount equal to the mortgage recording tax on Purchaser's mortgage as though there were no such credit. The statutory credit is not available where the first Unit is sold more than two years after the blanket mortgage is recorded. See Section A-2.6 and see Section N-1.1.7(d) above for illustration of estimated mortgage recording tax.

Section N-3. Fees of Sponsor's Attorney and Lender's Attorney. At Closing, Purchaser will pay Sponsor's Closing attorney, Seyfarth Shaw LLP, a fee of $3,000 (if Purchaser closes without a mortgage loan) or $3,500 (if Purchaser closes with mortgage financing) for services in

connection with the Closing (including preparation of the notice scheduling the date of Closing of Title, calculating the Unit's Closing apportionments, preparing or obtaining applicable Unit Closing documents, arranging and coordinating the attendance of all applicable parties at Closing, and attending the Closing). See Section A-2.5.2. If Purchaser is obtaining financing, customarily a lender may require Purchaser to pay the fee of lender's attorney, which will vary. An estimated fee of $5,000 is projected to be paid by Purchaser for lender's legal fee in Section N-1.1.7(f). Such estimated amount is not assured or guaranteed.

Section N-4. Real Estate Taxes. Until the Units are separately assessed and billed for real estate taxes, the real estate taxes assessed to the Property shall be included in the General Common Expenses and charged to each Unit pro rata to its Common Interest as set forth in footnote (6) to the Offering Price Schedule. After the Units are separately assessed and billed for real estate taxes, Unit Owners will be entitled to be reimbursed for any overpayment of taxes or obligated to pay the Condominium Board for an underpayment (as applicable). See Section S-1.3 below for discussion.

END OF SECTION N

SECTION O. RIGHTS AND OBLIGATIONS OF THE SPONSOR

Section O-1. Sponsor's Rights Generally. This Section O summarizes many of the most material of Sponsor's Rights under this Plan and the Condominium Documents and shall apply to all Units owned by Sponsor at the time in question, including Unsold Units and Units acquired by Sponsor, whether such acquisition results from a Purchaser's exercise of a right of rescission or a right to sell back to Sponsor or (if this Plan is amended to offer Sponsor financing) a mortgage foreclosure by Sponsor or a deed given to Sponsor in lieu of such foreclosure or otherwise. All Units acquired by Sponsor shall be regarded as Unsold Units for all purposes, other than for determining the expiration of the Sponsor Board Control Period and the Sponsor Veto Control Period. All of Sponsor's Rights shall be binding upon, and enforceable by Sponsor against, the Condominium Board and all other Unit Owners, but subject to the limitations, restrictions and requirements applicable to Sponsor's Rights as contained in this Plan or the Condominium Documents.

Sponsor's Rights shall inure to the benefit of each and every Sponsor Designee as Owner of an Unsold Unit, who will succeed to all of Sponsor's Rights and only those Sponsor's Obligations that apply to each Unsold Unit owned by such Designee. All of Sponsor's Rights shall be binding upon, and enforceable by a Sponsor Designee against, the Condominium Board and all other Unit Owners, but subject to the same limitations, restrictions and requirements applicable to Sponsor's Rights as contained in this Plan or the Condominium Documents. Each Designee shall have the same right to designate a person as a Sponsor Designee in the same manner as Sponsor provided herein. See Section A-27.7.

An Unsold Unit shall retain its status and character as an Unsold Unit until it is conveyed to a Bona Fide Purchaser.

The following summary of Sponsor's Rights is not intended to be exhaustive and should be read in conjunction with the other Sections of this Plan. All references to Sponsor in this Section O-1 shall include each and every Sponsor Designee with respect to the Unsold Unit(s) owned by such Designee, unless otherwise expressly stated.

Section O-1.1. *Right to Sell or Rent*. Sponsor will endeavor in good faith to sell all of the Residential, Parking and Storage Units in a reasonably timely manner, preferably to Purchasers for personal occupancy for use by themselves or members of their immediate families, but Sponsor reserves the unfettered right to sell Units to Purchasers for rental investment or resale. To that end, Sponsor has engaged a Selling Agent to market and multi-list the Units for sale. Because of the uncertainty and volatility of market conditions, Sponsor also has the unfettered right to rent Units for an indefinite period after, but not before, the Plan is consummated with the First Unit Closing, except Sponsor may enter into an Interim Use and Occupancy Agreement for a Unit with the Purchaser of such Unit (subject to obtaining the consent of the Construction Lender, which

consent shall not be unreasonably withheld, conditioned or delayed, as provided in the Construction Loan Documents).

Sponsor's construction financing does not contain provisions regarding the minimum number or percentage of Units which must be under contract before the Plan may be declared effective, but does contain a minimum release price set by the lender and a required minimum payment per sale which must be made to the lender in order for the lender to release its lien from the Unit being sold, as well as a requirement to obtain the Construction Lender's consent (which consent shall not be unreasonably withheld, conditioned or delayed, as provided in the Construction Loan Documents) to rent rather than sell Units. See Section A-9.1.

Section O-1.2. *Sponsor's Right to Change Prices*. Sponsor shall have the right, in its sole discretion, without the approval or consent of the Condominium Board, Unit Owners or Purchasers, to change offering prices from time to time. Sponsor will amend the Plan when the change in price is an across the board increase or decrease affecting one or more lines of Units or Unit models, or is to be advertised, or is a price increase for an individual Unit or Units. See Section I-1 for full discussion.

Section O-1.3. *Sale, Lease, Sublease and Mortgage*. Subject to compliance with Sponsor's Construction Loan Documents, Sponsor shall have the unfettered right to sell, convey, lease Unsold Units from time to time:

(a) free of the Condominium Board's Right of First Refusal to purchase or lease the Unsold Unit;

(b) without the consent of the Condominium Board or Unit Owners;

(c) without complying with any kind of condition, requirement or restriction, other than the requirements to not rent Unsold Units:

(c-1) until after the First Unit Closing, other than to a Purchaser of the Unit under an Interim Use and Occupancy Agreement; and

(c-2) for an initial term of less than six months;

(d) without complying with any requirements as to the form of a lease, sublease, mortgage or other instrument (except each lease and sublease shall expressly provide that it is subordinate to the Condominium Documents);

(e) without Sponsor or a Purchaser, tenant or subtenant paying any fee, charge, "flip tax", "exit fee", "entrance fee", imposition or expense to the Condominium Board or its Managing Agent or attorneys (however, this will not excuse the payment of any applicable governmental taxes charged by Law, such as the New York City and New York State transfer taxes, which shall be payable by the Purchaser pursuant to the Purchase and Sale Agreement); and

(f) without the proposed Purchaser, Owner, tenant or subtenant (as applicable) submitting an application, financial or bank statement, copies of income tax returns, references or other documents or attending a personal interview or complying with any requirements, restrictions or otherwise.

See Section A-27.6.

Section O-1.4. *Board Certificates*. Within ten (10) days after written notice of a proposed sale, conveyance, lease or mortgage of an Unsold Unit is hand delivered or mailed to the Condominium Board or an Independent Manager or the Managing Agent, the Condominium Board shall duly sign and return to Sponsor, and Sponsor shall receive within said ten (10)-day period:

(a) (in the case of a proposed sale or lease) a certificate that the transaction is exempt from the Condominium Board's Right of First Refusal; and

(b) a certificate as to:

(b-1) the amount and status of payment of Common Charges, Special Assessments and other payments (if any) for the applicable Unsold Unit, or of any other indebtedness of Sponsor owed to the Condominium Board;

(b-2) whether a notice of default under, or violation of, the Condominium Documents by the Sponsor has been given and (if given) whether or not it has been corrected, and if not corrected a reasonably detailed description of the default or violation; and

(b-3) whether to its best knowledge an event is known to have occurred which with notice or the passage of time or both would constitute violation of, the Condominium Documents by Sponsor.

Each such certificate must be satisfactory in form and content to, and shall be prepared by an attorney designated by, Sponsor.

Section O-1.5. *Sponsor's Right to Make Unit Changes*. Sponsor shall have the right to divide, combine, reconfigure and alter Unsold Units in compliance with the requirements set forth in Part 20, Section 20.3(k) of the Department of Law's regulations, as explained more fully in Sections I-4 and I-5, and in accordance with the Unit Change Requirements enumerated in Section I-6.

Section O-1.6. *Sponsor's Right for Use and Occupancy of Unsold Units*. Sponsor's Rights include the following, subject only to compliance with applicable Laws and the restriction against Prohibited Uses and Offensive Uses:

(a) the right to use the Unsold Residential Units:

(a-1) as models and offices for their sale, rental, management, operation, marketing, advertising and promotion, and for any other lawful purpose;

(a-2) for uses that may be noisy, emit odors, involve heavy traffic and cause other effects that need not necessarily be compatible with the primary use of the Building for dwelling purposes;

(b) the right to change the use and configuration of its Unsold Residential Units from time to time; provided, however, the permitted use and enjoyment of a Sold Residential Unit shall not change or be impaired in a material respect without obtaining the consent of the Owner thereof; and

(c) the right for Unsold Units to be used and occupied by any one or more persons approved by Sponsor, regardless of their relationship and any lack of relationship to Sponsor.

The Unsold Units shall be free of all restrictions and requirements in the Condominium Document applicable to Sold Units, other than compliance with the applicable General Requirements.

The Condominium Board and the other Unit Owners shall not have the right to: approve or consent to the tenants or other Unit Users of Unsold Units; impose any fees, charges or impositions on Sponsor or Unit Users of Unsold Units; or impose any restrictions, limitations, requirements on the use or any changes in the use, or the operation of, or the business conducted in, the Unsold Units, or any portions thereof.

See Sections A-27 and A-34.

Section O-1.7. *Sponsor's Right to Access and Use Common Elements and Sidewalks*. Sponsor shall have the unfettered right (other than the requirement to comply with the applicable Work Requirements), at its sole cost and expense:

(f) to access the Common Elements and Units:

(a-1) to complete the construction, equipping and outfitting of the Building (including the Common Elements and the Units) in accordance with Sponsor's Plans and Specifications and Sponsor's Obligations under this Plan or a Purchase and Sale Agreement or a lease of an Unsold Unit; and

(a-2) to perform work required to renew a TCO and to obtain a Final Certificate of Occupancy authorizing the use and occupancy of all Units for their permitted uses under this Plan and the Declaration;

(b) to access the General and Residential Common Elements and to have priority and preferential use thereof (including in particular, but not limited to, the façade or exterior Building walls, and the residential street entrance, lobby and elevator), and the sidewalks in connection with the following:

(b-1) to sell, rent, operate, manage, use and occupy Unsold Units and in connection therewith to provide access for ingress and egress to sales and rental personnel, outside brokers, prospective Purchasers and prospective renters, Construction Parties, decorators and other persons authorized by Sponsor;

(b-2) to install, maintain, repair, restore and alter telecommunication equipment on roofs and the structures and located on roofs (other than terraces) and equipment rooms and non-public portions of the General and Residential Common Elements and to permit licensees to so do;

(b-3) to install, maintain and repair furnishings, wall and floor coverings and other decorations in the Common Areas or public areas, of the Residential Common Elements, such as the lobby and other portions of the Common Areas;

(b-4) to install, maintain, repair, restore, alter and operate one or more signs, objects, structures, extensions and enclosures of any size, content, composition, material, design, illumination, character, color and/or appearance deemed appropriate by Sponsor in, on or from the façade or exterior Building walls, the sidewalks, in or on the lobby and other portions of the Common Elements;

(b-5) to station sales and rental staff in the lobby and all other common or public portions of the Residential Common Elements; and

(b-6) to maintain, repair, restore and alter Unsold Units; and

(c) to make all determinations with respect performance of matters in clauses (a) and (b) above, including:

(c-1) all Construction Parties and construction specifications, materials and other details;

(c-2) to temporarily interrupt electrical, water, plumbing, heating, cooling, hot water, ventilation and other Building Services during the course of such work without Sponsor or Construction Parties being responsible or accountable for any claims, litigations, liabilities or losses to an Owner or tenant of a Unit or to the Condominium Board that are attributable to such temporary interruption in Building Services; but shall give, or cause the Managing Agent to give, the affected Unit Owners reasonable advance oral or written notice before so doing (except no notice need be given in the case of an Emergency); and

(c-3) to transport, stage and store materials, equipment and supplies on and across the General and Residential Common Elements and the sidewalks.

Section O-1.8. *Sponsor's Right to Obtain Cooperation of Condominium Board*. The Condominium Board shall fully and freely cooperate with Sponsor in connection with the exercise

and performance of Sponsor's Rights (including any disposition of one or more Unsold Units), except those out-of-pocket costs in connection with any governmental application, petition, license, form or other document to be filed with, or submitted to a Governmental Authority (each, "**Government Document**") or a pleading, affidavit, petition, application, motion, deposition, interrogatory or other document utilized in connection with any litigation (each, "**Litigation Document**") which are to be borne by Sponsor as set forth below. In furtherance of such cooperation, within ten (10) days after written request therefor is hand delivered or mailed to the Condominium Board or an Independent Manager or the Managing Agent, the Condominium Board shall properly complete, sign and return to Sponsor, and Sponsor shall receive within said ten (10)-day period, any requested Government Document or Litigation Document. In connection therewith:

(a) Sponsor shall pay or reimburse the Condominium Board for the governmental fees and charges in connection with a Government Document or the or court costs in connection with a Litigation Document, respectively, executed at the request of Sponsor under this Section O-1.8;

(b) Sponsor shall have the exclusive right to conduct and make all decisions in connection with the litigation that is the subject of the Litigation Document, including the right to select the attorney and to negotiate and determine the terms of any compromise or settlement thereof; provided, however, any compromise or settlement shall fully and unconditionally release and discharge the Board and its Managers, Officers, employees and agent, and Unit Owners, in writing from all liabilities with respect to such litigation by all plaintiffs or petitioners or counter-claimants or cross-claimants in such litigation (such release and discharge to be in form and content as shall be acceptable to Sponsor (whose acceptance may be denied, withheld, conditioned or delayed without cause or explanation and without any manner of liability or recourse against Sponsor) in its sole and absolute discretion) and acceptable to the Board, which acceptance shall not be unreasonably conditioned, withheld, denied or delayed ("**Reasonably Acceptable**");

(c) Sponsor shall pay all legal fees and disbursements (other than those of any separate attorney the Condominium Board may retain), court costs and other expenses of such litigation; and

(d) Sponsor shall indemnify the Condominium Board, its Managers, Officers, employees and agents, and all Unit Owners (each, "**Indemnified Party**"), from and against all claims resulting from the Condominium Board's execution of a Government Document or Litigation Document, and from and against any authorized work performed by contractors or other workers engaged by or on behalf of Sponsor pursuant to a Government Document, and from and against any action or inaction taken or omitted at the request of Sponsor in accordance with this Section; but under this indemnity:

(d-1) Sponsor shall have the exclusive right to conduct and make all decisions in connection with any claim for which indemnity is sought hereunder, including the right to select the attorney and to negotiate and determine the terms of any compromise or settlement thereof; provided, however, any compromise or settlement shall fully and unconditionally release and discharge the Board and its Managers, Officers, employees and agent, and Unit Owners, in writing from all liabilities with respect to such claim by all claimants, plaintiffs, petitioners, counter-claimants or cross-claimants, if and as applicable (such release and discharge to be in form and content as shall be acceptable to Sponsor and Reasonably Acceptable to the Board);

(d-2) the Indemnified Party shall fully cooperate and make available to Sponsor and Sponsor's attorneys such information, documents and witnesses under the control or in the possession or employ of the Indemnified Party as are reasonably related to the defense of the claim; and

(d-3) the failure of the Indemnified Party to strictly comply with the foregoing clauses (d-1) and (d-2) shall automatically release and discharge Sponsor from Sponsor's Obligation to indemnify the Indemnified Party hereunder.

Section O-1.9. *Sponsor's Right of Board Control and Representation*. Until the first meeting of Unit Owners following the First Unit Closing, Sponsor shall exclusively appoint the sole Manager. At and after the first meeting of Unit Owners held during the Sponsor Board Control Period, Sponsor (as Owner of Unsold Units) shall exclusively appoint four (4) Sponsor Managers, who will constitute a majority of all seven Managers and thereby have voting control of the Condominium Board. At all elections held after the end of the Sponsor Board Control Period, for so long as there is at least one Unsold Unit, Sponsor (as Owner of one or more Unsold Residential, Parking or Storage Units) shall exclusively appoint one Sponsor Manager. At such time, a majority of the Condominium Board shall be Independent Managers (i.e., persons who are not related to Sponsor or its principals, whether by blood, marriage or adoption, or as a business associate, an employee, a shareholder or a limited partner), thereby giving Sold Unit Owners voting control of the Board. These provisions are explained more fully in "Section P. Control By The Sponsor". See Sections A-7.1 and B-7.7.2.

The Sponsor Manager(s) shall have the exclusive right to appoint certain Officers of the Board, including after the end of the Sponsor Board Control Period. Such Officers may only act in connection with the operation and affairs of Unsold Units (unless otherwise expressly authorized by the Independent Managers) and may be removed "with" or "without" cause by only the Sponsor Manager(s), who alone shall have the right to fill such vacancy. See also Section Q-5.1. Similarly, the Sponsor Managers may be removed "with" or "without" cause by only Sponsor, who alone shall have the right to fill any vacancy of a Sponsor Manager (whether resulting from removal, resignation, death, incompetency, incapacity or otherwise). However, an Officer appointed by

only the Sponsor Manager(s) and a Sponsor Manager may be removed for Malfeasance by a majority of all Managers at a duly constituted meeting of the Condominium Board at which a quorum is present, excluding the Sponsor Manager(s) for quorum and voting requirements (who shall be recused from deliberations and decisions of the Board). See Sections Q-5.1 and Q-5.2.

Section O-1.10. *Sponsor's Right of Veto Control*. Sponsor shall have the right to veto certain actions of the Condominium Board during only the Sponsor Veto Control Period (i.e., the period ending on the earlier of: (a) the date that the Common Interests appurtenant to the Unsold Units constitute less than 25% of the aggregate Common Interests of all Units; or (b) the fifth (5th) anniversary of the First Unit Closing of a Residential Unit). Sponsor's Right to veto applies generally to Board actions to raise Common Charges (including Special Assessments) or to borrow money for non-essential purposes as explained more fully in Section P-2.1. See also Section A-7.2.

Section O-1.11. *Sponsor's Right For Tenants of Unsold Units To Receive Building Services*. The Condominium Board shall provide to each tenant and occupant of an Unsold Unit, and such tenant and occupant shall receive, without discrimination, all of the same Building Services and to use and enjoy the Common Facilities as are provided to all Sold Unit Owners. No fee, charge, imposition or other shall be levied or imposed by the Condominium Board or Unit Owners against the tenant, occupant or Owner of an Unsold Unit (including Sponsor) for Building Services and to use and enjoy the Common Facilities (other than regular Common Charges assessed to Sponsor and all other Unit Owners pro rata to their respective Common Interests). Building Services will include the services of the doorman, the visiting superintendent, and a part-time porter. The Common Facilities also will include all Building Systems serving or benefitting the Unsold Units (such as utilities, ventilation, intercom and plumbing), and all amenities (such as the lobby, the elevator, the bike room, the exercise room, the children's playroom, the dog grooming station and the 6th floor recreation terrace).

The Condominium Board shall diligently and in good faith remove any violation noted or issued against the Building if failure to do so: (a) delays the renewal of a TCO or the issuance of a FCO, or an amended or new Certificate of Occupancy desired by Sponsor; or (b) is grounds to reduce or withhold the rent or a use and occupancy charge or fee of a tenant or occupant of an Unsold Unit. The Condominium Board shall also be obligated to maintain and operate the Building after the end of the Sponsor Board Control Period in substantially the same or better manner and condition as maintained and operated during the Sponsor Board Control Period (subject to said Sponsor's Right to veto certain expenses during only the Sponsor Veto Control Period).

Section O-1.12. *Sponsor's Rights of Indemnity and Self-Help*. If the Condominium Board violates any of Sponsor's Rights, including a failure to perform or comply with its obligations under this Plan, a Plan Amendment or the Condominium Documents (such as to

maintain and repair the General and Residential Common Elements in accordance with the Building Standard, and to restore the Common Elements after a casualty or a taking by eminent domain or condemnation), then: (a) the Condominium Board shall indemnify Sponsor from and against any claims, litigations, liabilities and damages; and (b) Sponsor shall have the right (but not the obligation) to implement the right of self-help to correct such violation and to perform such defaulted obligation in the name, and at the expense and for the account, of the Condominium Board, which shall be allocated and apportioned to all Unit Owners pro rata to their respective Common Interests.

This indemnity and right of self-help will apply only if: (a) the Board's violation occurs while the Independent Managers constitute a majority of the Managers; and (b) (in the case of a violation issued or noted by a Governmental Authority against the Building) Sponsor is not obligated to correct the violation under this Plan.

In addition, before Sponsor undertakes any work to be paid or reimbursed by the Condominium Board:

(a) Sponsor must first send to any Independent Manager written notice of Sponsor's election to do the work at the cost and expense of the Condominium Board; and

(b) the Condominium Board must be given the following deadline period to commence the work from sending said notice:

(b-1) thirty (30) days if, in Sponsor's sole judgment, the work will cost under $100,000); or

(b-2) sixty (60) days if, in Sponsor's sole judgment, the work will cost $100,000 or more; or

(b-3) ninety (90) days from receipt of any proceeds of insurance (in the case of a casualty) or of any award (in the case of a taking by eminent domain or condemnation); and

(c) the Condominium Board must be allowed to complete the work with commercially reasonable diligence and continuity to completion.

In the event the Condominium Board does not begin the work within the applicable deadline time period or the Condominium Board does not complete the work with commercially reasonable diligence and continuity to completion, Sponsor may (but is not obligated) to proceed to do the work in the name, and at the cost and expense, of the Condominium Board. In the event Sponsor elects to do the work, the Condominium Board shall reimburse Sponsor for Sponsor's costs and expenses within a deadline of ten (10) days after written demand therefor is given to the Board, accompanied by a reasonably detailed statement of the costs and expenses to be reimbursed together with copies of any supporting bills and statements. If full payment is not received by Sponsor within said ten (10)-day period, the Condominium Board shall pay Sponsor Per Diem

Interest on the amount owed (computed from the first day after the ten (10)-day deadline period through the date payment is received by Sponsor) to reimburse Sponsor for loss of potential earnings from investment thereof. In addition, the Condominium Board shall reimburse Sponsor, if contested and awarded in a final non-appealable order or judgment of a court having competent jurisdiction, for the Legal Expenses and Per Diem Interest thereon (computed from the date each item of Legal Expenses is incurred or paid through the date payment is received by Sponsor) to pursue, enforce and defend this indemnity and to collect the amounts owed.

Section O-1.13. *Sponsor's Rights with Respect to Condominium Amendments*.

Section O-1.13.1. Sponsor's Right to Amend. Sponsor shall have the right to amend the Condominium Documents without the consent of the Condominium Board or representatives of Unit mortgage lenders, other than the Construction Lender, and without the express consent of other Unit Owners, all of whom shall conclusively be deemed to have automatically, irrevocably and unconditionally given their consent to Sponsor amending the Declaration in order to:

(a) reflect Unit Changes to Sponsor's Unsold Units and (if applicable) to:

(a-1) apportion the Common Interest of the Unit being divided between or among the resulting Subdivided Units;

(a-2) allocate the Common Interests of the Units being combined to the Combined Unit; and

(a-3) apportion the Common Interests of the Units being reconfigured between or among the resulting Reconfigured Units,

all as more fully provided in Sections I-4 to I-6; and

(b) conform to objections made by:

(b-1) an Institutional Lender in connection with an existing or proposed Unit mortgage; or

(b-2) a Governmental Authority having jurisdiction over the Condominium Association or the Property; or

(b-3) a title insurance company insuring title to a Unit; or

(c) to correct any inconsistencies, ambiguities or scrivener's errors in the Declaration, the By-Laws and/or the Floor Plans.

However, such Condominium Amendment may not change the use or Common Interest of a Sold Unit, or require a Sold Unit to physically be modified, nor adversely affect the priority or validity of the lien of any purchase money mortgage or Institutional Lender's mortgage on a Sold Unit, unless the Owner of the affected Sold Unit or said mortgage lender (as applicable) consents in writing to the Condominium Amendment. See Section A-27.2.

Section O-1.13.2. Condominium Amendments Requiring Sponsor's Consent. A Condominium Amendment that:

(a) unreasonably interferes with any disposition of an Unsold Unit; or

(b) adversely affects any of Sponsor's Rights; or

(c) imposes any new, additional or different fee, charge, imposition or cost or expense (whether or not discriminatory) against Sponsor or a Purchaser, tenant or occupant of an Unsold Unit; or

(d) changes the permitted use, occupancy, Common Interest or value of an Unsold Unit,

shall not be valid or enforceable without Sponsor's consent, duly executed, acknowledged and recorded together with such Condominium Amendment.

Section O-1.14. *Sponsor's Right to Grant Easements, Licenses and Leases*. For so long as Sponsor owns any Unsold Unit, Sponsor shall have the right, on behalf of all Unit Owners, to grant easements, licenses and leases to all or any portion of the Common Areas of the Property as Sponsor deems necessary or desirable to: (a) properly operate and maintain the Common Elements; (b) promote and protect the general health, safety, security, protection or welfare of Owners or occupants of one or more Units; (c) to comply with applicable Laws or requirements of a Governmental Authority having jurisdiction; or (d) to install, maintain, repair, restore and operate telecommunication equipment and other utility services. See Section A-27.5.

However, no easements, licenses and leases may be granted that would unreasonably interfere with the use or occupancy of Units for their permitted purpose under this Plan. A utility provider or other person who is granted an easement, license or lease and its Construction Parties shall have and be given reasonable access to, from, over, across and on the Units and the Common Elements in connection with work to be performed in furtherance thereof.

Section O-1.15. *Sponsor's Right to Consent to Certain Sold Unit and Board Alterations*. Until the FCO is issued, the consent of Sponsor shall be required in each instance:

(a) to alter a Sold Unit or to decorate its windows (other than with window shades, blinds, curtains and other window treatments that are light colored or have light colored backings facing the outdoors in conformity with the Rules and Regulations appended to the By-Laws and any amendment thereto adopted from time to time by the Condominium Board, which amendment shall be subject to obtaining the consent of Sponsor while Sponsor owns any Unsold Unit) or other portion of a Sold Unit exposed to public view (including, if applicable, its terrace); and

(b) to undertake an alteration by a Sold Unit Owner or the Condominium Board that requires the issuance of a Governmental Work Permit from the DOB or other governmental

authorization, other than repairs required to avoid injury to person or property damage or to comply with Laws.

Section O-1.16. *Sponsor's Right to Enter into Agreements Binding on Board*. Sponsor reserves the right, prior to the First Unit Closing, to renew, extend and modify existing employment, management, maintenance, utility, telecommunications and other leases, licenses and service agreements (if any) and to enter into new leases, licenses and service agreements for the Building on such terms as Sponsor deems desirable. All such leases, licenses and service agreements will be binding on the Condominium Board, but this Plan will be amended to disclose any leases, licenses and service agreements that will materially increase the projected Common Charges or are for a term longer than five years, other than utility, telecommunications and similar service agreements that customarily are for terms longer than five years, including automatic renewal options. See Section W-3 for discussion.

Section O-2. Sponsor's Obligations. All of Sponsor's Obligations set forth in this Section O-2 and elsewhere in this Plan (collectively, "**Sponsor's Obligations**") are contingent upon Sponsor declaring this Plan effective, the Effectiveness Amendment being duly filed by the Department of Law and this Plan being consummated with the First Unit Closing of a Residential Unit (see "Section L. Effective Date"). The foregoing shall not excuse Sponsor from Sponsor's Obligations to comply with Article 23-A of the General Business Law or Part 20 of the Department of Law's regulations. The Condominium Board shall have the exclusive right to enforce Sponsor's Obligations, other than those of Sponsor's Obligations that the Department of Law has the exclusive right to enforce under said Article 23-A and Part 20, or obligations of Sponsor under a Purchase and Sale Agreement for a Unit, which are enforceable by only the Purchaser thereof.

No disclaimer or limitation of liability on the part of Sponsor or its principals for failure to perform any obligation imposed by applicable statute or regulations shall be valid. No financial limitation on Sponsor's liability for failure to perform its obligations under this Plan shall be valid. The foregoing provisions do not apply to the right of Sponsor to abandon the Plan as provided in Section L-7 or the sole remedies of Purchaser in the event of Sponsor's violation of the Purchase and Sale Agreement as explained in Section A-2.9, or Sponsor's Rights if the Unit is damaged by casualty before the Closing of Title as provided in Section O-2.4, or Sponsor's Obligations for Construction Defects set forth in Section O-2.12, or similar provisions expressly contained in this Plan.

Section O-2.1. *Sponsor's Obligation to Defend and Indemnify Condominium Board and Unit Owners*. Sponsor shall defend (with an attorney selected by Sponsor) and indemnify the Condominium Board, its Managers, Officers, agents and employees, and all Unit Owners (each, "**Indemnified Party**") from and against any suits or proceedings arising out of Sponsor's acts or omissions on the terms and conditions set forth below.

Any Independent Manager on behalf of the Condominium Board or the affected Unit Owner shall promptly notify Sponsor in writing of any suit or proceeding for which indemnity is sought, but in no event shall Sponsor receive such notice, together with any complaint or petition (as applicable) as to which Sponsor is not directly served with process therein, later than five full business days before an answer is required to be served or filed. Said five-business day period is a deadline or "TIME OF ESSENCE" period (See Section A-2.3).

Sponsor shall have the exclusive right to conduct and make all decisions in connection with any claim for which indemnity is sought hereunder, including the rights to select the attorney and to negotiate and determine the terms of any compromise or settlement thereof; provided, however, the Board and its Managers, Officers, employees and agents, and Unit Owners, shall be fully and unconditionally released and discharged in writing from all liabilities with respect to such claim by all claimants, plaintiffs, petitioners, counter-claimants or cross-claimants, as applicable (such release and discharge to be in form and content as shall be acceptable to Sponsor).

The Indemnified Party shall fully cooperate and make available to Sponsor and Sponsor's attorneys such information, documents and witnesses under the control or in the possession or employ of the Indemnified Party as are reasonably related to the defense of the claim.

Failure of the Indemnified Party to strictly comply with the foregoing shall automatically release and discharge Sponsor from Sponsor's Obligation to indemnify the Indemnified Party.

Section O-2.2. *Survival of Sponsor's Representations and Obligations*. All representations by Sponsor under this Plan, all obligations of Sponsor pursuant to the GBL, and such additional obligations of Sponsor under this Plan which are to be performed subsequent to the First Unit Closing or under a Purchase and Sale Agreement will survive delivery of the deed.

Section O-2.3. *Sponsor's Obligation for Carrying Costs of Unsold Units*. Sponsor agrees to pay all Common Charges, Special Assessments and real estate taxes with respect to its Unsold Units (see Section R-3.4 for the Board's statutory lien on each Unit for unpaid Common Charges and the Board's remedies, including foreclosure of such lien). Sponsor represents that it has the financial resources to meet its obligations with respect to Unsold Units and will fund its financial obligations to the Condominium Association from sales of Unsold Units, the net avails from rentals of Unsold Units, the unfunded portion of the construction loan from the Construction Lender, and existing cash reserves and/or payments from Sponsor's members, if and to the extent made available. No bond or other security has been furnished to secure Sponsor's Obligations. See Section A-19.

Section O-2.4. *No Obligation for Damages to a Unit*. If a Purchaser's Unit is damaged from a casualty or other cause occurring before title passes to Purchaser, Sponsor will have the right, but not the obligation, to repair the damage. If the damage is not repaired by Sponsor and the Condominium Board or Purchaser is not responsible to repair as provided below, the Purchase and Sale Agreement will be cancelled and the Deposit returned to Purchaser together with any

earned interest. Purchaser shall not have the right to cancel the Purchase and Sale Agreement or recover the Deposit if Sponsor or the Board (as applicable) repairs the damage or if Purchaser is given possession of the Unit prior to Closing of Title pursuant to an Interim Use and Occupancy Agreement or otherwise, or Purchaser is at fault for causing the loss or damage. See Section M-2 for full discussion.

Section O-2.5. *Sponsor's Obligation for Property Insurance*. Sponsor shall procure, at the expense of the Condominium Board, fire and casualty insurance pursuant to an "agreed amount replacement value" policy as reflected in Schedule B (in Section F-6). The effect of an agreed amount replacement value policy is to waive any co-insurance claim of the insurer, but does not mean that the Condominium Association would necessarily realize sufficient insurance proceeds to rebuild or restore the Building in the event of a substantial or total destruction. The insurance provided in Schedule B to be maintained by the Condominium Board does not include coverage for: (a) fire or casualty losses to a Unit or its contents, including decorations, appliances, cabinets and electric or plumbing fixtures (kitchen, bathroom or otherwise), or personal belongings; or (b) liability for occurrences within or on a Unit, including a terrace (if any). Each Owner of a Sold Residential Unit shall be required to obtain and maintain condominium homeowner's insurance as follows: Personal Property in the amount of $150,000; Alterations & Additions in the amount of: $150,000; and Personal Liability in the amount of $1,000,000. The Sold Residential Unit Owner's Property and Liability coverage is to be endorsed to provide a waiver of subrogation in favor of the Condominium Board. These insurance requirements do not apply to Owners of Unsold Residential Units, or Owners of Parking Units, Storage Units or Retail Units. See Section A-26.2. Unit Owners should consider the desirability of obtaining liability coverage for their respective undivided interests in the Common Elements to the extent the insurance maintained by the Condominium Board for incidents in, on or caused by the Common Elements is inadequate or the risk is not insured. See the "Insurance" Note to Schedule B for all insurance coverages to be obtained by the Condominium Board.

Section O-2.6. *Sponsor's Obligation on Dissolution or Liquidation*. In the event of the dissolution or liquidation of Sponsor or the transfer of ten (10) or more Units or twenty percent (20%) or more of the total number of Units in the Condominium, whichever is less, the principals of Sponsor will provide financially responsible entities or individuals who will assume the status and all of the obligations of Sponsor for those Units under this Plan, applicable Laws or regulations. The foregoing does not apply to the sale and conveyance of Unsold Units to Bona Fide Purchasers.

Section O-2.7. *Sponsor's Construction Financing*. Sponsor has obtained construction loan financing from Israel Discount Bank of New York, having an office at The Grace Building, 1114 Avenue of the Americas, 2nd Floor, New York, New York 10036. The Construction Loan Documents, dated June 10, 2022, include a Building Loan Mortgage, Building Loan Mortgage

Promissory Note, Building Loan Agreement, Project Loan Mortgage, Project Loan Note and Project Loan Agreement.

The building loan is in the principal amount of $15,157,197.05 and the project loan is in the principal amount of $6,842,802.95, for a total of $22,000,000.00. The loans provide for payment of interest only at lender's prime rate plus 4% until the initial maturity date on June 10, 2025, and for lender to release its lien against a Unit upon payment to the lender of the greater of (x) 92% of the Gross Sales Proceeds, (y) 100% of Net Sales Proceeds and (z) the amount set forth in the Minimum Release Price Schedule set forth in the Loan Agreement. The "Gross Sales Proceeds" is defined to mean as to any Unit, the gross sale proceeds from the sale of such Unit as set forth in the Unit Contract, and the "Net Sales Proceeds" is defined to mean as to any Unit, Gross Sales Proceeds less transfer taxes, recording and other title fees, and brokerage fees.

The Construction Loan Documents:

(a) require Sponsor to market the Residential, Parking and Storage Units for sale;

(b) do not contain a minimum number of Units to be under contract in order to declare this Plan effective;

(c) require a minimum release price set by the Construction Lender in order for it to release its lien against the Unit being sold; and

(d) require the consent of the Construction Lender to rent Unsold Units, which consent shall not be unreasonably withheld, conditioned or delayed, as provided in the Construction Loan Documents.

The construction loans and other financial sources available to Sponsor are in an amount sufficient to complete construction of the Building in accordance with Sponsor's Plans and Specifications. See Sections A-1.6 and A-19.

Section O-2.8. *Sponsor's Construction Obligation*. Sponsor is obligated to construct, equip and outfit the Building (including the Units and Common Elements) in accordance with Sponsor's Plans and Specifications filed with, and approved by, the DOB and identified in this Plan or a Plan Amendment. A report describing some of the more material aspects of the Plans and Specifications, prepared by Sponsor's architect, is contained in Part II of this Plan as DOCUMENT 4.

Section O-2.9. *Construction Changes*. Sponsor has the right to make the following changes (collectively, "**Construction Changes**") in accordance with the following requirements (collectively, "**Construction Change Requirements**"):

(a) to make Unit Changes in accordance with Section I-4, but subject to compliance with Section I-5 and Section I-6; and

(b) to substitute equipment or materials and make modifications of layout and design comprising the Building Systems and Facilities; provided, however, Sponsor may not:

(b-1) substitute equipment or materials of lesser quality and design; or

(b-2) change the size or location of the Building or Units or other improvements or Common Elements if such changes affect the percentage of Common Interests or adversely affect the value of any Unit to which title has closed or for which a Purchase and Sale Agreement has been executed and in effect unless all affected Unit Owners and Purchasers consent in writing to such change.

Subject to the foregoing, Sponsor may make immaterial Construction Changes without consent of Unit Owners or Purchasers and without prior notice or Condominium Amendment. This Plan, however, will be amended to disclose any material Construction Changes as required by Article 23-A of the General Business Law and Part 20 of the Department of Law's regulations.

Section O-2.10. *Certificate of Occupancy*. Prior to the First Unit Closing, Sponsor must obtain, at Sponsor's exclusive option, either an FCO or a TCO of the Building. In accordance with customary practice for newly constructed primarily residential projects, Sponsor plans to Close Title to Units covered by a TCO, rather than a FCO. A TCO is customarily issued for three months at a time.

*Purchasers are advised that in New York City, newly constructed and newly renovated buildings are sometimes offered as condominium projects without a FCO covering the entire building but with only a TCO and sometimes with several successive TCOs. Certificates of Occupancy are generally governed by Section 301 of the New York Multiple Dwelling Law and local building codes and rules. Both TCOs and FCOs are issued by the DOB. A TCO is intended to indicate that the property conforms substantially to the DOB approved plans and specifications, and to the requirements of all applicable Laws for the uses and occupancies specified in the TCO. No change of use or occupancy shall be made unless a new Certificate of Occupancy is issued. All TCOs have an expiration date. A TCO typically expires ninety (90) days after the date of issuance. When a TCO expires and is not renewed, it may be difficult or impossible to buy insurance, refinance, or sell Units. In New York City, it is common for sponsors to commence unit Closings when some or all units are covered by a TCO rather than a FCO. Sponsor anticipates this scenario may occur. Sponsor and its principals will undertake the responsibility for extending each TCO received prior to expiration thereof, and ultimately for obtaining a FCO covering the entire Building. However, Sponsor and its principals make no representation or guarantee that DOB will issue the FCO within two years, which is the timeframe anticipated by the Multiple Dwelling Law ("**MDL**") for issuance of a FCO. NOTWITHSTANDING THE FOREGOING, SPONSOR AND ITS PRINCIPALS ARE OBLIGATED TO PROCURE THE FINAL CERTIFICATE OF OCCUPANCY FOR THE ENTIRE BUILDING, AND SHALL EXERCISE BEST EFFORTS TO OBTAIN THE FCO WITHIN SUCH TWO-YEAR PERIOD WHILE*

KEEPING THE TCO CURRENT. Unit Owners and the Condominium Board shall be obligated to cooperate with and refrain from obstructing Sponsor in these undertakings.

Purchasers are advised to visit the DOB website (Factsheet on Certificates of Occupancy at *http://www.nyc.gov/html/dob/downloads/pdf/co_factsheet.pdf*) for recommendations when buying units in a condominium that does not have a FCO.

The DOB advises purchasers of houses and apartments, who Close Title with only a TCO in place, to consult with their attorneys or engineers to assure that sufficient funds are escrowed or otherwise secured for a sponsor to obtain a FCO. See Section O-2.11 for security to be given by Sponsor to obtain the FCO.

Sponsor will endeavor in good faith: (a) to continuously renew or extend the TCO until the issuance of a FCO for all Units; and (b) to complete or substantially complete the construction of the Common Elements to the extent sufficient to permit the issuance of a FCO of the Building within two years after the issuance of the original TCO. Under Section 301 of the MDL, a TCO may only be renewed or extended for a maximum of two years from the date of its original issuance. If a TCO expires before the issuance of a FCO, the Building will be in violation of the MDL, subjecting occupants to potential eviction by the applicable Governmental Authority having jurisdiction, and subjecting the Board and Unit Owners to potential penalties provided by Law. In practice, however, the DOB has often renewed or extended a TCO beyond the two-year limitation contained in the MDL, provided the customary requirements for granting the renewal or extension are met. Sponsor and Selling Agent do not assure, represent or guarantee that the TCO will continuously be renewed or extended beyond said two-year limit or until a FCO is issued. Sponsor, however, is obligated to obtain the FCO before the TCO expires, unless extended. Purchasers are advised to visit the DOB website (Factsheet on Certificates of Occupancy at *http://www.nyc.gov/html/dob/downloads/pdf/co_factsheet.pdf*) for recommendations when buying units in a condominium that does not have a FCO. See Section A-28.

Since the issuance of a FCO may be delayed until alterations (if any) undertaken by Unit Owners are completed or substantially completed, Sponsor's consent must be obtained before any alteration may be performed that requires an alteration application to be submitted to, or a Governmental Work Permit or other governmental authorization to be issued by, the DOB or other Governmental Authority, including the Landmarks Preservation Commission.

Section O-2.11. *Security for Final Certificate of Occupancy*. Sponsor is required to maintain all Deposits and funds paid on account of the Purchase Price in the special escrow account required by General Business Law Section 352-e(2-b) unless Sponsor's engineer, architect or other qualified expert certifies that a lesser amount will be reasonably necessary to complete the work to the Common Elements and the Building Services to be provided to all Units needed to obtain a FCO, in which case Sponsor shall have the right to rely upon such certification and release from the special escrow account a sum exceeding the amount so certified by Sponsor's engineer,

architect or other qualified expert. Alternatively, Sponsor must deposit with an escrow agent: (a) an amount that, when added to the Deposits being maintained in the special escrow account, will equal not less than the amount so certified; or (b) an unconditional, irrevocable letter of credit or post a surety bond in the amount so certified. Sponsor may also use as collateral to similarly secure its obligation to obtain a FCO other collateral acceptable to the Department of Law (e.g., (if acceptable) the unfunded portion of a construction loan) and disclosed in a Plan Amendment before being used as collateral. As the work progresses, Deposits held for Units conveyed to Purchasers may be released to Sponsor from time to time, provided the remaining Deposits maintained in the special escrow account, together with such other collateral acceptable to the Department of Law, shall be not less than the amount then so certified to be reasonably necessary to complete all remaining work for the Units and the Common Elements in order to obtain a FCO. See Section A-29.

Section O-2.12. *Sponsor's Obligation for Construction Defects*.

Section O-2.12.1. Building Construction Standard. The quality of the workmanship and materials to construct the Building with newly constructed Units and Common Facilities will meet or exceed any relevant specific standards required by any applicable Building Code or, if no such standard is required, the workmanship and materials will meet or exceed the standards of locally accepted building practices for newly constructed buildings located in the locale of the Property and containing Common Facilities and amenities comparable to this Building ("**Building Construction Standard**").

Section O-2.12.2. Definitions. The meanings of the terms used in Section O-2.12.3 and Section O-2.12.4 are as follows:

The term "**Construction Defect**" means a defect in construction caused by substantially improper workmanship or material that substantially varies from Sponsor's Plans and Specifications for the Building (as modified by Construction Changes, if any, made in accordance with Construction Change Requirements) or a defect in design which renders a portion of the Building (including the Common Elements and Units, and the facilities serving each) unsafe or inoperable.

The term "**Defect Notice**" means a written notice of a Construction Defect.

The term "**Latent Construction Defect**" means a Construction Defect that is not a Patent Construction Defect.

The term "**Immaterial Construction Defect**" means any of the following:

(a) all immaterial variations from Sponsor's Plans and Specifications, the Floor Plans of a Unit or a description of the construction of the Building (including the Units and Common Elements) set forth in this Plan;

(b) all immaterial variations necessitated by site conditions, or by construction, job or governmental requirements, provided all Construction Change Requirements are met to the extent applicable;

(c) all Construction Defects covered by assignable, unexpired warranties or other undertakings (however denoted) from manufacturers, contractors, suppliers or others that are assigned to, or benefit (without assignment), a Unit Owner or the Condominium Board;

(d) any condition caused by normal use, wear, tear, deterioration, settlement or shifting, or aging or seasonal variations; and

(e) all immaterial conditions or defects involving color, alignment, fit, noise, drafts, cracks, chips, scratches, breaks, curling, warpage or other imperfections.

The term "**Patent Construction Defect**" means a Construction Defect that is visible or readily ascertainable on inspection without intrusive examination behind walls, floors or ceilings.

Odors, noise, fumes, vapors and similar inconveniences transmitted from one Unit to another Unit, or from a Unit to a Common Element, or from a Common Elements to a Unit, are common occurrences in multi-family dwellings and are not Construction Defects.

Section O-2.12.3. Sponsor's Obligation to Correct Patent and Latent Construction Defects. Sponsor's only obligation and liability shall be to repair, replace or otherwise correct (at Sponsor's exclusive option) in the manner determined by Sponsor (in its sole judgment):

(a) Patent Construction Defects, if any, in a Purchaser's Residential Unit that are listed in Purchaser's Final Inspection Statement (to be completed by Purchaser, and to be signed by Purchaser and Sponsor or Sponsor's representative and received by Sponsor or its representative at or prior to the Closing of Title) or in a reasonably detailed Defect Notice received by Sponsor within a deadline of six months from the Closing of Title to the Residential Unit (any item noted to be in working order in the Final Inspection Statement signed by Purchaser shall govern and control any conflict or inconsistency in the Defect Notice);

(b) Patent Construction Defects, if any, in the Common Elements that affect Purchaser's Residential Unit as to which a reasonably detailed Defect Notice signed by Purchaser and received by Sponsor within a deadline of one year from the Closing of Title to the Residential Unit;

(c) Latent Construction Defects (if any) in Purchaser's Residential Unit that are listed in a reasonably detailed Defect Notice signed by Purchaser and received by Sponsor within a deadline of one year following the Closing of Title to the Unit; and

(d) both Patent Construction Defects and Latent and Construction Defects in the Common Elements that are listed in a reasonably detailed Defect Notice signed by any Independent Manager and received by Sponsor within a deadline of one year from the later to

occur of the completion of such defective Common Elements or the issuance of a Temporary Certificate of Occupancy of the Building.

Sponsor shall not in any event be responsible or liable for any losses attributable to Patent Construction Defects or Latent and Construction Defects in the Units or the Common Elements.

Nothing contained herein shall reduce or otherwise abridge any rights of Purchaser under Article 23-A of the General Business Law, or Part 20 of the Department of Law's regulation nor excuse Sponsor from Sponsor's Obligations to comply with Article 23-A of the General Business Law or Part 20 of the Department of Law's regulations.

All Defect Notices are to be sent by certified mail (return receipt requested) to both: Sponsor, 171 Calyer Street Project LLC, at 463 Seventh Avenue, 4th Floor, New York, New York 10018; and a copy thereof simultaneously to Sponsor's attorneys, Seyfarth Shaw LLP, at 620 Eighth Avenue, New York, NY 10018, Attention: Alan L. Kazlow, Esq.

SPECIAL RISK: All deadline time periods stated above are "TIME OF ESSENCE" periods. See Section A-18.9.2.

Sponsor's Obligation to repair, replace or otherwise correct Patent and Latent Construction Defects extends only to the first Purchaser of a Residential Unit under this Plan and survives the Closing of Title to the Residential Unit, but excludes all subsequent Owners of the Residential Unit, regardless of whether such subsequent Owners succeed to title by sale, or by conveyance following a mortgage or lien foreclosure or by deed in lieu thereof, or similar involuntary conveyance, or by operation of Law (including Laws or process of descent or inheritance), or by merger, consolidation, liquidation, dissolution, distribution or otherwise.

Sponsor shall not be obligated to repair, replace or correct, and shall not be liable for, Immaterial Construction Defects, whether affecting a Unit and/or the Common Elements or existing at the time of the Closing of Title to a Unit or arising thereafter. Purchasers purchase and Close Title subject to Immaterial Construction Defects in their respective Units or in the Common Elements that affect their respective Units, without any recourse against Sponsor or the Selling Agent, without abatement, set-off or credit against the Purchase Price, and without escrowing monies.

Section O-2.12.4. Remedy. If Sponsor defaults in Sponsor's Obligations to correct a Patent or Latent Construction Defect, the sole right and remedy of a Purchaser (if the Construction Defect pertains to Purchaser's Residential Unit) or the Condominium Board (if the Construction Defect pertains to the Common Elements) is for specific performance to compel Sponsor to repair, replace or otherwise correct such Construction Defect in the manner determined by Sponsor (in its sole judgment). In no event will Sponsor or Sponsor's Construction Parties, or Sponsor's attorneys, or the Selling Agent be liable for any losses resulting therefrom. The foregoing,

however, shall not limit liability for losses based on common law fraud or arising under Article 23-A of the General Business Law or Section 63 of the Executive Law.

The Condominium Board or (during only the Sponsor Board Control Period) the Independent Manager shall have the exclusive right to enforce Sponsor's Obligations to correct Patent and Latent Construction Defects in the Common Elements, or Sponsor's failure to complete the construction of the Building in accordance with Sponsor's Plans and Specifications as identified in this Plan or a Plan Amendment, subject to the right of Sponsor to substitute equipment or materials and to make modifications of layout or design on the conditions set forth in Section O-2.9, or Sponsor's failure to obtain a FCO in accordance with the requirements of this Plan. Sponsor Managers shall be recused from all deliberations and decisions with respect to the foregoing and the number of Managers for quorum and voting purposes shall be reduced accordingly.

Sponsor shall presumptively be regarded as having satisfied Sponsor's Obligations to repair, replace or otherwise correct Patent and Latent Construction Defects if the corrective work is done in accordance with the Building Construction Standard as determined in the sole judgment of Sponsor's architect, engineer or contractor (who shall not be a principals of Sponsor). However, the presumption that the corrective work is done in accordance with the Building Construction Standard may be rebutted by a Purchaser as Sponsor's architect cannot be the sole determinant of this matter. Sponsor shall be excused, released and discharged from Sponsor's Obligations for Construction Defects in a Unit or the Common Elements if reasonably continuous access thereto by Sponsor and Sponsor's Construction Parties is prevented and is not given within a deadline of thirty (30) days after written notice thereof is mailed by certified mail (return receipt requested) or hand delivered, respectively, to the Purchaser (in the case of Purchaser's Residential Unit) or an Independent Manager (in the case of the Common Elements). See Section A-18.10.

Except for Sponsor's Obligations to correct Construction Defects in a Residential Unit or the Common Elements set forth above, Sponsor does not warrant the workmanship or materials of construction of a Unit or the Common Elements.

Regardless of any limitations in a warranty or in this Plan, Sponsor is obligated to construct the premises in accordance with all applicable Laws and the DOB approved Plans and Specifications as identified in this Plan or a Plan Amendment. Any conflict between disclaimers in this Plan and Sponsor's Obligation to construct the premises in accordance with all applicable Laws and the DOB approved Plans and Specifications as identified in this Plan or a Plan Amendment shall be resolved in favor of the latter.

Section O-2.12.5. No Housing Merchant Implied Warranty. Article 36-B of the General Business Law entitled "Warranties on Sale of New Homes" does not apply to newly constructed condominium units in buildings taller than five stories and, therefore, does not apply to the Residential Units. Except as set forth in Section O-2.12.3, Sponsor does not warrant the materials

or workmanship of any Unit or the Common Elements. Sponsor's Obligation, regardless of any limitations in the warranty or in this Plan, is to construct the premises in accordance with all applicable Laws and filed plans and specifications, and that any conflict between the disclaimers and Sponsor's Obligation to construct the premises in accordance with all applicable Laws and filed plans and specifications shall be resolved in favor of the latter.

Section O-2.13. *Assignment of Warranties*. Any transferable and unexpired warranties, guaranties or bonds of manufacturers, contractors or material suppliers:

(a) with respect to facilities (including appliances) installed in, and part of, a Unit, will be assigned by Sponsor to the Purchaser of such Unit at the Closing of Title; or

(b) with respect to facilities installed in, and part of, the Common Elements, will be assigned by Sponsor to the Condominium Board at the First Unit Closing or (if installed thereafter) with reasonable promptness after installation.

Purchasers must first look to said transferable and unexpired warranties, guaranties or bonds or said assignments by Sponsor to a Purchaser or to the Condominium Board (as applicable) for recovery of any losses. The instrument transferring or assigning said warranties, guaranties or bonds will be made and given (and will so expressly state are being made and given) without any kind whatsoever of guaranty, warranty or representation by Sponsor and shall be subject to all faults, defects, risks, damages, imperfections, conditions and need for repairs or corrections.

Section O-2.14. *Sponsor's Obligation to Pay for Work and to Remove Mechanics' Liens*. Sponsor agrees to pay for:

(a) the authorized and proper work involved in the construction of the Building with newly constructed Units and Common Elements that Sponsor is obligated to complete under this Plan;

(b) the establishment of the Condominium; and

(c) the sale of the Units.

Sponsor will cause mechanics' liens with respect to such construction to be promptly discharged or bonded. Alternatively, at Sponsor's option, Sponsor may cause a Purchaser's title insurer to affirmatively insure Purchaser and Purchaser's mortgage lender (if any), at its regular rate and without additional premium, that any such mechanics' liens shall not be collected from, or enforced against, Purchaser's Unit and its appurtenant Common Interest.

Section O-2.15. *Sponsor's Obligation to Deliver "As Built" Plans to Condominium Board*. With reasonable promptness after issuance of the FCO, Sponsor will deliver to the Condominium Board or its Managing Agent a set of "as built" plans used for the major components of the Building Systems and the maintenance manuals for the Building's mechanical equipment to the extent provided by the applicable manufacturer, vendor or contractor. See Section A-30.

Section O-2.16. *No Bond or Security for Sponsor's Obligations*. No bond or other security has been, nor will be, furnished to secure Sponsor's Obligations, including Sponsor's Obligations to complete the construction of the Building with newly constructed Units and Common Elements. (See Section A-19).

Section O-2.17. *Sponsor's Access and Obligation to Repair Damages*. Sponsor has a right of access to, and priority use of, the General and Residential Common Elements (including the elevator) and Units to complete the construction, equipping and outfitting of the Building (including the Common Elements and Units), as provide in Section O-1.7. Sponsor, however, may not unreasonably interfere with the use and enjoyment of a Unit or the permitted use of a Unit set forth in this Plan. When such access or use ends, Sponsor must repair all damages caused by Sponsor's access to, or use of, the Common Elements or Units so as to restore the affected Common Elements or Units (as applicable) to as near as commercially reasonable and economically practicable to their condition existing immediately prior to such access or use.

Section O-2.18. *Sponsor's Working Capital Fund Obligation*. Sponsor will make a reimbursable advance payment to the Initial Working Capital Fund in accordance with "Section V. Working Capital Fund".

Section O-2.19. *Sponsor's Obligation for Offering and Sales Expenses*. Sponsor will pay all expenses in connection with the preparation, filing and distribution of this Plan and every Plan Amendment promulgated by Sponsor, and the offering for sale of Sponsor's Unsold Units. These expenses include: (a) the filing fees of the Department of Law; (b) fees and disbursements of Sponsor's Construction Parties and attorneys; (c) printing costs; (d) commissions earned by the Selling Agent and any participating broker; and (e) all the Closing of Title expenses to be paid by Sponsor under the Purchase and Sale Agreement (if any).

Section O-2.20. *Sponsor's Obligation for Establishing the Condominium*. Prior to the First Unit Closing, Sponsor will pay all expenses to prepare, record and file the Condominium Documents with the appropriate Governmental Authority. See Section M-6.

Section O-2.21. *Sponsor's Obligation for First Unit Closing*. Sponsor will fulfill all obligations to be paid or performed by Sponsor at or prior to the First Unit Closing as set forth in this Plan, including the following:

(a) obtaining, at the expense of the Condominium Association, the insurance coverages set forth in Schedule B (in Section F-6);

(b) establishing the Condominium (see Section O-2.20);

(c) obtaining the consent and limitation of lien, or subordination of lien, or release of lien from holders of existing mortgages not satisfied at the First Unit Closing, as provided in Section M-7;

(d) advancing the Initial Working Capital Fund;

(e) apportioning Building expenses with the Condominium Board and (if in favor of the Board) paying the net amount owing to the Condominium Board (see Section N-1.4); and

(f) assigning to the Condominium Board on behalf of Unit Owners (without guaranty, warranty or representation, and subject to all faults, risks, damages, conditions, imperfections and need for repairs, unless otherwise expressly provided in this Plan) the following:

(f-1) all personal property and facilities comprising the Common Elements;

(f-2) all service, maintenance and employment agreements for the Building in accordance with Schedule B - First Year's Budget in Section F-6 (the Condominium Board shall sign and deliver to Sponsor an agreement (prepared by Sponsor's attorney and in substance satisfactory to Sponsor) assuming all Building agreements and indemnifying Sponsor from and against all claims, litigations, liabilities and damages arising under them for events accruing on or after the First Unit Closing); and

(f-3) any warranties, guaranties or bonds of third-parties relating to the Common Elements that are transferable and have not yet expired.

Regardless of any limitations in a warranty or in this Plan, Sponsor is obligated to construct the premises in accordance with all applicable Laws and the DOB approved Plans and Specifications as identified in this Plan or a Plan Amendment. Any conflict between disclaimers in this Plan and Sponsor's Obligation to construct the premises in accordance with all applicable Laws and the DOB approved Plans and Specifications as identified in this Plan or a Plan Amendment shall be resolved in favor of the latter.

Section O-2.22. *Sponsor's Obligation on Documents for Inspection and Delivery to Condominium Board*. Sponsor will comply with the requirements of "**S**ection Z. Documents on File". These include: (a) the requirement for six years from the First Unit Closing to make available for public inspection (without charge) and copying (at a reasonable charge) this Plan, a Plan Amendment filed by Sponsor and certain other documents and exhibits referred to in this Plan or filed with the Department of Law; and (b) the requirement to deliver to the Condominium Board a copy of the recorded Declaration (and By-Laws) establishing the Condominium.

Section O-2.23. *Sponsor's Obligation for Violations*. Sponsor, at its sole cost and expense, will be obligated to correct within a reasonable period of time after the First Unit Closing (subject to delays due to Unavoidable Causes) any violation noted or issued against the Property that are outstanding at the First Unit Closing, other than violations caused by acts or omissions of a Purchaser under a Use and Occupancy Agreement (if any), unless Sponsor is otherwise required to correct the conditions causing such violations under said Use and Occupancy Agreement. At the First Unit Closing, Sponsor will escrow with Seyfarth Shaw LLP an irrevocable and unconditional letter of credit, or cash, or equivalent security, to secure the foregoing obligation. The amount escrowed will be sufficient to correct such violations as estimated by an independent

architect or engineer selected by Sponsor. The escrowed monies or security will be released to Sponsor or reduced (as applicable) as the corrective work progresses, provided that the balance left in escrow is sufficient to complete the remaining work as estimated by said architect or engineer. Any interest on the sums escrowed will not be part of the escrowed funds and will belong and be paid to Sponsor when earned and collected. See Section A-37.

Section O-2.24. *Sponsor's Obligation for Official Inspection Certificates, Permits and Reports*. Sponsor, at its sole cost and expense, will be obligated to obtain any required official inspection certificate or permit for the Common Facilities, and to update those thereof that expire at or prior to the First Unit Closing, including (to the extent applicable) those with respect to air resources, oil storage, elevator, boiler and fire protection. Sponsor will further be obligated to pay and perform all work required to obtain such new or updated official inspection certificates and permits. The Condominium Board will be solely responsible to pay and perform these obligations with respect to official inspection certificates and permits that expire or are first to be obtained subsequent to the First Unit Closing.

END OF SECTION O

SECTION P. CONTROL BY THE SPONSOR

Section P-1. Sponsor's Voting Control.

Section P-1.1. *Voting Control Period*. Sponsor, as Owner of Unsold Units, shall have the right to exclusively appoint the following number of Sponsor Managers to serve on the Condominium Board and thereby have voting control of the Condominium Board:

(a) only one Sponsor Manager until the first meeting of Unit Owners following the First Unit Closing; and

(b) thereafter, four (4) Sponsor Managers, who will constitute a majority of all seven Managers.

Sponsor's voting control of the Condominium Board will end on the earlier to occur of five years from the First Unit Closing or whenever the Unsold Units constitute less than twenty-five percent (25%) of all Units in number and Common Interest (i.e., the Sponsor Board Control Period). Prospective Purchasers should be aware that as a result of Sponsor's voting control over the Board during the Sponsor Board Control Period, Owner-occupants and Sponsor may have inherent conflicts on how the Property should be managed because Owner-occupants purchase Units as a home and Sponsor owns the Unsold Units as an investment. See Section A-7.1.

At all Board elections held after the end of the Sponsor Board Control Period, the Independent Managers shall constitute a majority of the Managers. As a result, Sponsor may no longer exercise voting control of the Board. However, Sponsor shall continue to have the right to nominate and vote (without limitation or restriction) for all candidates to serve as Independent Managers, both before and after the end of the Sponsor Board Control Period. In addition, for as long as Sponsor owns at least one Unsold Residential, Parking or Storage Unit, Sponsor shall have the right to exclusively appoint one Sponsor Manager. See Section Q-1 for discussion of number, composition and election of the Managers.

The first meeting of Unit Owners is to be called to be held within approximately sixty (60) days after second anniversary of the First Unit Closing or whenever the Sold Residential, Parking and Storage Units constitute eighty percent (80%) or more in number and Common Interest of all Units, whichever is the first to occur. At such first meeting and during the Sponsor Board Control Period, the Unit Owners will elect or appoint (as applicable) seven Managers, comprising four (4) Sponsor Managers appointed exclusively by Sponsor, and one Independent Manager elected by all Residential, Parking and Storage Unit Owners (including Sponsor for so long as Sponsor owns at least one Unsold Unit) and two Retail Managers, each of whom shall be appointed exclusively by a Retail Unit Owner.

Within approximately thirty (30) days after the expiration of the Sponsor Board Control Period, Sponsor will cause the Condominium Board to call a special meeting of Unit Owners to elect three additional Independent Managers to replace three Sponsor Managers (who will resign

effective at the date of such election) (see Section Q-1.4). At such time, the Independent Managers will constitute a majority of all Managers.

There is no requirement under the By-Laws for a majority of the Managers to be Owner-occupants or members of their Household who are not related to Sponsor or its principals at all elections held after the end of the Sponsor Board Control Period. As a result, Owner-occupants may never gain voting control of the Board. See Sections A-9.2 and Q-1.3.

Section P-1.2. *Consequences of Sponsor's Voting Control*. As a result of Sponsor's voting control of the Board during only the Sponsor Board Control Period, Sponsor will be able to control the decisions to be made by the Condominium Board, including those concerning:

(a) the Building Services and Common Facilities, which are, nonetheless, to be maintained and provided in accordance with the Building Standard and the level of standards, quality and requirements of Sponsor in accordance with, and as stated in, this Plan;

(b) the amount of the Common Charges, which are, nonetheless, to be in an amount sufficient to provide the level of Building Services and Common Facilities set forth in this Plan; and

(c) the expenditures of the Working Capital Fund (which may be used to pay the Common Expenses in connection with the operation of the General and Residential Common Elements and the provision of Building Services to the Units, and to defray increases in Common Charges, but may not be used to reduce Common Charges below the projected Common Charges in Schedule B, the First Year's Budget), as explained in "Section V. Working Capital Fund".

Section P-2. Sponsor Veto Control.

Section P-2.1. *Veto Control*. During only the Sponsor Veto Control Period (defined in Section P-2.3) and subject to the limitations contained in Section P-2.2, the Condominium Board and the Unit Owners (as to any vote or action by them) must obtain Sponsor's consent to do any of the following ("**Sponsor Veto Control**"):

(a) to raise Common Charges or levy a Special Assessment in order to do any of the following:

(a-1) to alter the General Common Elements, the Residential Common Elements, the Association's Assets, including any Unit owned or held under a lease or otherwise by the Condominium Board or its affiliate;

(a-2) to establish a fund for reserves for unanticipated expenses and/or contingencies (i.e., a Reserve for Contingencies) in an amount that exceeds five percent (5%) of the projected Common Expenses, excluding the Reserve for Capital Replacements;

(a-3) to change or eliminate the Reserve for Capital Replacements set forth in this Plan, which is required to be included in each budget in accordance with the By-Laws;

(a-4) to increase, decrease, eliminate or otherwise change the number, type, classification or working hours of the Building's service staff from those set forth in the First Year's Budget, except as permitted to be changed pursuant thereto;

(a-5) to increase, decrease, eliminate or otherwise change Building Services by (for example) entering into contracts for new or additional services or maintenance work not included in said First Year's Budget, or failing to provide any service or maintenance contracts set forth in such First Year's Budget, or otherwise; or

(a-6) to increase, decrease, eliminate or otherwise change the amounts or types of insurance coverage from those provided in said First Year's Budget; or

(b) to borrow money on behalf of the Condominium Association; or

(c) exercise the Right of First Refusal to purchase or lease a Unit.

See Section A-7.2.

Sponsor will have the exclusive right to exercise Veto Control during only the Sponsor Veto Control Period while Sponsor owns one or more Unsold Units. If Sponsor no longer owns any Unsold Units, each successor Unsold Unit Owner (if any) will have the same right of Veto Control as Sponsor during only the Sponsor Veto Control Period.

Section P-2.2. *Limitations on Veto Control*. Sponsor may not exercise Veto Control over:

(a) expenses described in the First Year's Budget (Schedule B in Section F-6);

(b) expenses required:

(b-1) to comply with applicable Laws or regulations;

(b-2) to remedy a governmental notice or violation; or

(b-3) to remedy a work order by an insurer of the Building.

See Section A-7.2.

Section P-2.3. *Veto Control Period*. The Sponsor Veto Control Period will end on the *earlier* of: (a) the date that the Common Interests appurtenant to the Unsold Units constitute less than 25% of the aggregate Common Interests of all Residential Units; or (b) the fifth (5th) anniversary of the First Unit Closing under this Plan.

Section P-2.4. *Sponsor Control Over Certain Work*. Subject to the limitations in Section P-2.2, the Board and Sold Unit Owners shall not apply to any Governmental Authority for a Governmental Work Permit or other governmental license or authorization, or undertake any work that requires the issuance thereof, prior to the issuance of a Final Certificate of Occupancy without obtaining the consent of Sponsor in each instance. See Section A-7.3.2.

END OF SECTION P

SECTION Q. BOARD OF MANAGERS

The affairs of the Condominium will be governed and administered by the Condominium Board. This Section Q discusses the number, composition, eligibility, elections, term, indemnity, compensation and removal of Managers and Officers; the voting rights of Unit Owners; the requirements to amend the Declaration and By-Laws; the requirements for Board meetings; and the requirements for quorum and decisions of the Board and Unit Owners. The powers, obligations and duties vested in the Condominium Board in the Declaration, the By-Laws and the Condominium Act are discussed in "Section R. Rights and Obligations of the Unit Owners and the Board of Managers".

Section Q-1. Condominium Board.

Section Q-1.1. *Number and Composition*. Initially, the Condominium Board will consist of one Manager, who will be appointed exclusively by Sponsor and will conduct all business and affairs of the Condominium Association until the first meeting of Unit Owners is held after the First Unit Closing to elect or appoint (as applicable) seven Managers to serve on the Condominium Board.

The composition of the seven Managers shall be as follows:

(a) during the Sponsor Board Control Period, the Board shall comprise four (4) Sponsor Managers appointed exclusively by Sponsor, one Independent Manager elected by all Residential, Parking and Storage Unit Owners (including Sponsor for so long as Sponsor owns at least one Unsold Unit), and two Retail Managers, each of whom shall be appointed exclusively by a Retail Unit Owner; or

(b) after the end of the Sponsor Board Control Period, the Board shall comprise four Independent Managers elected by all Residential, Parking and Storage Unit Owners (including Sponsor for so long as Sponsor owns at least one Unsold Residential, Parking or Storage Unit), one Sponsor Manager appointed exclusively by Sponsor for so long as Sponsor owns at least one Unsold Residential, Parking or Storage Unit, and two Retail Managers, each of whom shall be appointed exclusively by a Retail Unit Owner.

Sponsor will cause the Board to call a special meeting of Unit Owners to be held within approximately thirty (30) days after the end of the Sponsor Board Control Period to elect three additional Independent Managers to replace three Sponsor Managers, who will resign effective on the qualification and election of such Independent Managers. See Section P-1.1.

At all meetings of Unit Owners to elect and appoint the Managers from and after the First Unit Closing, Sponsor, as Owner of one or more Unsold Units, shall always have the right to nominate and vote (without restriction or limitation) for the Independent Manager(s). However, at all such elections held after the end of the Sponsor Board Control Period, the Independent

Managers shall comprise a majority of the Managers. As a result, Sponsor will lose voting control of the Condominium Board at such time.

Sponsor (at its exclusive option) may choose not to nominate or vote for the Independent Manager(s) to be elected at a meeting of Unit Owners without waiving or otherwise prejudicing Sponsor's Right to nominate and vote to elect the Independent Manager(s) at future meetings of Unit Owners.

The Sponsor Manager(s) shall be appointed exclusively by Sponsor as Owner of one or more Unsold Residential, Parking or Storage Units or if Sponsor no longer owns an Unsold Residential, Parking or Storage Unit, the Sponsor Manager(s) shall be appointed exclusively by the Owner of Unsold Units having a majority of the Common Interests of all Unsold Units.

Section Q-1.2. *Eligibility*. Each Independent Manager must be either a Sold Unit Owner or any of the following:

(a) a Sold Unit mortgage lender;

(b) an officer, director, shareholder, partner, member, principal, employee, trustee, executor, administrator or beneficiary of a corporation, partnership, company, trust, estate or other entity that owns a Sold Unit or is a Sold Unit mortgage lender;

(c) a person designated by a sovereign government, consulate or other governmental instrumentality, or a Foreign Person, that owns a Sold Unit; or

(d) an adult member of the immediate family of a Sold Unit Owner or any of the foregoing who resides in the Residential Unit owned by the Sold Unit Owner.

Any entity serving as a Manager either shall have been organized under New York law or shall have designated the New York Secretary of State for service of process, and shall designate in writing to the Board an individual (at least 18 years old) to act as its authorized representative on the Board.

If the Condominium Board perfects a lien against a Sold Unit, the eligibility of an Independent Manager who is associated with the Owner of such Unit will automatically be suspended. Unless the lien is satisfied or discharged by bond or otherwise, such Board membership will automatically cease thirty (30) days thereafter. See Section A-11.

There is no eligibility requirement for a Sponsor Manager or a Retail Manager, each of whom may be an entity (organized under New York law or shall have designated the New York Secretary of State for service of process) or individual at least 18 years old, regardless of relationship or lack of relationship to Sponsor or a Retail Unit Owner. Sponsor, as Owner of Unsold Units, may designate the same person to serve as the two or more Sponsor Managers during the Sponsor Board Control Period and be counted as a separate Manager for each Board seat held by such person for quorum and voting purposes. If the Retail Unit Owner owns both Retail Units,

such Owner may designate the same person to serve as the two Retail Managers and be counted as a separate Manager for each Board seat held by such person for quorum and voting purposes.

Section Q-1.3. *First Meeting*. Sponsor will cause the Condominium Board to call the first meeting of Unit Owners to elect and designate a new seven-Manager Condominium Board no later than approximately sixty (60) days after the second anniversary of the First Unit Closing or whenever the number and Common Interest of the Sold Residential, Parking and Storage Units constitute eighty percent (80%) or more in number and Common Interest of all Residential, Parking and Storage Units, whichever is the first to occur.

Section Q-1.4. *No Residency Requirement*. The By-Laws do not contain a residency requirement nor require a majority of the Condominium Board to be Owner-occupants or members of an Owner-occupant's Household who are not related to Sponsor or its principals at all elections held after the end of the Sponsor Board Control Period. As a result, this Plan may not result in the establishment of a Condominium in which a majority of Unit Owners are Owner-occupants who are unrelated to Sponsor. Consequently, Purchasers for their own occupancy may never gain control of the Condominium Board. See Section A-9.2.

Section Q-1.5. *Term*. All Managers elected at and after the first meeting of Unit Owners following the First Unit Closing will serve for a term of one year and until their successors are elected or appointed and qualified. There is no limit on the number of terms, successive or otherwise, a Manager may serve.

Section Q-1.6. *Board Meetings*.

Section Q-1.6.1. First Board Meeting. Upon recording of the Declaration in the City Register's Office, Sponsor, as Owner of all Units, shall appoint one Sponsor Manager, who shall then elect the Officers.

Section Q-1.6.2. Board Meetings. The first meeting of each Condominium Board elected and appointed annually by the Unit Owners may be held immediately after such annual meeting and no notice of such Board meeting shall be necessary to the newly elected Managers in order to legally constitute the meeting, provided a quorum shall be present. Alternatively, such first Board meeting may convene at such place, date and time as shall be fixed by a majority of the Managers present at said annual meeting of Unit Owners (regardless of whether a quorum shall be present), by notice thereof given to all Managers within five business days thereafter. In any event, however, such first meeting of each newly elected and appointed Board shall be held within approximately thirty (30) days following each annual meeting of Unit Owners.

Section Q-1.6.3. Regular Meetings. The Condominium Board is to hold at least four regular meetings each budget year, but a majority of the Managers may determine to meet more often. The date, time and place of each regular meeting will be fixed by a majority of the Managers.

Section Q-1.7. Special Meetings. The President may call a special meeting of the Condominium Board whenever determined by the President to be necessary or desirable. The President shall call a special meeting of the Board to be held within ten (10) business days after request therefor is given by two Managers; provided, however the same two Managers may not call for a special meeting of the Board more often than twice in any fiscal year of Condominium operation.

A notice of a special meeting of the Condominium Board to fill the vacancy of an Independent Manager shall be sent within three business days after any Manager learns of the vacancy and shall be held within five business days after sending the notice. The election held thereat shall be effective to fill such vacancy even if the number of Managers present at such meeting shall not constitute a quorum. Sponsor or the appropriate Unsold Unit Owner or Owners (as applicable) who originally appointed a vacating Sponsor Manager will fill such vacancy by notice to the other Managers or to the President, Vice President or Secretary of the Condominium Association without the need to hold a special or regular meeting of the Board.

Section Q-1.7.1. Date, Time and Place. All regular and special meetings of the Board shall be held on a business day and during business hours, unless a majority of the Managers otherwise agree, and may be held in a physical location reasonably convenient to a majority of the Managers in the borough of Brooklyn in the State of New York, or virtually (i.e., by means of conference telephone or mobile phone, or a video and audio telecommunication platform (such as Skype or ZOOM), or electronic communication, including email and text message to a mobile phone) in which all Managers attending the meeting can hear or otherwise effectively communicate with each other at the same time or concurrently, or any combination of the foregoing. Managers participating in a meeting electronically (i.e., email or text message) shall be afforded a reasonable opportunity to propose, object to, and vote upon a specific action to be taken by the Managers, and to see, read or hear the proceedings of the meeting substantially concurrently therewith. Participating in a meeting by any of the foregoing means shall be considered attendance in person for all purposes.

Section Q-1.7.2. Notice of Board Meetings. Notice of all regular meetings and (except in case of an Emergency) special meetings of the Condominium Board shall state the date, time, place and purpose of the meeting and shall be given by the Secretary to each Manager at least the following number of days prior to the day fixed for such meeting: two business days if sent by hand delivery, facsimile or email (with electronic confirmation of transmission) or text message to a mobile phone, or three business days if sent by Federal Express or other nationally recognized overnight courier for next day delivery, or five business days if sent by ordinary first class mail.

Section Q-1.8. Waiver. Any Manager may, at any time, waive notice of any meeting of the Board or any committee thereof in writing or by electronic communication. Such waiver shall be deemed equivalent to receiving the notice. Attendance by a Manager at any such meeting of

the Board or any committee thereof shall constitute a binding and conclusive waiver by such Manager of notice of the meeting. If all Managers or committee members are present at any said meeting of the Board or any said committee, respectively, no notice of such meeting shall be required and any business authorized pursuant to these By-Laws may be transacted at such meeting.

Section Q-1.9. *Quorum*. To transact business:

(a) attendance of a majority of all Managers will be required to constitute a quorum for any business relating solely to one or more of the following:

(a-1) the General Common Elements;

(a-2) the Association's Assets;

(a-3) the General Common Expenses or the Specially Allocated Expenses or the Administrative Expenses levied on a Retail Unit or its Owner;

(a-4) the General Common Charges; or

(a-5) any other matter involving the affairs of the entire Property or the whole Condominium Association to be conducted by the Board as provided in the Condominium Documents; or

(b) after the end of the Sponsor Board Control Period and the election of four Independent Managers, attendance of a majority of the Residential Managers (without attendance by the Retail Managers) will be required to constitute a quorum for any business relating solely to one or more of the following:

(b-1) the Residential Common Elements;

(b-2) the Residential Common Expenses or the Administrative Expenses levied on a Residential, Parking or Storage Unit Owner; or

(b-3) any other matter involving the affairs of only the Residential, Parking and Storage Unit Owners and do not impact, infringe, or in any way diminish the Sponsor's Rights or the operation or the business conducted in one or more portions of a Retail Unit, or any of the rights, powers, easements, privileges, exemptions, indemnities, remedies, protections or other benefits of a Retail Unit or its Owner;

(c) attendance of only the Sponsor Manager (or if there is more than one Sponsor Manager) a majority of the Sponsor Managers, without attendance by any Independent Manager(s) or Retail Managers, shall be required to constitute a quorum to transact any business relating solely to the operation or affairs of the Unsold Units or their respective appurtenant Limited Common Elements or to implement Sponsor's Rights; and

(d) in the case of an Emergency, any Manager shall have the right, in the name and on behalf of the Board, without holding a Board meeting, to temporarily remediate the condition causing the Emergency, in which case such Manager shall endeavor, as soon as feasible, to explain to the other Managers the condition causing such Emergency, the efforts to temporarily remediate the Emergency condition and the status of said condition.

Section Q-1.9.2. Board Decisions. The following Managers shall decide all matters relating solely to one or more of the following:

(a) a majority of those Managers attending a duly constituted meeting of the Condominium Board at which a quorum is present shall decide all matters relating solely to one or more of the following:

(a-1) the General Common Elements;

(a-2) the Association's Assets;

(a-3) the General Common Expenses, the Specially Allocated Expenses or the Administrative Expenses levied on a Retail Unit Owner;

(a-4) the General Common Charges; or

(a-5) any other mater involving the affairs of the entire Property or the whole Condominium Association to be conducted by the Board as provided in the Condominium Documents;

(b) after the end of the Sponsor Board Control Period and the election of four Independent Managers, a majority of those Residential Managers attending a duly constituted meeting of the Residential Managers meeting at which a quorum is present shall decide all matters relating solely to one or more of the following:

(b-1) the Residential Common Elements;

(b-2) the Residential Common Expenses or the Administrative Expenses levied on a Residential Unit Owner; or

(b-3) any other matter involving the affairs of only the Residential, Parking and Storage Unit Owners and do not impact, infringe, or in any way diminish the Sponsor's Rights or the operation or the business conducted in one or more portions of an Unsold Residential, Parking or Storage Unit or a Retail Unit, or any of the rights, powers, easements, privileges, exemptions, indemnities, remedies, protections or other benefits of a Retail Unit Owner;

(c) the Sponsor Manager or (if there is more than one Sponsor Manager) a majority of those Sponsor Managers attending a duly constituted meeting of the Sponsor Manager(s) at which a quorum is present shall decide all matters relating solely to one or more Unsold Residential,

Parking or Storage Units or their respective Limited Common Elements or to implement Sponsor's Rights.

Each Manager shall have only one vote on any matter to be voted by such Manager, except a person appointed to serve as two or more Sponsor Managers or as both Retail Managers shall have one vote for each such Board membership.

The decisions and transactions of the Condominium Board, the Sponsor Manager(s) (as to the decisions and transactions authorized in the Condominium Documents to be made or transacted by such Sponsor Manager(s) on behalf and in the name of the Condominium Board) or the Retail Managers (as to the decisions and transactions authorized in the Condominium Documents to be made or transacted by such Retail Managers on behalf and in the name of the Condominium Board) shall have the equivalent status of the decisions and transactions of a cooperative housing corporation as to which the so-called Business Judgment Rule articulated in *Levandusky v. One Fifth Ave Corp*. (75 NY2d 530 [1990]) shall apply, except said Business Judgment Rule shall not apply to any decisions or transactions affecting, directly or indirectly, the Sponsor or other Owner of an Unsold Unit, the Sponsor's Rights or an Unsold Residential, Parking or Storage Unit, or a Retail Unit or its Owner or the business to be conducted in or the operation of a Retail Unit, or the easements, rights, remedies, indemnities, protections, privileges, exemptions and other benefits of an Owner of a Retail Unit, which decisions or transactions shall be subject to scrutiny and determined solely on the merits by a court, arbitration panel or other forum having jurisdiction, without any deference, weight or favorable assumption being given to the Condominium Board. See Section A-31.

Section Q-1.10. *Election of Officers*. At the organizational meeting of the newly elected seven-Manager Condominium Board at which a quorum is present, the majority of those Managers present shall elect a President, Vice President, Secretary and Treasurer, comprising the principal officers of the Condominium Association (collectively, "**Officers**" and each, "**Officer**"). The Condominium Board shall also have the right to elect such other Officers and assistant Officers as it deem appropriate.

After the end of the Sponsor Board Control Period, the Sponsor Manager shall exclusively elect a co-Vice President and an Assistant Secretary, who shall act in connection with only the operation, business and affairs of Sponsor and the Unsold Residential, Parking and Storage Units only, unless otherwise authorized by the Independent Managers.

Each Retail Manager shall always have the exclusive right to designate a co-Vice President and co-Secretary, who shall act in connection with only the operation, business and affairs of the Owner of the Retail Unit who appointed such Retail Manager.

The Officers will be elected annually at the organizational meeting of each new Condominium Board. The President must be a Manager. There are no qualifications to be met by

the other Officers, who need not be Managers. No Officer is required to be a Unit Owner or have any interest in a Unit.

Generally, each of the Officers will have all of the same powers, obligations and duties of the equivalent officer of a stock corporation organized under the Business Corporation Law of the State of New York.

Section Q-1.11. *Unit Owners*.

Section Q-1.11.1. Annual Meetings. Each annual meeting of Unit Owners is to be called to be held within approximately thirty (30*)* days of the anniversary of the previous annual meeting of Unit Owners, unless changed by the Condominium Board to be held on a different date, in the Board's sole judgment.

Section Q-1.11.2. Special Meetings. The President shall call a special meeting of the Unit Owners whenever so directed by a duly adopted resolution of the Condominium Board, or upon receipt by the Secretary of a petition calling for such a meeting signed by any two Managers, or by the Owners of not less than twenty-five (25%) percent of the Common Interests of all Units. The President shall call a special meeting of only the Residential, Parking and Storage Unit Owners whenever so directed by a duly adopted resolution of the Residential Managers, or upon receipt by the Secretary of a petition calling for such a meeting signed by any two Residential Managers, or by the Owners of not less than twenty-five (25%) percent of the Common Interests of all Residential, Parking and Storage Units. However, the same Managers or the same Unit Owners shall not have the right to call for more than one special meeting of Unit Owners or only the Residential, Parking and Storage Unit Owners for the same or a related purpose in any twelve (12)-month period.

Within ten (10) business days after receipt of such resolution or petition (as applicable), the President shall call such special meeting to be held within the next twenty (20) days, unless the purpose of a meeting (whether regular or special) is to consider an amendment to the Declaration or the By-Laws, or to remove an Independent Manager, in which case the following shall apply. Notice in writing of such meeting shall be given to all Unit Owners at least thirty (30) days prior to the date fixed for such meeting, which notice shall be accompanied by a copy of the text of said proposed amendment or the alleged basis to remove the Independent Manager (as applicable). The President shall call such meeting to be held not sooner than thirty-one (31) days nor later than sixty (60) days following receipt by the Secretary of a Board resolution or a petition signed by the requisite percentage of Unit Owners. If the President fails to so timely call such special meeting, then any Manager who voted for such resolution or any Unit Owner who signed such petition (as applicable) may so call such meeting by a notice of meeting, except that such notice need not be given by the Secretary. No business shall be transacted at such special meeting except the business reasonably related to purposes stated in the notice of special meeting or said petition.

Section Q-1.1. *Quorum*. Owners comprising a majority in number and Common Interest of all Units attending (in person or by proxy) a duly convened regular or special meeting of Unit Owners shall constitute a quorum, except Owners comprising a majority in number and Common Interest of all Residential, Parking and Storage Units attending (in person or by proxy) a duly convened regular or special meeting of Residential, Parking and Storage Unit Owners shall constitute a quorum if the purpose of the meeting relates solely to the Residential Common Elements, the Residential Common Expenses, the Residential Common Charges or the affairs and business of only the Residential, Parking and Storage Units or their Owners, and do not impact, infringe, or in any way diminish the Sponsor's Rights, or the operation or the business conducted in one or more portions of a Retail Unit, or the Building Systems serving a Retail Unit, or the Building Services being provided to a Retail Unit, or any of the rights, powers, easements, privileges, exemptions, indemnities, remedies, protections or other benefits of a Retail Unit or its Owner.

Section Q-1.2. *Decisions*. At any duly convened meeting of all Unit Owners at which a quorum is present, the vote of a majority in number and Common Interest of those Unit Owners attending the meeting (in person or by proxy) will constitute the decision of the Unit Owners, unless a different number and/or percentage is required by the Declaration or By-Laws or the Condominium Act.

At any duly convened meeting of only the Residential, Parking and Storage Unit Owners at which a quorum is present, the vote of a majority in number and Common Interest of those Residential, Parking and Storage Unit Owners attending the meeting (in person or by proxy) will constitute the decision of the Residential, Parking and Storage Unit Owners, unless a different number and/or percentage is required by the Declaration or By-Laws or the Condominium Act.

The Condominium Board and its affiliate shall have no voting rights with respect to any Units owned by each of them and such parties and Units shall be excluded from the base number of Owners, Units and Common Interests for quorum and voting purposes in determining any matter to be voted upon by Unit Owners.

Section Q-2. Initial Manager and Officers. The initial Manager and Officers of the Condominium, who will be elected exclusively by Sponsor, will be a principals of Sponsor or will have an employment, business or family relationship to Sponsor or Sponsor's principals and will serve at the will of Sponsor. Sponsor's current intention is to designate the following individuals as the initial Manager and Officers of the Condominium:

Mark Adjmi	—	Manager/President
Salomon Cojab Moadeb	—	Vice President
Michael Marino	—	Secretary
Michael Adjmi	—	Treasurer

Mark Adjmi and Salomon Cojab Moadeb are the sole principals of Sponsor.

Sponsor reserves the right to elect different persons to serve as the initial Manager and/or Officers of the Condominium Board and to remove them and substitute other persons without prior notice or filing a Plan Amendment. Any other person so appointed or substituted by Sponsor will likely have an employment, business or family relationship to Sponsor or the principals of Sponsor.

The initial Condominium Manager (and any substitute Manager elected by Sponsor) will conduct all affairs of the Condominium until the seven-Manager Condominium Board is duly elected and appointed at the first meeting of Unit Owners. Only Unit Owners (that is, Purchasers who Close Title and Sponsor, as Owner of the Unsold Units) shall be entitled to attend and vote at the meeting.

Section Q-3. Indemnification and Personal Liability. The liability of the Board under the Declaration, the By-Laws or the Rules and Regulation shall not extend to a Manager or Officer of the Board, or an employee, agent or other representative of an Owner or the Board, each of whom shall be immune from liability for acting in such capacity.

The Unit Owners shall severally (pro rata to their respective Common Interests) indemnify the Managers and Officers from and against all claims, litigations, liabilities and damages arising from their acts or omissions in their capacity as Managers and Officers, but such indemnity shall be nonrecourse (i.e., without personal liability) and limited to the legal and equity interest of the Owner in his or her Unit and its appurtenant Common Interest ("**Non-Recourse, Several and Limited Liability**"). However, a Manager or Officer will not be indemnified, and shall not be immune from liability, for claims or liabilities arising from his or her bad faith, breach of a fiduciary duty or obligation, self-dealing, dishonesty, fraud, theft, gross negligence, willful misconduct, illegality or similar misconduct (each, "**Malfeasance**"). All amounts payable under this indemnity (including Legal Expenses) are to be paid in advance as part of the General Common Expenses and directly from the General Common Charges paid by the Unit Owners.

A Manager or Officer will not be liable to the Unit Owners for errors of judgment, negligence or otherwise, but will be liable for any Malfeasance action or inaction or omission. A Manager (including a Sponsor Manager) or Officer will not be regarded as having committed Malfeasance because of any contract or transaction entered into by the Condominium Board and such Manager or Officer or a person related to, or affiliated with, such Manager or Officer (including Sponsor); provided, however, such contract or transaction is:

(a) disclosed in this Plan or a Plan Amendment; or

(b) approved by a majority of non-interested Managers and is at competitive or lower rates for goods sold or services rendered in the same county as the Property.

Each contract or other document executed by the Condominium Board will provide (if obtainable and not prohibited by Law) that the liability of each Unit Owner shall be Non-Recourse,

Several and Limited Liability, and no Manager or Officer will be liable thereunder except as a Unit Owner in accordance with the foregoing.

No Manager or Officer will be liable for interruption of any Building Services or for any injury to person, or loss or damage to property occurring in or on the Common Elements, the Association's Assets or a Unit and caused by the elements, a Unit Owner or any other person, or resulting from water leaks, theft or otherwise.

Section Q-4. No Compensation. No Manager or Officer will be paid any compensation by the Condominium Association for serving as a Manager or Officer, or on any committee of the Condominium Association.

Section Q-5. Removal, Resignation and Vacancy of Officers and Managers.

Section Q-5.1. *Removal of Officers*. An Officer may be removed at any time "with" or "without cause" by an affirmative vote of a majority of those Managers attending a duly constituted Board meeting at which a quorum is present, except:

(a) an Officer appointed exclusively by the Sponsor Manager may be removed "with" or "without" cause and without explanation by only the Sponsor Manager or for Malfeasance by a majority of all Managers at a duly constituted meeting of the Condominium Board at which a quorum is present, excluding the Sponsor Manager(s) for quorum and voting requirements (who shall be recused from deliberations and decisions of the Board); or

(b) an Officer appointed exclusively by a Retail Manager may be removed "with" or "without" cause and without explanation by only such Retail Manager or for Malfeasance by a majority of all Managers at a duly constituted meeting of the Condominium Board at which a quorum is present, excluding said Retail Manager for quorum and voting requirements (who shall be recused from deliberations and decisions of the Board).

Section Q-5.2. *Removal of Managers*. An Independent Manager may be removed "with" or "without" cause, and a Sponsor Manager and Retail Manager may be removed solely for Malfeasance, by a vote of a majority in number and Common Interest of Owners of all Units cast at a duly constituted meeting of Unit Owners at which a quorum is present. In determining such majority vote, the Units and Common Interests owned by the Manager to be removed, or the Owner who appointed such Manager or the Owner of the Unit in which such Manager resides, shall be excluded from the count of the base number of Unit Owners and Common Interests for quorum and voting purposes.

Any Independent Manager, Sponsor Manager or Retail Manager who is to be removed shall be given a written explanation of the basis of removal at least seven business days in advance of the meeting of Unit Owners and a reasonable opportunity to be heard at the meeting before the vote is taken.

A Sponsor Manager serves at the will of Sponsor or the Unsold Unit Owner or Owners (as applicable) who appointed such Sponsor Manager and may be removed without cause and without explanation by only Sponsor or said Unsold Unit Owner or Owners (as applicable).

A Retail Manager serves at the will of the Retail Unit Owner who exclusively appointed such Retail Manager and may be removed without cause and without explanation by only said Retail Unit Owner.

The Condominium Board or its affiliate shall have no voting rights with respect to any Unit each of them may own.

Section Q-5.3. ***Resignation of Officers***. Each Officer may resign at any time by giving written notice to the Condominium Board (or to a Sponsor Manager in the case of the Officers elected exclusively by the Sponsor Manager or to the Retail Manager in the case of the Officers elected exclusively by said Retail Manager). The President will be regarded as having resigned whenever such Officer ceases to be a Manager.

Section Q-5.4. ***Resignation of Managers***. An Independent Manager may resign at any time by giving notice to the remaining Independent Managers or (if none) to a Sponsor Manager. A Sponsor Manager may resign by giving notice to the Sponsor or appropriate Unsold Unit Owner or Owners (as applicable) who appointed such Manager. A Retail Manager may resign by giving notice to the Retail Unit Owner who exclusively appointed said Retail Manager.

An Independent Manager who shall cease to be qualified for membership pursuant to the terms of the By-Laws shall conclusively be deemed to have automatically resigned as a Manager effective as of the date upon which such qualification shall cease.

Section Q-5.5. ***Officer Vacancy***. Any vacancy in an office will be filled by vote of a majority of the Managers attending a regular or special meeting of the Board called for such purpose (in the case only of an Officer elected by the Condominium Board), or filled exclusively by the Sponsor Manager with respect to a vacancy of an Officer elected exclusively by the Sponsor Manager(s), or filled exclusively by the Retail Manager with respect to a vacancy of an Officer elected exclusively by said Retail Manager.

Section Q-5.6. ***Manager Vacancy***. A vacancy on the Condominium Board, whether resulting from removal, resignation, death, incompetency, incapacity or otherwise, will be filled as follows.

(a) in the case of a vacancy of an Independent Manager during the Sponsor Board Control Period: the four Sponsor Managers will appoint a new Independent Manager;

(b) in the case of a vacancy of an Independent Manager after the end of the Sponsor Board Control Period: only the remaining Independent Managers will appoint a new Independent Manager;

(c) in the case of a vacancy of a Sponsor Manager: Sponsor or other appropriate Unsold Unit Owner, whoever originally appointed the vacating Sponsor Manager, will have the exclusive right to appoint a new Sponsor Manager to fill such vacancy.;

(d) in the case of a vacancy of a Retail Manager: the Retail Unit Owner who appointed said vacating Retail Manager will have the exclusive right to appoint the new Retail Manager to fill such vacancy.

In the case of a removal of an Independent Manager, the Owners of Sold and Unsold Residential, Parking and Storage Units will have the right to pre-empt the Managers and elect the replacement at the same meeting the removal is voted upon or at a subsequent special or annual meeting of Unit Owners called for such purpose.

The person appointed or elected to fill the vacancy will serve as a Manager of the Condominium Board for the remainder of the term of the Manager being replaced.

Section Q-6. Computation of Votes. Each Unit Owner (including Sponsor and other Owners of Unsold Units) shall be entitled to cast one vote at all meetings of the Unit Owners for each percentage of Common Interest appurtenant to each Unit owned by such Owner.

When voting for the election of Managers, each candidate for whom a Unit Owner votes will receive the total number of votes that such Unit Owner is entitled to cast (no more or less). Unit Owners may not cumulate, split or otherwise transfer votes from one candidate to another.

The election of the Independent Managers will be determined by "plurality" of the votes cast by the Owners of the Sold and Unsold Units (including Sponsor as Owner of Unsold Units) at a duly constituted meeting of Unit Owners at which a quorum is present. Thus, the candidates receiving the highest number of votes at the meeting will be elected to serve as the Independent Managers even though one or more of them may receive less than a majority of the votes cast. The Sponsor Manager(s) and each Retail Manager shall be appointed in a writing by Sponsor or the applicable Retail Unit Owner, respectively, delivered either at the meeting of Unit Owners or in advance of the meeting to the Managing Agent or any Officer of the Condominium Board.

No Unit Owner may nominate or vote for the election of Managers during the period the Condominium Board has perfected a lien against such Owner's Unit for unpaid Common Charges or Special Assessments. The Units and their appurtenant Common Interests of all Owners who are precluded from voting shall be excluded when computing the aggregate number and/or Common Interests (as applicable) of all Units and Owners for quorum and voting purposes. However, such Owner will resume these rights upon satisfying such indebtedness or discharging the lien by bond or otherwise.

Section Q-7. Condominium Amendments. The percentage of Common Interest needed to amend the By-Laws and to change the Declaration are contained in Section Q-7.1. Certain

Condominium Amendments to the By-Laws or the Declaration that require the consent of affected parties are listed in Section Q-7.2.

Section Q-7.1. *Required Percentage of Common Interest.*

Section Q-7.1.1. Condominium Board. The Condominium Board shall have the right to record Condominium Amendments to the Declaration and the By-Laws in the City Register's Office with the vote of not less than sixty-six and two-thirds percent (66-2/3rds%) of all Unit Owners (including both Retail Unit Owners), in number and Common Interest (fractions shall be rounded up) at a duly convened meeting of Unit Owners at which a quorum is present, or in writing in lieu of a meeting.

Section Q-7.1.2. Sponsor. Sponsor and each Unsold Unit Owner shall have the exclusive right to record the following Condominium Amendments to the Declaration and the By-Laws, and (in case of Unit Changes) to file amendments to the Floor Plans, in the City Register's Office, without obtaining the consent of the Condominium Board (which shall not be required) and without obtaining the express vote or consent of other Unit Owners, all of whom shall conclusively be deemed to have automatically, unconditionally and irrevocably voted for, or consented to, such Condominium Amendments by accepting or recording a deed to a Unit or otherwise succeeding to title to a Unit:

(a) to implement a Unit Change to its Unsold Residential, Parking or Storage Unit;

(b) to reflect changes required by: an Institutional Lender holding, or having issued a written commitment for, a Unit mortgage; a Governmental Authority having jurisdiction over the Property or the Condominium Association; or a title insurer of a Unit; or

(c) to comply with the Condominium Act; or

(d) to correct any inconsistencies or ambiguities between, or scrivener's errors in, the Declaration, these By-Laws and/or the Floor Plans.

The Condominium Board shall also have the right to record Condominium Amendments to the Declaration and the By-Laws for the purposes listed in clauses (b), (c) and (d) above, subject to obtaining the consent of Sponsor until the Final Certificate of Occupancy is issued, but without obtaining the express vote or consent of other Unit Owners, all of whom shall conclusively be deemed to have automatically, unconditionally and irrevocably voted for, or consented to, such Condominium Amendments by accepting or recording a deed to a Unit or otherwise succeeding to title to a Unit.

Section Q-7.1.3. Sold Unit Owners. The Owner of a Sold Unit being divided into two or more Sold Units or the Owner or Owners of the Sold Units being combined into one Sold Unit or being reconfigured, as applicable, shall have the right to record Condominium Amendments to the Declaration and to file amendments to the Floor Plans of such Sold Unit(s) in the City Register's Office to reflect such Unit Division to said Owner's Sold Unit or Unit Combination or Unit

Reconfiguration to said Owner's or Owners' Sold Units (as applicable) and the proper apportionment of the Common Interest of the Sold Unit being divided, or the combining of the Common Interests of the Sold Units being combined or the proper apportionment of the Common Interests of the Sold Units being reconfigured (as applicable), in each case subject, however, to obtaining the consent of Sponsor until the Final Certificate of Occupancy is issued, and subject further, to obtaining the reasonable consent of the Residential Managers, in the name and on behalf of the Condominium Board, but without obtaining the express vote or consent of other Unit Owners, all of whom shall conclusively be deemed to have automatically, unconditionally and irrevocably voted for, or consented to, such amendments by accepting or recording a deed to a Unit or otherwise succeeding to title to a Unit.

Section Q-7.1.4. Retail Unit Owner. Each Retail Unit Owner shall have the exclusive right to make Unit Changes to its Retail Unit in accordance with Section I-4, but subject to compliance with Section I-5 and Section I-6, and to record Condominium Amendments to the Declaration and to file Amendments to such Owner's Retail Unit's Floor Plan, in the City Register's Office, to implement such permitted Unit Changes, in each case subject, however, to obtaining the consent of Sponsor until the Final Certificate of Occupancy is issued, but without obtaining the consent of the Condominium Board (which shall not be required) and without obtaining the express vote or consent of other Unit Owners, all of whom shall conclusively be deemed to have automatically, unconditionally and irrevocably voted for, or consented to, such Condominium Amendments by accepting or recording a deed to a Unit or otherwise succeeding to title to a Unit in order to implement a Unit Change to said Retail Unit.

Section Q-7.2. *Required Consents*. The following Condominium Amendments cannot be implemented without the consent of the affected party indicated:

(a) a Condominium Amendment that in any manner amends the appurtenant Common Interest or the size or configuration, or the permitted use or occupancy, of a Unit shall not be enforceable against the Owner of such Unit without the consent of such Owner, duly executed, acknowledged and recorded in the City Register's Office together with such Condominium Amendment;

(b) a Condominium Amendment that would with reasonable likelihood adversely affect the priority, validity or enforceability of the lien of a purchase money mortgage or a mortgage held by an Institutional Lender placed on a Unit in compliance with the By-Laws (each, a "**Permitted First Mortgage**") or is of a materially adverse nature to mortgagees shall not be enforceable against the holder of such mortgage or Institutional Lenders holding federally financed Permitted First Mortgages comprising at least 51% of the Common Interests of Units subject to mortgages without the consent of such mortgage holder or said Institutional Lenders duly executed, acknowledged and recorded in the City Register's Office together with such Condominium Amendment; provided, however, said consent of an Institutional Lender holding a federally financed Permitted First Mortgage shall conclusively be deemed to have been given when

such Institutional Lender fails to submit a written response to a written proposal to said materially adverse Condominium Amendment within sixty (60) days after it receives proper notice of the proposal sent by certified or registered mail, return receipt requested;

(c) a Condominium Amendment that in any manner:

(c-1) interferes with a potential or proposed sale, lease, mortgage or other Disposition of an Unsold Unit or a Retail Unit;

(c-2) amends the rights of Sponsor or an Unsold Unit Owner or a Retail Unit Owner;

(c-3) imposes any new, different or discriminatory charge, fee or other imposition against or on Sponsor or an Unsold Unit Owner or a Retail Unit Owner, or a tenant of an Unsold Unit or a Retail Unit;

(c-4) limits, restricts, abridges, infringes, prejudices, imposes conditions or new requirements or otherwise amends or changes the permitted use or occupancy of an Unsold Unit or a Retail Unit;

(c-5) adversely affects the value, marketing or other disposition of an Unsold Unit or a Retail Unit; or

(c-6) adversely affects a tenant of all or part of an Unsold Unit or a Retail Unit, or causes Sponsor or other Owner of such Unsold Unit or Retail Unit to incur or suffer any additional obligation or cost or expense with respect to any tenant of all or part of such Party's Unsold Unit or Retail Unit,

shall be null and void *ab initio*, and of no force or effect without the consent of Sponsor or the Owner of such Unsold Unit or Retail Unit Owner (as applicable) duly executed, acknowledged and recorded in the City Register's Office together with such Condominium Amendment; or

(d) in any manner:

(d-1) impedes, delays or otherwise adversely affects the issuance of a Temporary Certificate of Occupancy or the Final Certificate of Occupancy of the Building or the extension of a previously issued Temporary Certificate of Occupancy of the Building; or

(d-2) limits, restricts, abridges, infringes, prejudices or otherwise affects the Excess Development Rights or the benefits derived therefrom,

shall be null and void *ab initio* without the consent of Sponsor duly executed, acknowledged and recorded in the City Register's Office together with such Condominium Amendment.

Section Q-7.3. *Expenses and Signatories*.

Section Q-7.3.1. Condominium Board. Condominium Amendments implemented by the Condominium Board shall be prepared, signed, acknowledged and recorded in the City Register's Office by the Condominium Board as part of the General Common Expenses assessed to all Owners pro rata to their respective Common Interests, and shall be duly signed and acknowledged

by either the President or the Vice-President, and by either the Secretary or an Assistant Secretary of the Condominium Association; together with (if applicable) a certification by either the Secretary or an Assistant Secretary, duly signed, acknowledged and recorded together with said Condominium Amendment, certifying that the required percentage of Unit Owners (in number and/or Common Interest; if and as applicable) have, or are conclusively be deemed to have automatically, unconditionally and irrevocably to have, voted for, or consented to, such Amendment.

Section Q-7.3.2. Residential Managers. Condominium Amendments implemented by the Residential Managers shall be prepared, signed, acknowledged and recorded in the City Register's Office by the Residential Managers, in the name and on behalf of the Condominium Board, as part of the Residential Common Expenses assessed to only all Residential, Parking and Storage Unit Owners pro rata to their respective Common Interests, and shall be duly signed and acknowledged by either the President or the Vice-President, and by either the Secretary or an Assistant Secretary of the Condominium Association; together with (if applicable) a certification by either the Secretary or an Assistant Secretary, duly signed, acknowledged and recorded together with said Condominium Amendment, certifying that the required percentage of Unit Owners (in number and/or Common Interest; if and as applicable) have, or are conclusively be deemed to have automatically, unconditionally and irrevocably to have, voted for, or consented to, such Amendment.

Section Q-7.3.3. Sponsor or an Unsold Unit Owner. Condominium Amendments implemented by the Sponsor shall be prepared, signed, acknowledged and recorded in the City Register's Office by Sponsor or said Unsold Unit Owner (as applicable), at such party's sole cost and expense and (if requested by Sponsor or said Unsold Unit Owner, as applicable) shall include a certification by either the Secretary or an Assistant Secretary of the Condominium Association certifying that the vote or consent to such Amendment by the Condominium Board is not required and the required percentage of Unit Owners (in number and/or Common Interest; if and as applicable) are conclusively be deemed to have automatically, unconditionally and irrevocably voted for, or consented to, such Condominium Amendment.

Section Q-7.3.4. Sold Unit Owner. Condominium Amendments implemented by a Sold Unit Owner shall be prepared and duly signed, acknowledged and recorded in the City Register's Office by such Sold Unit Owner, at the such Owner's sole costs and expense, or (at the exclusive option of the Condominium Board) the Condominium Board for the account and at the sole cost and expense of such Sold Unit Owner, and (if requested by said Sold Unit Owner) shall include a certification by either the Secretary or an Assistant Secretary of the Condominium Association certifying that the vote or consent to such Amendment by the Condominium Board is not required and the required percentage of Unit Owners (in number and/or Common Interest, if and as applicable) are conclusively be deemed to have automatically, unconditionally and irrevocably voted for, or consented to, such Condominium Amendment.

Section Q-7.3.5. Retail Unit Owner. Condominium Amendments implemented by a Retail Unit Owner shall be prepared, signed, acknowledged and recorded in the City Register's Office by such Retail Unit Owner, at such Owner's sole cost and expense and (if requested by said Retail Unit Owner) shall include a certification by either the Secretary or an Assistant Secretary of the Condominium Association certifying that the vote or consent to such Amendment by the Condominium Board is not required and the required percentage of Unit Owners (in number and/or Common Interest; if and as applicable) are conclusively be deemed to have automatically, unconditionally and irrevocably voted for, or consented to, such Condominium Amendment.

Section Q-7.4. *Filing with Condominium Association*. A conformed copy of a Condominium Amendment shall be filed promptly with the Secretary or an Assistant Secretary of the Condominium Association or the Condominium Association's Managing Agent by the applicable party recording the Condominium Amendment and shall be made available by the Condominium Board at the Property or the office of the Managing Agent for inspection (without charge) and copying (at a reasonable charge) by all: Unit Owners; Unit mortgage lenders; authorized tenants of the Retail Units; authorized prospective Unit purchasers, mortgage lenders and tenants; and authorized representatives of each of the foregoing. The failure to so do shall not affect the validity of enforceability of such Condominium Amendment.

END OF SECTION Q

SECTION R. RIGHTS AND OBLIGATIONS OF THE UNIT OWNERS AND THE BOARD OF MANAGERS

Section R-1. Sale or Lease of Units by Unit Owners. This Section R summarizes the material rights and obligations of Unit Owners and the Condominium Board with respect to the sale or lease of Units by Unit Owners under the By-Laws.

Section R-1.1. *Rights and Restrictions on Sale or Lease*. Each Unit Owner shall have the right to sell, transfer or convey his or her Unit at any price, or to lease such Owner's Unit at any rent, but must comply with the restrictions under the By-Laws summarized below. If the Owner is an entity, the sale, assignment and/or transfer of a direct or indirect controlling equity or beneficial interest, or a majority of the equity or beneficial interests, in such Owner shall conclusively be regarded and treated for all purposes as a sale of the Unit by such Owner.

Section R-1.1.1. Sale Restrictions. The following restrictions apply to sell, transfer or convey a Unit:

(a) the Owner of the Unit must be current, within the applicable grace period, in the payment of all Common Charges (including Additional Common Charges) levied by the Condominium Board against the Unit;

(b) the deed conveying the Unit shall expressly state or provide, and notwithstanding the failure to so expressly state or provide, shall conclusively be deemed to irrevocably and unconditionally state and provide as follows with the same force and effect as though set forth at length in the deed:

> This Unit is subject to the powers, duties, easements, requirements, burdens, encroachments, limitations and restrictions contained in the Declaration of Condominium establishing The Calyer Greenpoint, located at 171 Calyer Street, Brooklyn, New York, and the By-Laws and the Rules and Regulations attached thereto, which are hereby incorporated herein with the same force and effect as though set forth at length. The acceptance of the deed by Grantee shall constitute an acceptance, ratification and assumption of all of the terms of the Condominium Documents.

(c) the conveyance of title to a Unit shall be for the entire Unit and its appurtenant Common Interest;

(d) the sale, transfer or conveyance of a Unit to a Foreign Government or Diplomat (as applicable) shall be subject to such party (among other things) complying with the provisions of Article 14 of the Declaration whereby (among other things) such party waives diplomatic immunity and designates an agent for service of legal process and, at or before recording the deed of conveyance, duly executes and delivers to the Board an instrument (in form and substance acceptable to the Board) wherein the Foreign Government or Diplomat irrevocably and unconditionally confirms and agrees that such waiver of diplomatic immunity and designation of

agent for service of legal process, as provided in said Article 14 of the Declaration, are valid, fully enforceable in accordance with its terms and legally binding upon such party, without defense;

(e) the sale, transfer or conveyance of a Unit to a Foreign Person shall be subject to the Foreign Person complying with the provisions of Article 15 of the Declaration whereby, among other things, such party (if an entity) designates the Secretary of State of the State of New York as agent for service of legal process on it or (if an individual) signs and delivers to the Condominium Board either:

(e-1) an instrument (in form and substance acceptable to the Board) designating an attorney admitted to practice and maintaining an office in the State of New York as agent for service of legal process on such individual; or

(e-2) a certificate or other instrument from a New York company whose business is to serve as agent for service of process evidencing it is acting agent for service of process on such individual; and

(f) an Owner shall not execute any deed, mortgage or other instrument conveying or securitizing title to the Owner's Unit without including therein its appurtenant Common Interest, it being intended:

(f-1) to prevent any severance of such combined ownership;

(f-2) any deed, mortgage or other instrument purporting to affect only title to a Unit shall automatically be taken to include its appurtenant Common Interest, even though the latter shall not be expressly mentioned or described therein, and vice versa; and

(f-3) no part of the Common Interest appurtenant to any Unit may be sold, conveyed, transferred, mortgaged or otherwise securitized, except as part of a sale, conveyance, transfer, mortgage or securitization of the Unit to which such Common Interest is appurtenant.

The failure to comply with any of these restrictions shall be grounds for the Condominium Board, among other rights and remedies available at law and in equity and those contained in the By-Laws, to withhold giving the certificate of waiver or exemption from the Board's Right of First Refusal to purchase the Unit and an estoppel certificate certifying as to the status of payment by the Unit Owner of Common Charges and the status of any violations by the Unit Owner of the Condominium Documents, without any manner of recourse against the Board or other Unit Owners by reason thereof.

Section R-1.1.2. Lease Restrictions. The following restrictions apply to lease Residential, Parking and/or Storage Units:

(a) the proposed lease of a Sold Unit or an Unsold Unit shall not be consummated unless and until the Owner of such Unit is current, within the applicable grace period, in the

payment of all Common Charges (including Additional Common Charges) levied by the Condominium Board against the Unit;

(b) the lease of a Sold Unit, but not the lease of an Unsold Unit, shall expressly state and provide, and shall conclusively be deemed to irrevocably and unconditionally state and provide, as follows with the same force and effect as though set forth at length in the lease, and the failure to so expressly state and include these provisions on the lease shall not affect their validity or enforceability:

> This lease is subject to the Declaration establishing The Calyer Greenpoint, located at 171 Calyer Street, Brooklyn, New York, and the Exhibits attached thereto (including the By-Laws, the Rules and Regulations and the Glossary), which are hereby incorporated herein with the same force and effect as though set forth at length. The meanings given to the capitalized terms and the lower case words contained in Section 1.2 "Glossary" of the Declaration shall apply when such terms are used herein. The acceptance of this lease by Tenant shall constitute an acceptance, ratification and assumption of, and an agreement to comply with, all of the terms of the Condominium Documents.
>
> In the event of any conflict, inconsistency or ambiguity between the terms of this lease and the terms of the Condominium Documents, the conflict, inconsistency or ambiguity shall be resolved in accordance with the terms of the Condominium Documents, which are paramount and shall govern and control.
>
> This lease cannot be amended or extended without obtaining the consent of the Condominium Board in each instance.
>
> Tenant cannot transfer or assign Tenant's interest in this lease or sublet the Unit demised hereunder or any part thereof without obtaining the consent of the Condominium Board in each instance.
>
> The Unit demised under this lease shall be used and occupied only in accordance with the terms set forth in the Declaration, and for no other purpose, and in compliance with the other requirements and restrictions set forth in the Declaration, including the General Requirements as defined and contained therein, and the By-Laws.
>
> Pursuant to RPL §339-kk, upon written notice to Tenant from the Condominium Board that landlord-Owner has failed to make payments due the Condominium Board for Common Charges, Special Assessments or other Additional Common Charges (including late fees) for the Unit within sixty (60) days of the expiration of any grace period after they are due, Tenant shall immediately and thereafter make all rental payments under this lease directly to the order of the Condominium Board at the address listed in the notice. From and after the time Tenant receives written notice from the Condominium Board that landlord-Owner is once again current in payments of Common Charges, Special Assessments or other Additional Common Charges (including late fees), all rental payments shall be made payable to the order of landlord-Owner at the address provided by landlord-Owner. Tenant's rental payments to the Condominium Board in accordance with the

foregoing shall be an absolute defense in any action or nonpayment proceeding commenced by landlord-Owner against Tenant for such rent in accordance with RPL §339-kk. Landlord-Owner covenants and agrees not to undertake any action or proceeding in violation hereof or RPL §339-kk.

The Condominium Board shall have the power to terminate or cancel this lease and to bring summary proceedings to evict or remove the Tenant hereunder in the name of the landlord-Owner in the event of: (i) a violation by Tenant of any of the provisions of the Declaration, the By-Laws or the Rules and Regulations, as each may be duly amended from time to time, unless remedied within the applicable grace period (if any); (ii) a foreclosure by the Condominium Board of said landlord-Owner's Unit in which the demised premises forms a part pursuant to the lien granted to the Condominium Board by Section 339-z of the Condominium Act; or (iii) the purchase or acquisition of said Unit by the Condominium Board or its nominee or designee, whether pursuant to the By-Laws or otherwise.

The foregoing provisions of this lease are for the benefit of, and shall be enforceable by, the Condominium Board as a third-party beneficiary and cannot be amended without the consent of the Condominium Board and any purported change thereto shall be null and void *ab initio*.

(c) each lease of a Sold Residential Unit, but not a lease of an Unsold Residential Unit:

(c-1) shall be in the then current prevailing form of lease of a residential condominium unit for non-regulated multiple dwellings in The City of New York (or other printed form of lease approved in writing by the Condominium Board, in its sole and absolute discretion), subject to such modifications as may be approved in writing by the Condominium Board (in its sole and absolute judgment);

(c-2) shall be for a term of not less than one year (unless the Condominium Board consents in writing to a shorter term or the lease is to a member of an Owner's immediate family or an officer, director, shareholder, member, partner, trustee, executor, administrator, guardian, legal representative, beneficiary, government official or employee of the Owner of the Unit, or a member of the immediate family of any of the foregoing);

(c-3) shall not be amended, renewed or extended without obtaining the consent of the Condominium Board in each instance;

(c-4) shall not permit the tenant to assign or transfer tenant's interest in such lease and if the tenant is an entity, shall not permit the sale, assignment and/or transfer of a direct or indirect controlling equity or beneficial interest, or a majority of the equity or beneficial interests, in such tenant; and

(c-5) shall not permit the tenant to sublet the Unit demised thereunder or any part thereof, without obtaining the consent of the Condominium Board in each instance;

(d) each lease of a Sold Unit or an Unsold Unit shall be for the entire Unit and not a portion thereof;

(e) at or prior to entering into a lease with:

(e-1) a Foreign Government or Diplomat, or assigning or transferring a lease to a Foreign Government or Diplomat, of a Residential, Parking or Storage Unit, such Foreign Government or Diplomat (as applicable) shall comply with the terms of the Article 14 of the Declaration whereby, at or before executing the lease or the assignment or transfer of the lease, the Foreign Government or Diplomat (as applicable) shall duly execute and deliver to the Board an instrument (in form and substance acceptable to the Board) wherein the Foreign Government or Diplomat (as applicable) irrevocably and unconditionally confirms and agrees that the provisions of Article 14 of the Declaration are valid, fully enforceable in accordance with its terms and legally binding upon it, without defense; or

(e-2) a Foreign Person, or assigning or transferring a lease to a Foreign Person, such Foreign Person shall comply with the terms of Article 15 of the Declaration whereby, at or before executing the lease or the assignment or transfer of the lease, the Foreign Person shall, among other things: (if an entity) designate the Secretary of State of the State of New York as agent for service of legal process on it; or (if an individual) sign and deliver to the Condominium Board or its Managing Agent either:

(e-2.1) an instrument (in form and substance acceptable to the Board) designating an attorney admitted to practice and maintaining an office in the State of New York as agent for service of legal process on such individual; or

(e-2.2) a certificate or other instrument from a New York company whose business is to serve as agent for service of process evidencing it is acting agent for service of process on such individual.

The failure to comply with any of these lease restrictions shall be grounds for the Condominium Board, among other rights and remedies available at law and in equity, and those contained in the By-Laws, to withhold giving the certificate of waiver or exemption from the Board's Right of First Refusal to purchase the Unit and an estoppel certificate certifying as to the status of payment by the Unit Owner of Common Charges and the status of any violations by the Unit Owner of the Condominium Documents, without any manner of recourse against the Board or other Unit Owners by reason thereof.

Section R-1.1.3. Fees and Deposits. The Condominium Board shall have the right to collect, before the consummation of any sale, transfer, conveyance, lease or sublease of a Sold Unit (but not an Unsold Unit):

(a) a reasonable charge to cover the reasonable fees and expenses of the Condominium Board and/or the Managing Agent and/or any attorney retained by the Condominium Board in connection therewith;

(b) a reasonable charge to cover said reasonable fees and expenses in connection with a mortgage financing or mortgage refinancing of a Sold Unit if any Board action is requested in connection therewith; and

(c) a refundable security deposit in an amount fixed by the Board for potential damage to the Common Elements on moving into or out of a Sold Residential Unit in connection with a sale, conveyance, lease or sublease of such Sold Residential Unit.

The security deposit shall initially be set at $2,500.00 and may change from time to time by the Condominium Board, but may not be increased without obtaining the consent of Sponsor during only the Sponsor Veto Control Period. No such charges, fees or move-in or move-out security deposit may be imposed on a tenant of an Unsold Unit without obtaining the consent of Sponsor in each instance.

The proposed charges and fees payable by such Sold Residential, Parking or Storage Unit Owner to the Managing Agent in this Plan and said security deposit are conclusively deemed to be reasonable. See Section W-1.3. These charges and fees shall constitute Additional Common Charges payable by the Sold Unit Owner. Any security deposit collected by the Board shall be refunded to the party making the deposit with reasonable promptness following the move, after deducting therefrom the costs and expenses to repair any damage to the Common Elements caused by the move and to restore to as near as commercially reasonable and economically practicable the affected Common Elements to the condition existing immediately prior to the move. The security deposit shall not limit the amount recoverable in the event it is insufficient to fully pay the costs and expenses to repair and restore the affected Common Elements.

Section R-1.1.4. Unsold Units. The only lease restrictions applicable to Sponsor and other Unsold Unit Owners are:

(a) to initially rent an Unsold Residential, Parking or Storage Unit for a term of not less than six months (See Section A-15);

(b) to subordinate the lease to the Condominium Documents; and

(c) to be current, within the applicable grace period, in the payment of all Common Charges (including Additional Common Charges) levied by the Condominium Board against the Unsold Unit in question.

Section R-1.1.5. Rent Laws Inapplicable. The terms of the lease of a Sold Unit or Unsold Unit, including the rent, will not be subject to any existing state or local law regulating rent or rights of tenants for continued occupancy.

Section R-1.1.6. Retail Units. None of the restrictions contained in this Section R-1.1 shall apply to the sale or lease of a Retail Unit, other than to subordinate the lease to the Condominium Documents and to be current, within the applicable grace period, in the payment of all Common

Charges (including Additional Common Charges) levied by the Condominium Board against such Retail Unit.

Section R-1.2. *Right of First Refusal*. The Condominium Board has a Right of First Refusal to purchase or lease a Sold Unit on the same terms set forth in a fully executed agreement to purchase or lease such Unit, subject to:

(a) obtaining the consent of Sponsor during only the Sponsor Veto Control Period; and

(b) certain modifications to the purchase or lease agreement that do not affect the price or rent if the Board exercises the Right of First Refusal, unless the proposed sale or lease is exempt from the Right of First Refusal (see Section R-1.2.10 below).

The material terms of the Board's Right of First Refusal are set forth below.

Section R-1.2.2. Notice Period. Within twenty (20) business days after the Condominium Board receives the fully executed purchase or lease agreement together with such documents required by the Board relating to (among other items) the housing, credit, income taxes, and the employment history of the purchaser or tenant (as applicable), the Condominium Board is to notify the Sold Unit Owner in writing whether or not it intends to exercise its Right of First Refusal. The Board may not elect to purchase or lease a Sold Unit without obtaining the prior consent of a majority in Common Interest of those Residential, Parking and Storage Unit Owners attending a duly constituted meeting of such Unit Owners called for such purpose at which quorum, is present (excluding the selling or leasing Sold Unit Owner for quorum and voting purposes), or in writing signed by a majority in Common Interest of all Residential, Parking and Storage Unit Owners (excluding the Common Interest of the selling Sold Unit Owner). If the Board declines to exercise its Right of First Refusal or fails to send notice of its election to purchase or lease the Sold Unit within said twenty (20)-business day period, the Sold Unit Owner shall have ninety (90) days thereafter to consummate the transaction, failing which the agreement to purchase or lease the Sold Unit shall automatically be deemed null and void and any subsequent sale of lease of Offeror's Sold Unit shall be subject to the Condominium Board's Right of First Refusal to purchase or lease (as applicable) the Sold Unit.

Section R-1.2.3. Closing Period. If the Condominium Board elects to purchase or lease a Sold Unit pursuant to its Right of First Refusal, the Board will have sixty (60) business days after giving notice of its election within which to consummate the transaction. The Condominium Board may (at its option) purchase or lease the Sold Unit in its own name or in the name of its nominee or designee, affiliated or non-affiliated, corporate or otherwise.

Section R-1.2.4. Funds to Acquire. The Board may obtain funds to purchase a Sold Unit (including the costs and expenses of Closing title) from the following sources, or any combination of them:

(a) a loan secured by a mortgage on only such Sold Unit or as authorized by Section 399-jj of the Condominium Act; provided, however, in either case that the consent is obtained from Sponsor (during only the Sponsor Veto Control Period) and the loan documents shall expressly provide that the Residential, Parking and Storage Unit Owners shall have Non-Recourse, Several and Limited Liability, and the Retail Owners shall have no liability, under the loan; and/or

(b) a Special Assessment imposed on only the Residential, Parking and Storage Unit Owners (other than the selling Sold Unit Owner).

Section R-1.2.5. Funds to Operate. The funds to maintain, repair, restore, alter, and otherwise operate and make any disposition of a Sold Unit purchased or leased by the Condominium Board (or its affiliate) shall be derived from rents realized from any tenant to whom such Sold Unit is leased, if any. If no such rents are realized or are insufficient, such funds or any deficit shall be derived and paid from the Residential Common Charges assessed to only all Residential, Parking and Storage Unit Owners pro rata to their respective Common Interests (other than the Unit owned by the Board in the case of a Unit purchased by the Board under its Right of First Refusal or otherwise).

Section R-1.2.6. Permissible Uses. A Sold Residential, Parking and/or Storage Unit purchased or leased by the Condominium Board, or its nominee or designee, may be used only for same as purposes as all other Sold Residential, Parking and/or Storage set forth in the Declaration.

Section R-1.2.7. Resale or Leasing of Sold Unit Held by Board. The Residential Managers, in the name and on behalf of the Condominium Board, shall make all decisions on behalf of the Residential, Parking and Storage Unit Owners as to the resale or leasing of a Sold Unit purchased by the Board (or its affiliate) or the subleasing of a Sold Unit leased by the Board (or its affiliate), as well as all decisions concerning the use, occupancy, operation and mortgaging of such Sold Unit while owned or leased by the Board (or its affiliate); subject, however, to compliance with the same restrictions on use and occupancy applicable to Sold Units (see Section R-7) and the requirement to obtain the consent of Sponsor as to borrowing set forth in Section R-1.2.4(a) above. The Condominium Board and its affiliate shall have no voting rights with respect to any Units owned by each of them and such parties and Units shall be excluded from the base number of Owners, Units and Common Interests for quorum and voting purposes.

Section R-1.2.8. Proceeds on Disposition. All rents and any other revenues derived from a Unit while owned or leased by the Condominium Board (or its affiliate), after paying the costs and expenses to own or lease and operate such Unit, and all proceeds realized on the resale of a Unit owned by the Board (or its affiliate) shall be applied to defray the Common Expenses payable by the Residential, Parking and Storage Unit Owners or other appropriate purpose that benefits the Residential, Parking and Storage Units or their Owners, as determined by the Condominium Board, in its sole judgment.

Section R-1.2.9. No Discrimination. The Condominium Board may not discriminate against any person on the basis of race, creed, color, national origin, sex, sexual orientation, age, disability, marital status or other ground prohibited by Law, whether in connection with the exercise of the Board's Right of Refusal, the leasing or subleasing of any Unit purchased or leased, or the resale of any Unit purchased, or otherwise.

Section R-1.2.10. Exempt Transactions. The following sales, transfers, conveyances and leases are exempt from the Condominium Board's Right of First Refusal:

(a) (if the Sold Unit Owner is an individual) a sale, transfer, conveyance or lease of such Owner's Sold Unit to:

(f-1.1) an adult member of such Owner's immediate family; or

(f-1.2) a trust for the benefit of such Owner or a member of such Owner's immediate family; or

(f-1.3) a corporation, partnership, limited liability company or other entity in which such Owner owns a majority of the legal, equity or beneficial interest;

(f-1.4) (if such Owner is an entity) a sale, transfer, conveyance or lease of Offeror's Sold Unit from Offeror to:

(a) any entity in which such Owner owns a majority of the legal, equity or beneficial interest; or

(b) the individual(s) and/or entity(ies) who collectively own a majority of the legal, equity or beneficial interest in such Owner;

(f-1.5) a transfer, conveyance or lease of any Sold Unit to any person as a gift or as an heir, legatee or distributee under said Owner's last will and testament or by intestacy; and

(f-1.6) a transfer, conveyance or lease from such Owner to such Owner's legal guardian or representative;

(f-2) a sale, transfer, conveyance or lease of any Unsold Unit or any Retail Unit to any person, or any such transaction of any Sold Unit to Sponsor or other Unsold Unit Owner;

(f-3) a sale, transfer, conveyance or lease of any Sold Unit to the Condominium Board (or its nominee or designee) or by the Condominium Board (or its affiliate) to any person;

(f-4) a sale, transfer or conveyance of any Sold Unit by a court-appointed referee or other officer or other person conducting a lien foreclosure sale of a mortgage, or the lien of the Condominium Board under Section 339-z of the Condominium Act, or other lien foreclosure sale, to any person;

(f-5) a transfer or conveyance of a Sold Unit by deed in lieu of foreclosure from its Owner to the holder of a mortgage encumbering said Sold Unit or to its nominee or designee, or to the Condominium Board, or its nominee or designee; and

(f-6) a sale, transfer or conveyance of a Sold Unit acquired by a holder of a mortgage or its nominee or designee, or by the Condominium Board or its affiliate, to any person.

Section R-2. Mortgaging of Units by Unit Owners. Each Unit Owner shall have the right to mortgage his or her Unit with one or more mortgages held by any lender or lenders, subject to compliance with the following restrictions and requirements:

(a) the mortgage must cover both the Unit and its appurtenant Common Interest;

(b) the Unit Owner shall give the Condominium Board written notice of the name and address of the mortgage lender and (if requested by the Board) a conformed copy of the executed note and mortgage (failure to do so shall not affect the validity or enforceability of the mortgage, but the mortgage lender shall not have certain protections and benefits with respect to (for example) the right to receive a copy of a default notice for non-payment of Common Charges or the right to cure such default);

(c) the Unit Owner shall give the Condominium Board written notice when a mortgage is satisfied and (if requested by the Board) a conformed copy of the executed satisfaction of mortgage instrument; and

(d) no Unit Owner shall mortgage or grant a security interest in his or her Unit unless and until all unpaid Common Charges and Special Assessments (if any) are paid and all unpaid liens on the Unit are satisfied or bonded, other than the mortgage liens made in compliance with the By-Laws. See Section A-15.

This last restriction in clause (d) shall not affect the validity or enforceability of a mortgage, but to the extent not prohibited by the Condominium Act or other applicable Law shall affect the priority of its lien, which shall be subject to all then existing unpaid Common Charges and Special Assessments previously assessed against the Unit.

Section R-3. Common Charges and Special Assessments.

Section R-3.1. *Determination and Apportionment of the Common Charges and Special Assessments*. The General Common Charges and Special Assessments to pay the General Common Expenses shall be determined by the Condominium Board, and assessed and apportioned to all Units pro rata to their respective Common Interests in accordance with the following provisions, except certain General Common Expenses shall be specially allocated and assessed to only certain Units to reflect the amount fairly attributable to such Units (see the First Year's Budget (Schedule B) in Section F-6 for details). The Residential Common Charges and Special Assessments to pay the Residential Common Expenses shall be determined by the Residential Managers, in the name and on behalf of the Board, and assessed and apportioned to only all

Residential, Parking and Storage Unit Owners pro rata to their respective Common Interests. (See Section B-7.3.)

Section R-3.1.1. Budget Procedure. At least ten (10) days before the start of each budget year of the Condominium Association, the Condominium Board is to prepare, adopt and distribute to all Unit Owners a budget of Condominium operation for the ensuing budget year.

Section R-3.1.2. Payment of Common Expenses. The Common Charges shall be payable monthly in advance on the first day of each month, unless otherwise determined by the Board. The Condominium Board has the right to levy Special Assessments to pay Common Expenses, which will be payable in a lump sum or in such periodic installments, with or without interest, as shall be determined in the sole discretion of the Condominium Board.

Section R-3.1.3. Failure to Adopt Budget. The failure of the Condominium Board to adopt a budget for a new budget year will not be regarded as a waiver of Common Charges nor excuse Unit Owners from their obligation to continue to pay Common Charges and Special Assessments (if any) based on the last adopted budget pending the adoption of the new budget.

Section R-3.1.4. Revised Budget. The Condominium Board may revise a budget one or more times during any budget year, but may not retroactively increase the amount of Common Charges previously billed. The Board, however, may include in the Common Expenses for the then current budget year a deficiency for a prior period (whether in the same budget year or a previous budget year).

Section R-3.1.5. Budget Surplus. If the budgeted Common Charges exceed the actual Common Expenses in any completed budget year, the Condominium Board shall apply the surplus to defray the projected Common Expenses of the next succeeding budget year. In no event shall the Unit Owners be entitled to require the surplus to be distributed to them.

Section R-3.2. *Reserves for Capital Replacements and Contingencies*. The Condominium Board shall include in each budget a reserve for capital replacements of a major component of a Common Element (the "**Reserve for Capital Replacements**"). Any material change to the Reserve for Capital Replacements, including an increase or decrease in the 10% budget line for this item, must be disclosed in a filed Plan Amendment.

The budget also includes a separate reserve for unanticipated Common Expenses or an allowance for an increase in one or more items of Common Expenses or for potential new or additional Common Expenses, or other contingencies (collectively, "**Reserve for Contingencies**").

During only the Sponsor Veto Control Period, the Board must obtain the consent of Sponsor to change or eliminate the Reserve for Capital Replacements contained in the First Year's Budget, or to establish a Reserve for Contingencies in an amount that exceeds five percent (5%)

of the projected Common Expenses, excluding the Reserve for Capital Replacements. See also Section P-2.1.

Section R-3.3. *Liability for Common Charges.* Each Unit Owner shall be personally liable for payment of Common Charges levied against his or her Unit. Such personal liability shall terminate with respect to only future Common Charges and Additional Common Charges, including Special Assessments, upon:

(a) the consummation of a sale or conveyance of the Unit in accordance with the provisions of the By-Laws;

(b) the acquisition of the Unit by a purchaser at a mortgage or lien foreclosure sale of a Permitted Mortgage, or by deed given to the holder of a Permitted Mortgage or its nominee or designee in lieu thereof; or

(c) the conveyance of the Unit to the Condominium Board (or its nominee or designee), without consideration; provided that:

(c-1) all Common Charges then due and payable with respect to such Unit have been paid in full and collected;

(c-2) the Unit is free and clear of all liens (other than the statutory lien of the Condominium Board for unpaid Common Charges as to which no monies are then owing), encumbrances, leases, occupancies and rights of others to possession; and

(c-3) no violation of any provision of the Declaration, the By-Laws or the Rules and Regulations then exists with respect to such Unit or Owner.

None of the transactions under clauses (a) and (b) above shall terminate an Owner's personal liability for unpaid Common Charges. No Unit Owner will be exempt from such personal liability by waiving the use and enjoyment of the Common Elements or by not using or abandoning his or her Unit.

The liability of an Owner under the Declaration, the By-Laws or the Rules and Regulation shall not extend to a manager, member, partner, shareholder, officer, director, trust maker, trustee, beneficiary or principal of an entity-Owner, or an employee, agent or other representative of an Owner, each of whom shall be immune from liability for acting in such capacity.

Section R-3.4. *Board's Lien and Remedies Under RPL §§339-z and 339-aa*.

Section R-3.4.1. RPL §339-z. Pursuant to RPL §339-z:

(a) the Condominium Board, on behalf of Unit Owners, shall have a lien on each Unit for unpaid Common Charges and unpaid Special Assessments, together with interest thereon (see Section R-3.7); and

(b) the Board's lien shall be prior to all other liens, except the Board's lien shall be subordinate to:

(b-1) liens for real estate taxes; and

(b-2) a lien of a recorded first mortgage and shall not affect the priority, validity or enforceability of a recorded first mortgage on any Unit.

During the Sponsor Board Control Period, Sponsor will cause the Condominium Board to file the lien under RPL §339-aa on any Unsold Unit for which Sponsor is more than thirty (30) days in arrears of Common Charges or Special Assessments (see Section R-3.6 below).

Section R-3.4.2. RPL §339-aa. Pursuant to RPL §339-aa:

(a) the lien under RPL §339-z shall be effective from and after the filing of a verified notice of lien in the City Register's Office, and will remain effective for six years or until all unpaid sums with interest thereon have been paid in full, whichever occurs first;

(b) the Condominium Board shall have the right to foreclosure the lien by suit brought in the name of the Board (or its nominee or designee), acting on behalf of the Unit Owners, in like manner as a foreclosure of a mortgage of real property;

(c) in such foreclosure suit, the delinquent Unit Owner shall be required to pay a reasonable rental for the Unit for any period prior to the sale pursuant to judgment of foreclosure and sale;

(d) the Condominium Board, acting on behalf of the Unit Owners, shall have the power in its name, or in the name of its nominee or designee, to bid on the Unit at said foreclosure sale, and to acquire and hold, lease, mortgage (subject to obtaining the requisite consent of Sponsor as provided in Section R-1.2) the Unit, but not to cast the votes appertaining to the Unit; and

(e) the Condominium Board may also bring suit to recover a monetary judgment for unpaid Common Charges and unpaid Special Assessments without foreclosing or waiving the lien, and may pursue both the lien foreclosure and monetary judgment suits at the same time.

Section R-3.5. *Common Expenses*. All costs and expenses incurred by or on behalf of the Condominium Board to pursue its remedies in Section R-3.4 shall be included in the following Common Expenses:

(a) in the case of a default by a Retail Unit Owner, the General Common Expenses assessed to all Unit Owners pro rata to their respective Common Interests; or

(b) in the case of a default by a Residential, Parking or Storage Unit Owner, the Residential Common Expenses assessed solely to all Residential, Parking and Storage Units pro rata to their respective Common Interests.

The net proceeds realized by the Board from such lien foreclosure sale or money judgment (i.e., after payment of costs and expenses, and Legal Expenses) shall be applied to pay the General Common Expenses or the Residential Common Expenses (as applicable).

If a Retail Unit is acquired by the Board or its affiliate, all costs and expenses in connection with the ownership, operation and disposition of such Unit shall be included in the General Common Expenses and charged to all Unit Owners (other than the Board or its affiliate with respect to any Unit owned by each of them), pro rata to their respective Common Interests. Similarly, all revenue derived from the ownership, operation and disposition of such Retail Unit shall be applied to defray the General Common Expenses or as otherwise determined by the Board.

If a Residential, Parking or Storage Unit is acquired by the Board or its affiliate, all costs and expenses in connection with the ownership, operation and disposition of such Unit shall be included in the Residential Common Expenses and charged only to all Residential, Parking and Storage Unit Owners (other than the Board or its affiliate with respect to any Residential, Parking or Storage Units owned by each of them), pro rata to their respective Common Interests. Similarly, all revenue derived from the ownership, operation and disposition of such Residential, Parking or Storage Unit shall be applied to defray the Residential Common Expenses or as otherwise determined by the Residential Managers, in the name and on behalf of the Condominium Board, for the benefit of only the Residential, Parking and Storage Unit Owners.

Section R-3.6. *Actions after 30 Days*. The Condominium Board is required to take prompt action to collect any Common Charges or Special Assessments that remain unpaid for more than thirty (30) days. During the Sponsor Board Control Period, Sponsor will cause the Condominium Board to file the lien under RPL §339-aa on any Unsold Unit for which Sponsor is more than thirty (30) days in arrears of Common Charges or Special Assessments. See Section R-3.4.1 and Section R-3.4.2 above.

Section R-3.7. *10-Day Grace Period; Delinquency Payments*. Common Charges shall be due and payable on the first day of each month, unless otherwise specified by the Condominium Board. If Common Charges are not paid within the first ten (10) days of a month, then the delinquent Sold Unit Owner (but not an Unsold Unit Owner or a Retail Unit Owner) shall pay on demand the following:

(a) Per Diem Interest on the unpaid amount, computed from the due date until full payment is received;

(b) a late charge in an amount set by the Condominium Board, but not to exceed $0.05 on each overdue dollar; and

(c) all costs and expenses incurred by the Board to pursue, enforce, uphold, protect and defend the Board's rights to foreclose its lien and/or recover a money judgment and to collect all amounts owed, together with, if contested and awarded in a final non-appealable order or judgment

of a court having competent jurisdiction, Legal Expenses and Per Diem Interest thereon (computed from the date each item of Legal Expenses is paid or incurred until the date full payment thereof is received).

If a Sold Unit Owner (but not an Unsold Unit Owner or a Retail Unit Owner) fails to pay Common Charges within thirty (30) days from the date due two or more times within any consecutive twelve (12)-month period, the Board shall have the right, in addition to all other rights and remedies, to require such delinquent Sold Unit Owner to pay to the Condominium Board, as security for payment of Common Charges and any Special Assessments, a sum equal the projected Common Charges payable for the ensuing twelve (12) months (hereafter, "**Security Deposit**"). The Security Deposit shall be maintained in a segregated interest or (at the exclusive option of the Board) non-interest bearing bank account designated by the Board. Any interest earned thereon shall be added to the Security Deposit.

The Condominium Board shall have the right to apply the Security Deposit to pay the Common Charges and any Special Assessments or other Additional Common Charges levied on such delinquent Sold Unit Owner that are not paid within ten (10) days of the due date and to pay or reimburse the Board for any amounts payable by such delinquent Sold Unit Owner pursuant to the By-Laws or the Declaration in connection with the exercise and performance of the Board's rights and remedies under the By-Laws or the Declaration. If the Condominium Board uses the Security Deposit, a reasonably detailed written notice thereof shall be sent to said Sold Unit Owner, who shall pay to the Condominium Board, within a deadline of ten (10) days from giving such notice, a sum equal to the amount so used. At all times, the Security Deposit shall be an amount equal to the projected Common Charges payable for the ensuing twelve (12) months. In the event of a deficiency (whether due to an application of the Security Deposit or an increase in the Common Charges or otherwise), said Sold Unit Owner shall pay to the Condominium Board the shortfall within a deadline of ten (10) days after giving written notice thereof to said Sold Unit Owner.

The remaining amount of the Security Deposit, and any interest earned thereon, shall be refunded to said Sold Unit Owner: (i) upon the sale and conveyance of the Sold Unit; or (ii) within five business days after the end of twelve (12) consecutive months during which said Sold Unit Owner remains current and in good standing in the timely payment of all Common Charges and Additional Common Charges, and the timely performance of all other obligations under the By-Laws and the Declaration.

Section R-4. Repairs.

Section R-4.1. *Repairs to Units and Limited Common Elements*. Each Unit Owner shall be obligated, at his or her expense, to repair and maintain his or her Unit and its appurtenant Limited Common Elements in accordance with the Building Standard. If the lot line windows are

required to be closed by Laws, the Condominium Board, as a Residential Common Expense, will perform the work necessary to close the lot line windows. See Section A-1.3.

Section R-4.2. *Repairs to Common Elements, Association's Assets and Sidewalk.*

Section R-4.2.1. Common Elements and Association's Assets. The Condominium Board, acting on behalf and for the account of all Unit Owners, shall be obligated to repair and maintain in accordance with the Building Standard, the General Common Elements, whether within, bordering or adjacent to Units or elsewhere in or on the Building or Property, and (if any) the Association's Assets.

The Residential Managers, in the name and on behalf of the Condominium Board, acting on behalf and for the account of only all Residential, Parking and Storage Unit Owners, shall be obligated to repair and maintain in accordance with the Building Standard, the Residential Common Elements, whether within, bordering or adjacent to Units or elsewhere in or on the Building or Property.

The Retail Managers, in the name and on behalf of the Condominium Board, acting on behalf and for the account of only the Retail Unit Owners, shall be obligated to repair and maintain in accordance with the Building Standard, the Retail Common Elements, whether within, bordering or adjacent to Units or elsewhere in or on the Building or Property.

Section R-4.2.2. Sidewalks. Each Retail Unit Owner and its authorized tenant shall have preferential and priority use of the portions of the sidewalks adjacent to its Retail Unit (including its entrances and storefronts) to operate a sidewalk café or outdoor food and beverage services. A Retail Unit Owner using or whose tenant is using a sidewalk, at its sole cost and expense, shall be responsible to keep, or cause its tenant to keep, the sidewalk in neat, clean and sanitary condition and appearance, free of debris caused by such use of the sidewalk, and if damaged by reason of such use, to repair and restore the impacted sidewalk to as near as commercially reasonable and economically practicable to the condition existing immediately before being damaged. (See Section H-7.8.2.)

Unless used by the Owner or a tenant of a Retail Unit, the Condominium Board, as the governing body of the Condominium Association, is required to keep the sidewalks clean and free and clear of snow, ice, debris and water accumulation and properly maintained and repaired. The costs and expenses incurred by the Board to maintain and repair the sidewalks in accordance with the foregoing shall be included in the General Common Expenses and allocated and assessed to all Units pro rata to their respective Common Interests.

All uses of the sidewalk permitted by applicable Law shall be determined by the Condominium Board, subject to the rights of each Retail Unit Owner and certain sale and marketing rights reserved to Sponsor (see Section O-1.7). Sponsor and other Unsold Unit Owners (if any) shall have preference and priority over the Board and Sold Unit Owners to use the

sidewalks, and may exercise such preferential and priority use and benefit freely, other than the restriction to not unreasonably interfere with normal pedestrian passage and the requirement to comply with the applicable Laws and other applicable Work Requirements.

Section R-4.3. *Furnishings and Decorating of Sold Residential Units*. Each Sold Residential Unit Owner, at his or her expense, is to comply with the following restrictions and requirements:

(a) at least 80% of the indoor floor areas of the Sold Residential Unit (other than the kitchen, pantry (if any), bathrooms, powder room (if any) and closets) must be covered with carpeting, rugs or equally effective noise reducing material Reasonably Acceptable in writing by the Condominium Board, unless the Board waives this requirement in writing, in its sole and absolute discretion [CAVEAT: although this requirement is intended to reduce or reasonably minimize the transmission of noise between floors, it will not make a Unit soundproof against noise transmitted between floors or carried through common shafts or ducts];

(b) a Sold Residential Unit's terrace may not be enclosed, partitioned, landscaped, furnished or decorated, without obtaining in each instance the consents of both Sponsor (until issuance of the Final Certificate of Occupancy of the Building) and the Condominium Board;

(c) the portions of the Sold Residential Unit exposed to public view (including, if applicable, windows, entrance doors, terrace) may not be painted, covered or otherwise decorated without obtaining in each instance the consents of both Sponsor (until issuance of the Final Certificate of Occupancy of the Building) and the Condominium Board; except window shades, blinds, curtains and other window treatments will be permitted if they are light colored or have light colored backings facing the outdoors in conformity with the Rules and Regulations appended to the By-Laws, as amended from time to time by the Condominium Board (each amendment to the Rules and Regulations shall be subject to obtaining the consent of Sponsor while Sponsor owns any Unsold Unit); and

(d) the interior and exterior sides of a Sold Residential Unit's windows and (if applicable) glass doors leading to its terrace, are to be washed and cleaned in accordance with applicable Laws.

The foregoing restrictions and requirements are not applicable to the Unsold Residential Units or the Retail Units, which may be furnished and decorated freely, without the consent of the Board or other Unit Owners. Parking and Storage Units may not be decorated.

Section R-4.4. *Acts or Omissions*. Any repair or maintenance to the General, Residential or Retail Common Elements necessitated by the negligence, neglect, abuse or other acts or omissions an Owner or tenant of a Unit, or such party's Construction Parties, shall be repaired by the Condominium Board at the expense and for the account of such Unit Owner (all amounts expended by the Board for the repair shall be charged to said Unit Owner as Additional Common

Charges). Such Unit Owner's liability, however, shall be reduced by the amount of any insurance proceeds received and collected by the Condominium Board in connection therewith.

Section R-4.5. *Access to Units*. Each Unit Owner must grant access to his or her Unit by the Condominium Board, and its agents, employees and Construction Parties, for the following purposes:

(a) to conduct inspections for the presence of any vermin, insects or other pests and to take such measures as may be necessary to control or exterminate any such vermin, insects or other pests, and to read meters and submeters;

(g) to maintain, repair, restore, alter and operate all Common Areas and Common Facilities now or hereafter comprising the General, Residential or Retail Common Elements and to provide Building Services to each and every Unit in accordance with the Condominium Documents; and

(h) to perform all work necessary:

(h-1) to fulfill the obligations of the Board under the Condominium Documents or applicable Laws;

(h-2) to prevent damage or destruction to a Unit or the Common Elements, or any portion thereof, or to prevent bodily injury or death;

(h-3) to remedy violations of Governmental Authorities noted or issued, or conditions that would constitute such violations even though not yet noted or issued against:

(h-3.1) the Property that affect the Common Elements; or

(h-3.2) a Unit, unless timely remedied by the Owner thereof in accordance with the Condominium Documents;

(h-4) to remedy any violation by a Unit Owner under the Condominium Documents that has continued beyond the grace or cure period, if any, provided for therein; or

(h-5) to remedy any condition causing an Emergency that, in the Business Judgment of the Board, threatens or affects a Unit, the Common Elements or a Building Service, or the life, health, safety, protection or security of one or more Owners or tenants of Units; and

(d) to grant easements affecting the Common Elements or to provide Building Services to one or more Units that the Condominium Board, in its Business Judgment, deems necessary or desirable or appropriate.

Access is to be granted on giving the Unit Owner advance written notice of not less than five business days, except in an Emergency, access may be immediate without advance notice.

Section R-5. Additions, Alterations and Improvements.

Section R-5.1. *Rights and Obligations of Sold Residential Unit Owners*. The rights and obligations of Sold Residential Unit Owners and the Condominium Board with respect to alterations (including additions and improvements), the requirements for consents and for the alteration, and applicable aesthetic controls are summarized below. No alterations may be made to Parking and Storage Units. Each Retail Unit Owner shall have the unfettered right to alter its Unit, other than the requirement to comply with the applicable Work Requirements. Such right to alter a Retail Unit includes the same right as Sponsor to make Unit Changes. (See Section H-7.5 for discussion.) See Section I-4 for the right of Sponsor to alter Unsold Units.

Section R-5.2. *Alteration Rights and Obligations of Sold Residential Unit Owners.*

Section R-5.2.1. Ordinary Work. A Sold Residential Unit Owner shall have the right to make the following alterations without obtaining the consents of the Condominium Board or Sponsor:

(a) furnish, paint, wallpaper or otherwise decorate the indoor portions of a Residential Unit; and

(b) any other alteration, addition and improvement to a Residential Unit that does not:

(b-1) require an application to a Governmental Authority or the issuance of a Governmental Work Permit;

(b-2) affect the aesthetics, architectural integrity or exterior appearance of the Building;

(b-3) affect the structural components of the Building;

(b-4) affect any Building Systems or Building Services impacting another Unit or the Common Elements serving another Unit;

(b-5) affect any interior or exterior waterproofing of the Building; or

(b-6) have an acoustical impact on another Unit or the Common Elements.

Section R-5.2.2. Obligations. All alterations to Residential Units and their respective Limited Common Elements shall be performed:

(a) in accordance with the Building Standard and all applicable Work Requirements;

(b) with commercially reasonable diligence and continuity to completion; and

(c) with Facilities that shall be consistent in design, compatibility, aesthetics and architectural integrity and appearance to the original items being altered.

Section R-5.2.3. Alterations Requiring Board Consent. All other alterations to a Sold Residential Unit (but not an Unsold Residential Unit, which shall not be subject to the following requirements) and its Limited Common Elements shall require the consent of the Condominium Board and if given, the Condominium Board shall have the right to condition its consent on the applicable Sold Residential Unit Owner entering into an alteration agreement, on the form adopted by the Board, with such modifications as may be required by the Board, in its sole Business Judgment, setting forth the terms and conditions to be met and performed by such Owner, including the following (among others):

(a) the requirement to comply with the Board's customary work rules (as to staging, construction worker access, wall and floor protection, construction noise mitigation, loading of construction materials, debris removal, construction personnel access to the Building and Residential Unit, security, hours and days of work, containment of dust and dirt, and the like);

(b) insurance requirements;

(c) an indemnity in favor of the Condominium Board and all other Unit Owners;

(d) a security deposit to be given to the Board;

(e) submission of plans and specifications of the alteration, which are to be acceptable to the Board's architect and/or engineer and prepared by an architect/engineer acceptable to the Board;

(f) a period within which the alteration may begin and are must be completed or substantially completed, and fines if the work is not completed within the required time period;

(g) the requirements to perform the alteration:

(g-1) in accordance with Building Standard and all applicable Work Requirements;

(g-2) by duly licensed contractors and subcontractors to the extent required by Laws and prosecuted with commercially reasonable diligence and continuity to completion; and

(g-3) using new or replacement Facilities that shall be consistent in design, compatibility, aesthetics and architectural integrity and appearance to the original items being altered;

(h) rights and remedies of the Board to (among others) suspend the work and perform corrective work at the expense of the Owner who or whose tenant is undertaking the work, and to enjoin a violation of the alteration agreement;

(i) the requirement to pay all governmental and other fees and charges; and

(j) the requirement to pay or reimburse (as directed by the Board) for the reasonable costs and expenses incurred by the Board in connection with the preparation, review and execution of the alteration agreement, including the fees and charges of any architect, engineer, consultant or other expert engaged by the Board to review the proposed plans and specifications of the alteration and to monitor the alteration work, and the fees and charges of the Managing Agent (whose fee for alterations to a Unit set forth in Section W-1.3 shall be deemed reasonable) and any attorney retained by the Board in connection with such alteration agreement and the performance of the work (all such costs and expenses shall be added to and constitute Additional Common Charges payable by such Sold Residential Unit Owner).

No approvals or consents of the Condominium Board or Sold Unit Owners are required for alterations, additions and improvements to Unsold Residential Units or the Retail Units, or their respective Limited Common Elements, which may be made freely, other than the requirement to comply with applicable Work Requirements.

Section R-5.3. *Alteration Rights and Obligations of Condominium Board*. The Condominium Board shall have the right to alter the General Common Elements, the Residential Common Elements, the Association's Assets (if any) and the sidewalks, subject to the obligations:

(a) to obtain the consent of Sponsor to the extent required in Section R-5.4:

(b) to perform the alterations:

(b-1) in accordance with the Building Standard and all applicable Work Requirements;

(b-2) by duly licensed contractors and subcontractors to the extent required by Laws;

(b-3) with commercially reasonable diligence and continuity to completion; and

(b-4) using new or replacement Common Facilities that shall be consistent in design, compatibility, aesthetics and architectural integrity and appearance to the original items being altered.

Section R-5.3.1. Costs and Expenses. The costs and expenses of alterations to the:

(a) General Common Elements, the Association's Assets (if any) and the sidewalks shall be included in the General Common Expenses and charged to all Unit Owners pro rata to their respective Common Interests; or

(b) Residential Common Elements shall be included in the Residential Common Expenses and charged to all Residential, Parking and Storage Unit Owners pro rata to their respective Common Interests.

Section R-5.4. *Alterations Requiring Sponsor's Consent.*

Section R-5.4.1. Alterations Requiring Consent. Subject to the limitations in Section P-2.2, until Sponsor has fulfilled its obligation under this Plan to obtain a Final Certificate of Occupancy of the Building authorizing the use of the Units for their intended purposes as set forth in this Plan and the Declaration, the Condominium Board and the Owners of Sold Residential Units and Retail Units shall not undertake any of the following alterations or other work without obtaining the consent of Sponsor in each instance:

(a) any work that requires an application to a Governmental Authority for a Governmental Work Permit from the DOB, or a certificate of no effect or a certificate of appropriateness (as applicable) from the Landmarks Commission (if applicable), or other governmental license or authorization;

(b) any work or decoration affecting a Sold Residential Unit's windows (other than window shades, blinds, curtains and other window treatments that are light colored and have light colored backings facing the outdoors in conformity with the Rules and Regulations, as they may be duly amended from time to time by the Condominium Board) or other portion of a Sold Residential Unit exposed to public view; and

(c) any work affecting all or a portion of a Building System serving one or more other Units, or serving the Common Elements.

Section R-5.4.2. Requirements for Sponsor's Consent. Sponsor shall have the right to condition giving its consent on requiring the applicable Sold Residential Unit Owner (at such Owner's sole cost and expense) or the` Condominium Board (as a General Common Expense charged to all Unit Owner's pro rata to their respective Common Interests or a Residential Common Expense charged to all Residential, Parking and Storage Units pro rata to their respective Common Interests, as the case may be), giving Sponsor, at least twenty (20) business days before the work is scheduled to begin:

(a) a reasonably detailed written notice of the work, copies of the proposed plans and specifications of the work, which shall be acceptable to Sponsor and prepared by an architect and/or engineer acceptable to Sponsor, together with such further documents and information as Sponsor may require;

(b) copies of the DOB approved plans and specifications, which shall be consistent in all material respects to the plan and specifications acceptable to Sponsor, all required Governmental Work Permits of Governmental Authorities having jurisdiction of the work and a certificate of no effect or a certificate of appropriateness from the Landmarks Commission;

(c) a policy or original certificate of insurance for such insurance coverage and amounts, and issued by such insurer, as shall be Reasonably Acceptable to Sponsor (any dispute as to such insurance shall be resolved by arbitration pursuant to the By-Laws), and providing that

Sponsor shall be given at least thirty (30) days' advance written notice by the insurer before such insurance coverage is terminated, cancelled or expires; and

(d) if requested by Sponsor, said Unit Owner or the Condominium Board (as applicable) shall post a bond or other security acceptable to Sponsor, in such amount and issued by such insurer or other issuer acceptable to Sponsor, in order to secure the diligent and lien-free completion of such work and compliance with all applicable Laws.

Section R-5.4.3. Requirements for Work. If Sponsor consents to the work:

(a) any revision to the DOB approved plans and specifications shall be subject to obtaining the consent of Sponsor and, if given, Sponsor receiving a copy of the revision to the DOB approved plans and specifications before implementing the work contained in the revision;

(b) the work shall be performed by duly licensed contractors and subcontractors to the extent required by Laws, and shall be prosecuted with commercially reasonable diligence and continuity to completion in compliance with all DOB approved plans and specifications and any revisions thereto as to which Sponsor gave its consent, and in conformity with all Governmental Work Permits and the certificate of no effect or the certificate of appropriateness (as applicable);

(c) Sponsor and its representatives, upon oral or written demand, shall be given reasonable access to the applicable Unit or the Common Elements (as applicable), from time to time, to inspect and monitor such work as it progresses;

(d) after the completion of the work, the party undertaking the work shall promptly and diligently endeavor to obtain from the appropriate Governmental Authorities and give to Sponsor and (for work undertaken by an Owner) the Board, all required governmental approvals, sign-offs and certificates, including (if applicable) a letter of completion from the DOB and (if applicable) an amended or new Certificate of Occupancy of the Building (collectively, "**Governmental Approvals**"), and promptly and diligently endeavor to close all related open applications;

(e) the Sold Residential Unit Owner or the Condominium Board (as applicable) undertaking the work shall indemnify Sponsor, on the terms more fully set forth in the Declaration, from and against any and all claims, litigations, liabilities and losses arising, directly or indirectly, from work or the failure to comply with any of the requirements set forth in this Section R-5.4, including:

(e-1) any violation of Laws;

(e-2) any delay in obtaining a Temporary Certificate of Occupancy or an extension of a previously issued Temporary Certificate of Occupancy or the Final Certificate of Occupancy of the Building; or

(e-3) the failure to make all appropriate filings with Governmental Authorities in connection with the work; and

(f) the Owner or the Condominium Board (as applicable) undertaking the work shall pay or reimburse Sponsor (as directed by Sponsor), within a deadline of ten (10) days after a reasonably detailed and itemized written demand, accompanied by copies of supporting bills or statements from Sponsor's Construction Parties and counsel, for the reasonable costs and expenses incurred or paid by Sponsor to Sponsor's Construction Parties to:

(f-1) review the plans and specifications of the work, the related Governmental Work Permits, certificate of no effect or certificate of appropriateness (as applicable), and Governmental Approvals; and

(f-2) inspect and monitor the work.

If Sponsor is not reimbursed with said ten (10)-day deadline period, the Owner or the Condominium Board (as applicable) shall reimburse Sponsor for the reasonable costs and expenses, together with, if contested and awarded in a final non-appealable order or judgment of a court having competent jurisdiction, Legal Expenses and Per Diem Interest thereon to enforce or defend this right and to collect the amounts owed.

Section R-5.4.4. Revocation. If the Sold Residential Unit Owner or Condominium Board (as applicable) fails to comply with any of the requirements contained in this Section R-5.4 or if the continuance of the work or any condition arising therefrom would (in Sponsor's sole and absolute discretion) delay the extension of a previously issued Temporary Certificate of Occupancy or the issuance of a Final Certificate of Occupancy, Sponsor reserves the right at any time to revoke its consent in writing, without any manner of recourse against Sponsor by reason thereof. If Sponsor revokes its consent, immediately after being given the revocation notice, said Unit Owner or the Condominium Board (as applicable) shall cease all work, remove any such condition and restore such Owner's Unit or the Common Elements (as applicable) to the condition existing before commencing the work, all as and to the extent required by Sponsor.

Section R-5.5. *Aesthetic Controls and Architectural Restrictions*. A Sold Residential Unit Owner shall be required to obtain the consent of Sponsor or (after the Final Certificate of Occupancy of the Building is issued) the Condominium Board to alter or otherwise change the aesthetics, architectural integrity or appearance of a façade or exterior Building wall, a Sold Residential Unit's window, entrance doors or terrace (if any), unless required by Laws. Any permitted alteration or change (including design and materials) shall be consistent in all material respects to the original aesthetics, architectural integrity and appearance of such façade or exterior Building wall, Unit window or entrance doors or terrace (if any), as determined solely by Sponsor or (after the Final Certificate of Occupancy is issued) the Condominium Board. In no event shall any exterior glass surface of any windows of a Sold Residential Unit be colored or painted without obtaining in each instance the consents of both Sponsor (until issuance of the Final Certificate of Occupancy of the Building) and the Condominium Board; except window shades, blinds, curtains and other window treatments will be permitted if they are light colored or have light colored

backings facing the outdoors in conformity with the Rules and Regulations, as amended from time to time by the Condominium Board. (See Section R-5.4.1(b) above.)

In order to protect the structural integrity and weather tightness of the Building and the safety of lower floors as well as the sidewalks, and to preserve the architectural and aesthetic harmony of the Building's façade and minimize possible unsightliness, a Sold Residential Unit's terrace (if any) and related structures bordering the terrace, may not be replaced, removed or otherwise altered or decorated without obtaining in each instance the prior written the reasonable consents of the Board and (until issuance of the Final Certificate of Occupancy of the Building) Sponsor in each instance. The foregoing restrictions do not apply to Unsold Residential Units (including their windows exterior doors, terrace (if any) and related structures bordering the terrace). Sponsor or other Owner of an Unsold Residential Unit shall have the unfettered right to alter and decorate their respective Unsold Residential Units (including their terraces, if any), other than the requirement to comply with the applicable General Requirements.

No fence, barrier or partition (other than a fence, barrier or partition erected by Sponsor to separate two terraces in accordance with Sponsor's Plans and Specifications), furniture, furnishing, plants, trees, flowers, hedges, shrubs or other gardening item, planters or containers, structures or other objects shall be installed or placed in or on a terrace of a Sold Residential Unit, unless in compliance with applicable Laws and after first obtaining in each instance the reasonable consents of the Board and (until issuance of the Final Certificate of Occupancy of the Building) Sponsor.

Any plants, trees, flowers, hedges, shrubs or other gardening item permitted to be installed on a Sold Residential Unit's terrace (if any) shall be contained in free standing, removable boxes of wood, lined with metal or other materials impervious to dampness and standing on supports at least two inches from the surface, and if adjoining a façade or exterior Building wall or parapet, at least three inches from such element. The wood boxes shall have suitable weep holes to draw off water and only light weight soil shall be used. In special locations, such as a corner abutting a façade or exterior Building wall or parapet or the like, plants may be contained in masonry or hollow tile walls which will be at least three inches from such elements, with a floor of drainage tiles and suitable weep holes at the sides to draw off water.

No trees taller than six feet will be allowed on a Sold Residential Unit's terrace, including its container and supports. The Owner of such Sold Residential Unit shall have the duty, at such Owner's sole cost and expense, to properly maintain the containers, the drainage tiles and weep holes in operating condition in accordance with the Building Standard, and all gardening items properly pruned so that the height of the tree shall not be taller than the footage indicated above and all gardening items shall not hang over the railings, parapets. fencing or other structures, or otherwise outside the borders of the Unit's terrace.

Each Sold Residential Unit Owner shall notify the Condominium Board or the Managing Agent, if any, in writing, when a child under the age of eleven (11) years lives or resides (even

temporarily) in the Sold Residential Unit. In such event, said Sold Residential Unit Owner shall be obligated to install, at said Unit Owner's sole cost and expense, window guards (or safety "stops" lieu of window guards, designed specifically to prevent a child from falling out of the window) in all windows of the Unit in accordance with applicable Laws. The design and composition of the window guards to be installed on windows of Sold Residential Units shall conform to the architectural features of the Building as determined solely by the Condominium Board and Sponsor (until the Final Certificate of Occupancy is issued). Each Unit Owner shall maintain all window guards (or stops) installed in, on or to the Unit and shall not remove them until permitted by applicable Laws. The installation and removal of the window guards (or stops) shall be performed in accordance with all applicable Work Requirements, which (among others) require a Sold Unit Owner (but not an Unsold Unit Owner, who is exempt from this requirement):

(a) signing the Building's standard alteration agreement with such modifications as the Board may determine to be appropriate (in its sole Business Judgment); and

(b) obtaining the prior written reasonable consents of the Condominium Board and Sponsor (until the Final Certificate of Occupancy is issued).

In the event of any disagreement between the Board and Sponsor (whenever its consent is required), the decision of Sponsor shall be paramount and control. See Sections A-35 and A-36.

Section R-6. Insurance.

Section R-6.1. *Insurance Coverage Provided by Condominium Board*.

Section R-6.1.1. Fire and Casualty Insurance. The Condominium Board shall obtain and maintain fire and casualty insurance with all risk coverage, vandalism and malicious mischief endorsements or such other endorsements as may be contained in the First Year's Budget (Schedule B), insuring the General and Residential Common Elements, including the party walls separating the Units from the Common Elements and (if applicable) from each other, the Limited Common Elements and the Association's Assets, and covering the interests of the Condominium Board and all Unit Owners and their mortgagees, as their respective interests may appear, in an amount equal to 100% of the full replacement value of the portions of the Property required to be insured against loss or damage pursuant to this clause (exclusive of foundations and footings), without deduction for depreciation.

The fire and casualty insurance coverage shall be not less than an amount which shall be sufficient for the insurer to waive any co-insurance requirement or is based on an "Agreed Value" or "Agreed Amount" replacement cost (or comparable term) endorsement. In addition, such fire and casualty policies shall contain (if available):

(a) waivers of: (a-1) subrogation in favor of Owners and designated tenants of Units; (a-2) any defense based upon co-insurance or other insurance; (a-3) invalidity arising out of the acts of an insured party; and (a-4) pro rata reduction of liability;

(b) a provision that any adjustment of loss will be made by the Condominium Board and that all proceeds will be paid to the Condominium Board or (at the option of the Board) an Institutional Lender having both an office in the City and State of New York and a capital surplus and undivided profits of $100,000,000 or more ("**Insurance Trustee**") appointed pursuant to the By-Laws where the Board is to restore the damaged Common Areas and Common Facilities in accordance with the By-Laws;

(c) a New York Standard Mortgagee provision in favor of each mortgagee registered on the records of the Condominium Association in accordance with the By-Laws ("**Registered Mortgage**"), subject, however, to the preceding loss payment provisions in favor of the Condominium Board or (at the option of the Board) Insurance Trustee; and

(d) a provision preventing the policy from being canceled or substantially modified unless at least ten (10) days' prior written notice is given to the Condominium Board.

The property casualty insurance shall not cover the decorations or finishes of walls, floors or ceilings of the General and Residential Common Elements (unless otherwise determined by the Condominium Board) or of any Unit not owned, leased or otherwise held by the Board (or its affiliate), or the contents of any such Unit, including its appliances, kitchen and bathroom fixtures (electric, electronic, plumbing or otherwise), furniture, furnishings, cabinets, countertops, decorations and other personal property. Each Unit Owner is to obtain these insurance coverages at his or her expense (see Section R-6.1.9) and should also consider the desirability of obtaining liability coverage for the Unit's undivided interest in the Common Elements to the extent the insurance maintained by the Condominium Board for incidents in, on or caused by the Common Elements is inadequate or the risk is not insured.

Section R-6.1.2. Flood and Earthquake. The Condominium Board shall obtain and maintain flood and earthquake coverage in amounts, terms and rates to be determined by the Board to be commercially reasonable, adequate and available.

Section R-6.1.3. Acts of Terrorism. The Condominium Board shall obtain and maintain insurance covering Acts of Terrorism (as defined in the Terrorism Risk Insurance Act of 2002), including any extensions and changes thereof (collectively, "**TRIA**"), but only so long as TRIA is in effect or such insurance is available at reasonable commercial rates and terms; it being understood that if TRIA is no longer in effect and such insurance is not available at reasonable commercial rates and terms, the Condominium Board shall have the right, in its sole Business Judgment, to cease maintaining said TRIA insurance.

Section R-6.1.4. Commercial General Liability. The Condominium Board shall obtain and maintain Commercial General Liability coverage written on the Insurance Services Office form - 1986 or later (containing the so called "occurrence clause"), or equivalent comprehensive general Liability coverage, with respect to ownership, operation, maintenance, use and control, insuring against liability for injury or damage to persons or property in or upon the General or

Residentials Common Elements, the sidewalks and the Association's Assets, including all Units or other property (if any) owned, leased or otherwise held by the Condominium Board, or its affiliate (the Condominium Board may, in its discretion, obtain umbrella liability insurance in such amounts in excess of that (if any) provided in the First Year's Budget as the Condominium Board may determine from time to time).

The liability coverage shall be in such amounts as the Condominium Board may determine from time to time, but shall not be reduced below the amount set forth in the First Year's Budget without obtaining the consent of Sponsor during only the Sponsor Veto Control Period. The Condominium Board shall review the amounts of liability coverage at least once each budget year.

The liability policies shall list as co-insureds: (a) the Condominium Board and each and every Manager and Officer thereof; (b) the Managing Agent or manager (if any); (c) each agent and employee of the Condominium Board; (d) each Unit Owner; and (e) (if required by the terms of a Registered Mortgage) the holder of such Registered Mortgage, as their respective interests may appear.

Such insurance shall not cover liability of a Unit Owner arising from occurrences within or on the Owner's Unit (including its terrace, if any), which may be separately insured by a Unit Owner. This exception shall not apply to any Unit owned, leased or otherwise held by the Condominium Board or its affiliate.

Section R-6.1.5. Boiler and Machinery Insurance. The Condominium Board shall obtain and maintain boiler and machinery insurance on facilities constituting part of the Common Elements, the Limited Common Elements or the Association's Assets (including any Unit owned, leased or otherwise held by the Board, or its affiliate), in not less than the amount set forth in the First Year's Budget without obtaining the consent of Sponsor during only the Sponsor Veto Control Period; but not any facilities that are part of any other Unit (which may be separately insured by the Owner of such Unit).

Section R-6.1.6. Workmen's Compensation. The Condominium Board shall obtain and maintain workmen's compensation insurance, New York State disability benefits insurance and employer's liability coverage covering any employees hired by the Condominium Board. Each Unit Owner shall be solely responsible to obtain and maintain, at his or her sole cost and expense, the foregoing insurance for its own employees or contractors.

Section R-6.1.7. Other Insurance. The Condominium Board shall also obtain and maintain the following insurance to the extent available at reasonable rates:

(a) business interruption insurance, including loss of rents in an amount equal to the Common Charges for at least twelve (12) months;

(b) water damage legal liability insurance;

(c) elevator liability and collision insurance;

(d) non-owned and hired automobile liability insurance;

(e) combination crime insurance, including blanket employee dishonesty, forgery or alteration, covering the Managers and Officers of the Condominium Board, the Managing Agent (if any) and employees (if any) handling funds of the Condominium Board;

(f) officers and directors liability insurance for Officers and Managers of the Condominium Board, including Employment Practices Liability insurance and third party discrimination;

(g) such other or additional insurance as the Condominium Board shall determine from time to time, in its sole Business Judgment; and

(h) such insurance with respect to the Units, the General and Residential Common Elements, the Limited Common Elements and the Condominium Association as would be reasonably required and which are commonly insured against for such properties most similar to the Property, similarly situated to a prudent lender originating commercial mortgage loans for securitization similar to a then existing mortgage on an Unsold Residential Unit at the time in question, which insurance shall in all cases comply in all respects with the insurance requirements expressly contained in said then existing mortgage for so long as it encumbers an Unsold Residential Unit.

Section R-6.1.8. Insurance Covering Work Performed by Board. In connection with work performed by or on behalf of the Condominium Board, if not already covered by insurance policies then maintained by the Condominium Board, the Condominium Board shall also obtain and maintain installation floater coverage in an amount equal to the cost of the contract for any work performed by or on behalf of the Condominium Board on the Property or cause its contractors to maintain equivalent insurance, naming the Condominium Board, all Unit Owners and their respective mortgagees as their interests may appear, except that such insurance shall not be required if the estimated cost of such work is less than One Hundred Thousand Dollars ($100,000).

Section R-6.1.9. Insurance Obtained by Sold Residential Unit Owner. Each Owner of a Sold Residential Unit shall be required to obtain and maintain condominium homeowner's insurance as follows: Personal Property in the amount of $150,000; Alterations & Additions in the amount of: $150,000; and Personal Liability in the amount of $1,000,000. The Sold Residential Unit Owner's Property and Liability coverage is to be endorsed to provide a waiver of subrogation in favor of the Condominium Board. These insurance requirements do not apply to Owners of Unsold Residential Units, or Owners of Storage Units, Parking Units or Retail Units.

A Sold Residential Unit Owner, at such Owner's sole cost and expense, shall maintain, or shall cause said Owner's contractor to maintain, the following insurance during its performance of any work, other than Ordinary Work (or such alternate amounts as may be required by the Board based upon the type of work) during its performance of any work:

(a) Workmen's Compensation and Disability Benefits Insurance as required by the Laws of the State of New York and Employer's Liability Insurance;

(b) Commercial General Liability and Products/Completed Operations Coverage to the extent such insurance coverage is not included in a policy maintained by the Condominium Board, including the Condominium Board, its agents, successors and assigns, and any tenant of the Unit as additional insureds with a minimum limit of $5,000,000.00 per occurrence;

(c) Additional Commercial General Liability coverage extensions required: This Insurance is Primary and Non-Contributory as respect to coverage afforded the additional insurance and will be applicable to both the premises and completed operations coverage; Contractual Liability; and Waiver of Subrogation in favor of the Condominium Board and Unit Owners; and

(d) Installation floater coverage in an amount equal to the cost of the contract for any work performed in the Common Elements, naming as additional insureds the Unit Owners, the Condominium Board, and any mortgagee of the Unit Owner performing such work, as their respective interests may appear, except that such insurance shall not be required if the estimated cost of the work in the Common Elements is less than One Hundred Thousand Dollars ($100,000) and is covered by insurance policies maintained by the Condominium Board.

Section R-6.1.10. Insurance Obtained by Sponsor. At or prior to the First Unit Closing, Sponsor shall obtain, at the expense of the Condominium Board, the insurance coverages set forth in the First Year's Budget (Schedule B in Section F-6). See Schedule B for details of the coverages, deductible amounts and estimated premiums. In subsequent years of Condominium operation, the Condominium Board shall make all determinations concerning the insurance to be obtained (including coverages, insured amounts and amounts deductible), subject to compliance with the By-Laws and Sponsor's Veto Control during only the Sponsor Veto Control Period.

Section R-6.2. *Destruction or Damage*. In the event of:

(a) a casualty in which three-fourths or more of the Building (including the Units, the Building's structural components and the Building Services comprising the General and Residential Common Elements) is destroyed or substantially damaged so as to require re-construction, the Unit Owners shall conclusively be deemed to have irrevocably and unconditionally duly resolved to proceed with the repair and restoration, regardless of the adequacy of the net insurance trust funds to repair and restore the destruction and/or damage, unless not less than eighty percent (80%) in number and Common Interest (fractions shall be rounded down) of all Unit Owners (including both Retail Unit Owners) elect to withdraw the Property from the Condominium Act within a deadline of sixty (60) days thereafter, in accordance with the By-Laws; or

(b) a casualty in which less than three-fourths of the Building (including the Units, the Building's structural components and the Building Services comprising the General and Residential Common Elements) is destroyed and/or substantially damaged so as to require re-construction, the Board shall repair and restore the destruction and/or damage to such Common Elements.

If the Building is to be repaired or restored, the net proceeds of insurance shall be paid to the Condominium Board or (at the option of the Board if such proceeds exceed $1,000,000) to an Insurance Trustee appointed by the Condominium Board and applied for such purpose.

In the case of destruction or damage to a Unit and/or the Limited Common Elements restricted to its exclusive use, the affected Owner of such Unit shall be obligated to pay and perform the repair and restoration, as provided more fully in Section 3.10.9 of the By-Laws.

Section R-6.2.1. Insufficient Net Proceeds of Insurance. If the net proceeds of insurance shall be insufficient to repair or restore the affected General and Residential Common Elements, Association's Assets and (to the extent insurable by the Board) Units, the Board shall assess the deficiency as Additional Common Charges as follows:

(a) in the case of said deficiency to repair and restore the destroyed or damaged General Common Elements: the deficit shall be assessed as a General Common Expense to all Owners, pro rata to their respective Common Interests; or

(b) in the case of said deficiency to repair and restore the destroyed or damaged Residential Common Elements: the deficit shall be assessed as a Residential Common Expense to all Residential, Parking and Storage Unit Owners, pro rata to their respective Common Interests.

Section R-6.3. *Abatement in Common Charges*. If, through no fault of a Unit Owner or for which a Unit Owner is accountable under the Condominium Documents, a destruction or damage renders a Unit wholly or partially unusable for the purposes permitted in the Declaration, or the means of reasonable access thereto is prevented, the Common Charges otherwise payable by such Unit Owner shall proportionately abate until such Unit shall again be rendered useable for the purposes permitted in the Declaration and/or until the means of reasonable access thereto shall be restored, as the case may be. The amount of abatement shall be determined by the Condominium Board based on:

(a) the net amount not recovered by the Board and the affected Owner from insurance maintained by each;

(b) the resulting increase in Common Charges to other Unit Owners not being unduly economically burdensome; and

(c) equitable considerations, as determined by the Board in its discretion, reasonably exercised.

If the destruction or damage shall be caused by an act or omission of the Unit Owner or for which a Unit Owner is responsible or accountable pursuant to Condominium Documents, the Common Charges otherwise payable by such Owner shall abate to the extent only of any proceeds of business interruption or similar insurance actually collected by the Condominium Board with respect to such Owner's affected Unit.

If the Common Charges of a Unit is abated, such abatement shall not excuse the other Unit Owners from the obligation to pay the full amount of the Common Expenses assessed by the Board to such Unit Owners, including their respective pro rata share of the amount abated to the affected Unit.

Section R-7. Restrictions on Occupancy and Use. The restrictions on occupancy and use of Units are summarized below and set forth in the Declaration.

Section R-7.1. *Limitation on Pets*. No bird, reptile or other animal shall be permitted, raised, bred, kept, or harbored in Sold Residential Units, other than domestic dogs and domestic cats (not to exceed four in the aggregate), unless, in each instance, the same shall have been expressly permitted in writing by the Condominium Board or the Managing Agent. Any such consent, if given, shall be revocable at any time by the Condominium Board or the Managing Agent, in its sole discretion. No Sold Residential Unit shall be used for the breeding of animals or pets for commercial purposes. No dangerous or poisonous reptiles, insects or other animals shall be kept in any Residential Unit. A permitted pet in a Sold Residential Unit whose behavior is a nuisance to occupants of other Units or is the cause of an unsanitary condition or an offensive odor to occupants of other Units shall be removed unless such behavior or condition is corrected within fifteen (15) days after giving written notice thereof and is not repeated more often than twice in any twelve (12)-month period.

Section R-7.2. *Aesthetic Controls*. Sold Residential Units must comply with the following aesthetic requirements:

(a) the glass surfaces of a Sold Residential Unit's windows or a door leading to a terrace shall not be painted, colored or otherwise covered without obtaining the consents of both the Condominium Board and (until issuance of the Final Certificate of Occupancy of the Building) Sponsor;

(b) all window shades, blinds, curtains and other treatments must be light colored or have light colored backings facing the outdoors in conformity with the Rules and Regulations, as they may be duly amended by resolution of the Condominium Board from time to time (subject to obtaining the consent of Sponsor until issuance of the Final Certificate of Occupancy of the Building);

(c) no Sold Residential Unit's windows or the door (including hardware and saddles) leading to the Unit or its terrace (if any) may be replaced, removed or otherwise altered without

obtaining the consents of both the Condominium Board and (until issuance of the Final Certificate of Occupancy of the Building) Sponsor;

(d) no radio antennae, satellite dishes or other telecommunication equipment may be installed in, on, or to, or projected from, a Sold Residential Unit's window, terrace (if any), or any structures bordering a terrace, or other Unit's Area visible from the street;

(e) no "For Sale", "For Rent" or other signs may be installed in, on or to, or otherwise displayed from a Sold Residential Unit's window, terrace, or any structures bordering such terrace, or other areas of a Sold Residential Unit visible from the street;

(f) no terrace shall be enclosed, altered or partitioned, without obtaining the consents of both the Condominium Board and (until issuance of the Final Certificate of Occupancy of the Building) Sponsor in each instance, except the reasonable consents of the Board and Sponsor shall be required for a temporary structure erected on a terrace in accordance with applicable Laws for religious, ceremonial or similar purposes;

(g) no terrace may be landscaped, furnished, painted or otherwise decorated with any planter, structure, object or otherwise without obtaining the prior written reasonable consents of both the Condominium Board and (until issuance of the Final Certificate of Occupancy of the Building) Sponsor in each instance;

(h) all permitted gardening items located on a terrace shall be properly pruned so that they shall not hang over the railings, parapets, fencing or other structures, or otherwise outside the borders of the Unit's terrace; and

(i) the height of a tree on a terrace shall not be taller than six feet, including its container and supports.

The foregoing restrictions are not applicable to Unsold Residential Units. In no event may a terrace be enclosed in a manner that would use, impair, infringe or otherwise affect the Excess Development Rights reserved exclusively to Sponsor without obtaining the consent of Sponsor. See Section A-14.

Section R-7.3. *Permitted Use*. Sold Residential Units are to be used only for dwelling and incidental home occupation purposes permitted by Law. These limitations are more restrictive than those applicable to Sponsor's Unsold Residential Units, which may be used for all lawful purposes (other than Prohibited Uses and Offensive Uses), including as models and offices for the sale, promotion, rental, operation and management of Unsold Units.

A Sold Residential Unit's terrace (if any) may be used only for lounging, sunbathing and other passive recreational activities, and for no other purpose, and may be used and occupied only in accordance with the same Unit Users applicable to the interior of the Unit.

A Parking Unit shall be used only for parking of a motor vehicle whose length, width and height shall fit entirely on and with the dimensions of the Parking Unit. and the Handicapped Parking Unit shall be used in compliance with Laws. A Handicapped Resident who has a Handicapped Vehicle will have priority rights to own the Handicapped Parking Unit. If the Handicapped Parking Unit is not being used and occupied by a Handicapped Vehicle, then the Owner of a Residential Unit occupied by a Handicapped Resident who has a Handicapped Vehicle that will fit on and within the dimensions of the Handicapped Parking Unit, shall have the right to require the Owner of such Handicapped Parking Unit, on not less than thirty (30) days' notice, to sell and convey the Handicapped Parking Unit at its then current fair market value to said Owner of the Residential Unit occupied by said Handicapped Resident. If the parties fail to agree upon the fair market value within fifteen (15) days after such notice is given, either party may submit the dispute to Baseball Arbitration for resolution. If said Owner of the Handicapped Parking Unit fails to comply with the foregoing, the Owner of the Residential Unit occupied by said Handicapped Resident shall have the right, in addition all remedies at law and in equity, to the remedies set forth in the By-Laws. See Section A-14.3.5.

A Sold Storage Unit shall be used only for the storage of personal effects of the Owner or a tenant of such Owner's Residential Unit, or a member of said Owner's or tenant's Household. In no event shall a Storage Unit be used to store any food or other perishable item, or any flammable or explosive item, or any item that would impose a health or safety threat or cause noxious odors, dirt or other unsanitary problems, or to create a nuisance.

Section R-7.4. *Occupancy Restrictions*. In order to provide for the congenial occupancy of the Property and to protect the value of Units, occupancy of Sold Residential Units shall be limited to the following:

(a) if owned or leased by one or more individuals: occupancy shall be limited to the individual Owner or a tenant registered on the records of the Condominium Association, or such Owner's or tenant's (as applicable) Household and (for a limited period) Guests of such Owner or tenant (as applicable); or

(b) if owned or leased by a corporation, partnership, limited liability company, trust, consulate, sovereign government, or other entity: occupancy shall be limited to an individual who is an officer, director, shareholder, member, partner, fiduciary, trust grantor or beneficiary, principal of such entity or an employee designated by such entity, and members of the Household of the each of the foregoing, and for a limited period of time temporary Guests.

The Condominium Board, however, may, in its sole discretion, permit Sold Residential Units to be occupied by other persons. The foregoing restrictions on occupancy do not apply to Unsold Residential Units or the Retail Units, which may be occupied by anyone, regardless of a relationship or lack of a relationship with the respective Owners of such Units.

Section R-7.5. *Restrictions on Use*.

Section R-7.5.1. Prohibited Uses. No Unit may be used for any Prohibited Uses, namely:

(a) any use of a Unit that impacts or, in the Business Judgment of the Board, would threaten to impact, the structural integrity, stability, soundness, weather tightness and acoustics of the Building, or damage the Common Elements or another Unit, or the life, health, safety, protection or security of Owners or tenants of Units;

(b) any use that violates applicable Laws in effect at the time in question or the Building's Certificate of Occupancy;

(c) any use of, or matter kept in or on, a Unit, whether permitted or suffered, that increases the rate of insurance of the Property in effect at the date of recording the Declaration, unless the Unit's Owner responsible for such increase pays the additional premium therefor;

(d) any use of a Unit that results in, or in the Business Judgment of the Board would result in, the cancellation or notice of cancellation of insurance maintained by the Board;

(e) any use inconsistent with or in violation of its permitted use;

(f) any unusual use of, or practice permitted or suffered in, on or to a Unit that, in the Business Judgment of the Board, is an unreasonable and substantial annoyance or nuisance to an Owner or a tenant of another Unit or an unreasonable, substantial and repeated interference with the peaceful possession or proper use and enjoyment of another Unit or the Common Elements for their intended or permitted purposes as stated in the Declaration or the By-Laws; provided, however, the use of a Retail Unit as a restaurant or other permitted use shall not be a violation of this clause (f);

(g) any use of a Common Element or a Unit causing or comprising waste;

(h) any use involving the storage, purchase, sale, disposal or release or other disposition of any hazardous, explosive, toxic or radioactive material, matter, substance or waste that is or becomes regulated under applicable Laws, including: asbestos; polychlorinated biphenyls (i.e., PCBs); radioactive substances; petroleum, petroleum-based derivatives and hydrocarbons; urea formaldehyde; and any "hazardous substance" or "hazardous waste", as defined in and regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq., or the Resource Conservation and Recovery Act, 42 U.S.C. §§6901, 6903, 6921, et seq., as each statute may hereafter be amended from time to time, or any other existing or hereafter enacted or promulgated new applicable federal, state or local Laws, but excluding from the foregoing:

(h-1) petroleum products for mechanical equipment of a Unit or a Common Element that are properly used and stored in accordance with applicable Laws or the Declaration or the By-Laws; and

(h-2) cleaning, heating and lubricating products in general use in first-class, high quality mixed-use residential and retail buildings located in the vicinity of the Building and similar to the Building's size and amenities; provided, however, such products are properly used and stored in accordance with applicable Laws;

(i) any use of a Unit or any portion thereof by any Foreign Government or a Diplomat, unless such Foreign Government waives its sovereign or said Diplomat waives his or her diplomatic immunity in conformity with the terms contained in Article 14 of the Declaration;

(j) any use of a Unit or any portion thereof by a Foreign Person, unless such Foreign Person (if an entity) designates the New York Secretary of State or a New York agent for service of process or (if an individual) designates an agent for service of process, both pursuant to the terms provided in Article 15 of the Declaration;

(k) any change in use of a Unit that would require a new or amended Certificate of Occupancy of the Building that would affect the permitted use of another Unit or require an alteration to the Common Elements, or delay extending a Temporary Certificate of Occupancy of the Building or obtaining a Final Certificate of Occupancy of the Building, without obtaining the discretionary consent of the following:

(k-1) until issuance of the Building's Final Certificate of Occupancy, the Sponsor;

(k-2) the Condominium Board; and

(k-3) the impacted Owner of another Unit (if any); and

(l) any use of a Common Elements or Unit that impairs, infringes, abridges, diminishes or otherwise affects the Excess Development Rights.

Section R-7.5.2. Other Restrictions. Other restrictions on use include the following:

(a) at least 80% of a Sold Residential Unit's floors (excluding kitchen, pantry (if any), bathrooms, powder room (if any) and closets) shall be carpeted or otherwise covered with an equally effective noise reducing material [CAVEAT: although this requirement is intended to reduce or reasonably minimize the transmission of noise between floors, it will not make a Unit soundproof against noise transmitted between floors or from an adjacent hallway or carried through common shafts or ducts];

(b) loud playing of musical instruments, sound systems, radios, television sets or other devices which disturb or annoy other occupants of the Building shall not be permitted between midnight and the following 8:00 a.m. and in no event shall singing or practicing musical instruments be allowed in Sold Residential Units before 9:00 a.m. or after 10:00 p.m.;

(c) repairs and alterations to Sold Residential Units shall be performed on such days and during such hours as shall be determined by the Condominium Board;

(d) a terrace may not be used for sleeping, dining or any other any type of "living" or habitable space, or as an office (see Section A-14.3);

(e) smoking, e-smoking, smoke and vapors in and on the indoor and outdoor Common Areas, in all Units and on all terraces are prohibited and such prohibition:

(e-1) applies to the Owner, the Owner's tenant and all Permitted Users of Owner's Unit;

(e-2) makes the Owner responsible and accountable for a violation of this smoking and e-smoking ban by the Owner's tenant or other Permitted User of Owner's Unit; and

(e-3) if violated by an Owner or Owner's tenant or other Permitted User of Owner's Unit, permits the Board:

(e-3.1) to impose on Owner a fine of $75.00 a day and a $250 charge if the Board's counsel sends a notice of violation; and

(e-3.2) to recover from such Owner all losses paid or incurred by the Board to remedy the violation; and

(f) the Retail Unit may not be used for Offensive Uses.

See Sections A-32, A-41 and H-3 for discussion.

Section R-7.6. *Limitations on Guest Privileges*. The Owner's Household and temporary Guests will be permitted to occupy the Sold Residential Unit even though the Owner or Owner's tenant (as applicable) is absent; provided, however, at least one Household member of the Owner or tenant aged 18 years or older is simultaneously in occupancy overnight. No transient or short-term occupancy or stay, similar to a hotel, motel, dormitory, bed and breakfast, boarding house (other than nonpaying Guests) shall be accommodated in a Sold Residential Unit or any room of a Sold Residential Unit at any time.

Section R-7.7. *Limitations in Utilization of Common Elements*. The General Common Elements are for the use and enjoyment in common by all Unit Owners and their respective tenants for all purposes for which they are reasonably intended, suited and capable, subject to the terms and conditions of the Condominium Documents, as summarized herein. The Residential Common Elements are for the use and enjoyment in common by all Residential, Parking and Storage Unit Owners and their respective tenants for all purposes for which they are reasonably intended, suited and capable, subject to the terms and conditions of the Condominium Documents, as summarized herein. The Retail Common Elements are for the use and enjoyment in common by both Retail Unit Owners and their respective tenants for all purposes for which they are reasonably intended, suited and capable, subject to the terms and conditions of the Condominium Documents, as summarized herein. The Condominium Board shall have the right to determine, and to amend the

Rules and Regulations governing, the use of the General, Residential and Retail Common Elements, including (in the case of the Residential and General Common Elements) moving into and out of the Building to assure reasonable access to, and use of, other portions of the applicable General and Residential Common Elements by other Unit Users. The Condominium Board shall not impose or collect any fee, charge or other imposition in connection with a move into or out of the Building, or such use of the General or Residential Common Elements, other than a security deposit from Owners and tenants of Sold Residential Units only (but not Unsold Residential Units or Retail Units), which may be applied to pay the costs and expenses to repair damage to the applicable General and/or Residential Common Elements attributable to such move. The unapplied amount of such security deposit shall be refunded to the applicable Owner or tenant (as applicable) of a Sold Residential Unit with commercially reasonable diligence after completion of the move. The amount of the security deposit shall be determined by the Board, in its Business Judgment. All Board decisions with respect to the Residential Common Elements shall be made by the Residential Managers in the name and on behalf of the Board. All Board decisions with respect to the Retail Common Elements shall be made by the Retail Managers in the name and on behalf of the Board.

See Section O-1.7 for summary of rights of Sponsor to use the Common Elements.

Section R-7.8. *Limitations in Certificate of Occupancy and Zoning Law*. When the Temporary Certificate of Occupancy and the Final Certificate of Occupancy are each issued, the Residential Units shall be limited to being used as one-family dwellings and any incidental home occupation allowed by Law. The foregoing use is permitted by the current zoning for the Property, which is zoned C4-3A / Residential District Equivalent; R6A, Use Groups 1-4 (residential and community facilities); Use Groups 5&6 (hotels, general retail, & offices); Use Groups 8-10 (large retail and amusement), Use Group 12 (entertainment facilities), which permits the use of the Units for their intended purposes under this Plan as of right.

Section R-8. Remedies. The remedies (among others at law and in equity) available to the Condominium Board and Sponsor in the event of a violation of the Declaration or the By-Laws for other than non-payment of Common Charges or Special Assessments are set forth below.

Section R-8.1. *Self Help*. If a Unit Owner fails to cure a violation within thirty (30) days (or ninety (90) days if not reasonably susceptible to cure with due diligence and continuity to completion within thirty (30) days) after being given written notice of the violation, Sponsor (until the Final Certificate of Occupancy is issued) or (if Sponsor fails to act with commercially prompt diligence) the Condominium Board shall have the right (but not the obligation) to implement the right of self-help and remedy the violation for the account and at the expense of such offending Unit Owner. All amounts owed to the Board shall constitute Additional Common Charges payable by such Unit Owner. In the event of an Emergency, the foregoing remedy of self-help may be exercised immediately, without prior notice and without allowing the Unit Owner a cure period.

Section R-8.2. *Abatement and Enjoinment*. In the event that any Unit Owner shall violate any of the provisions of the Condominium Documents on such Owner's part to be observed, fulfilled or performed, Sponsor (until the Final Certificate of Occupancy is issued) or (if Sponsor fails to act with commercially prompt diligence) the Condominium Board shall have the right to enjoin, abate or otherwise remedy the continuance or repetition of any such violation, and to compel specific performance, by appropriate litigation.

Section R-8.3. *Violation of Sponsor's Rights*. The violation of any of the terms of the Condominium Documents or this Plan with respect to any of Sponsor's Rights thereunder shall give to Sponsor the right to enjoin, abate or remedy the continuation or repetition of any such violation by appropriate litigation. If the Board violates Sponsor's Rights, Sponsor will have these same remedies against the offending Board when the Independent Managers constitute a majority of all Managers.

Section R-9. Arbitration. Any dispute between or among the Unit Owners or one or more Unit Owners and the Condominium Board arising out of the Declaration or the By Laws for which arbitration is expressly required shall be submitted to expedited arbitration (referred to as "**Baseball Arbitration**"), and not court action or proceedings, conducted in Brooklyn or Manhattan, unless all parties to the dispute unanimously agree to resolve their dispute in any other manner.

Under Baseball Arbitration, all disputes shall be resolved by one independent, disinterested arbitrator. Each disputant will submit to the arbitrator(in the case of a monetary dispute) its best offer or (in the case of a nonmonetary dispute) a memorandum supporting the disputant's position in the dispute and a memorandum rebutting the position of the other party or parties to the dispute. The arbitrator shall determine which best offer or memorandum he or she believe is the most consistent with the Laws of the State of New York and the provisions of the Declaration, the By-Laws and the Rules and Regulations, and is correct and accurate. The arbitrator shall not have the power to vary or modify any of the provisions of the Declaration, the By-Laws or the Rules and Regulations.

The arbitrator shall also determine whether any damages or expenses (including Legal Expenses and Per Diem Interest) are to be awarded. The losing disputant(s) shall pay all expenses of such arbitration, together with the Legal Expenses of the winning disputant, if awarded by the arbitrator.

If the Condominium Board is involved in the arbitration, then:

(a) the amounts owed to the Board shall constitute Additional Common Charges; or

(b) the amounts to be paid by the Condominium Board shall constitute a General Common Expense and charged to all Unit Owners pro rata to their respective Common Interests

or a Residential Common Expense and charged to all Residential, Parking and Storage Unit Owners pro rata to their respective Common Interests, as applicable.

See Section 6.4 of the By-Laws for full discussion.

Section R-10. Rules and Regulations. Unit Owners will be required to comply with the Rules and Regulations attached Exhibit D to the Declaration (see DOCUMENT 7 in Part II of this Plan), as they may be amended from time to time by a majority of those Managers attending a duly constituted Board meeting at which a quorum is present. The Condominium Board shall have the right from time to time to amend the Rules and Regulations without recording a Condominium Amendment, including details of the operation and use of the General and Residential Common Elements, and certain activities or prohibitions against offensive conduct of Owners or tenants of Units. No change to the Rules and Regulations shall by binding upon, or enforceable against, Sponsor or an Owner or tenant of an Unsold Unit or a Retail Unit without the consent of Sponsor or the Owner thereof.

Any changes to the Rules and Regulations shall become effective against, and binding upon, each Owner and a tenant of Owner's Unit on the tenth (10th) day (or such later date as may be specified by the Board) after a copy of the complete text thereof shall be given to such Owner then of record. The Owner shall be responsible to give to the tenant of Owner's Unit a copy of the Rules and Regulations and all changes thereto.

A violation or failure to comply with the Rules and Regulations, as duly amended from time to time, shall constitute a violation of the By-Laws, entitling the Condominium Board to all of the same remedies against the offending Owner as are contained in the By-Laws.

Section R-11. Termination of Condominium. The Condominium will terminate in the event of:

(a) 75% or more of the rentable square footage of the Building is taken by condemnation or eminent domain or the portion taken would not, under then existing economic conditions and Laws, readily accommodate a new or reconstructed building of a type and size generally most similar to the Building existing at the date of the taking;

(b) a withdrawal of the Property from the Condominium Act authorized by not less than eighty percent (80%) in number and Common Interest (fractions shall be rounded down) of all Unit Owners (including both Retail Unit Owners) ; or

(c) a casualty in which three-fourths or more of the Building is destroyed or substantially damaged so as to require re-construction and not less than eighty percent (80%) in number and Common Interest (fractions shall be rounded down) of all Unit Owners (including both Retail Unit Owners) elect to withdraw the Property from the Condominium Act.

The vote to withdraw from the Condominium Act shall not be effective or counted without obtaining the consent of the holder of each Registered Mortgage on such Owner's Unit, if such

Registered Mortgage so expressly provides. Sponsor and all other Owners of Unsold Units (if any) shall not vote its interests appurtenant to any Unsold Unit for withdrawal unless at least eighty percent (80%) of all other Unit Owners (including both Retail Unit Owners), in number and Common Interest (fractions shall be rounded down), have voted in favor of such withdrawal, at which time Sponsor and said other Owners of Unsold Units may vote either in favor of, or against, withdrawal from condominium ownership, as each sees fit.

The Condominium Board and its affiliate shall have no voting rights with respect to any Units owned by each of them and such parties and Units shall be excluded from the base number of Owners, Units and Common Interests for quorum and voting purposes in determining whether such eighty percent (80%) threshold is met.

Any action to terminate the legal status of the Property as a condominium under the Condominium Act after the occurrence of one of the foregoing termination events shall be subject to obtaining the consent in writing of Institutional Lenders holding Fannie Mae, FHA or other federally insured, guaranteed or financed Permitted First Mortgages comprising at least 51% of the Common Interests of Units subject to mortgages. The rights of such Institutional Lenders of federally, insured, guaranteed or financed Permitted First Mortgages are subject to any superior rights of a governmental condemning authority under applicable Law.

In the event of said taking by condemnation or eminent domain, the award of the taking authority shall be distributed among all Owners pro rata to the respective then existing fair market values of the Units and their respective appurtenant Common Interests as determined by the taking authority. Each Unit Owner shall have the right to pursue a separate claim against the taking authority for its share of the award, which may include an award for the Unit's Facilities and custom changes and improvements that are appurtenant to the Owner's Unit as well as for relocation and moving expenses and similar allowances designed to facilitate relocation of a displaced business concern.

In the event of the withdrawal from condominium ownership, the Property shall be subject to an action for partition by any Unit Owner or lienor as if owned in common. In such case, the net proceeds of sale resulting from such action for partition, together with the net proceeds of any insurance maintained by the Board, after deducting all reasonable costs and expenses together with any Legal Expenses paid or incurred by the Board in connection therewith (including the costs and expenses to secure and fence in the Property boundary, raze and remove the Building (if and to the extent necessary) and otherwise make the Building secure and safe), shall be regarded as one fund and shall be divided among all Unit Owners pro rata to their respective Common Interests; provided, however, that no payment shall be made to a Unit Owner until there has first been paid out of such Owner's share of such funds, such amounts as may be necessary to discharge all unpaid liens on said Owner's Unit in the order of the priority of such liens. In the event of the partition and sale of the Property pursuant to the foregoing, each Owner shall automatically and

unconditionally assign and transfer to itself and to all other Owners the net proceeds to be paid to it on said partition sale, including its share of the net proceeds of any insurance maintained by the Condominium Board. The net proceeds so assigned and transferred by it and the other Owners shall be divided among all Owners pro rata to the then existing respective fair market values of their respective Units and Common Interests as provided in the By-Laws.

Section R-12. Incurring Debt.

Section R-12.1. *Terms to Incur Debt*. The Condominium Board may not borrow any sum during the Sponsor Veto Control Period without first obtaining Sponsor's consent. Thereafter, the Condominium Board may incur debt in accordance with RPL Section 339-jj, which permits the Condominium Board to incur debt for maintenance, repairs, additions, improvements, replacements, working capital, bad debts and unpaid Common Expenses, depreciation, obsolescence or similar purposes, provided that:

(a) such debt is incurred no earlier than the fifth (5th) anniversary of the First Unit Closing, except under the By-Laws all Owners shall conclusively be deemed to have irrevocably and unconditionally waived said five-year restriction on incurring debt by accepting or recording a deed to a Unit or otherwise succeeding to title to a Unit to the full extent such waiver is permitted by Laws;

(b) in the case of said debt being incurred with respect to the General Common Elements, the Association's Assets or sidewalks, a majority in Common Interest of all Unit Owners consent to incur such debt; or

(c) in the case of debt being incurred with respect to the Residential Common Elements, a majority in Common Interest of all Residential, Parking and Storage Unit Owners consent to incur such debt.

Section R-12.2. *Security for Debt*. Any debt incurred by the Board in accordance with this Plan, the By-Laws and said Section 339-jj may be secured by the Board as follows:

(a) the Board may assign the rights in and to future income and Common Charges;

(b) the Board may create a security interest, mortgage or other encumbrance on funds or other real or personal property held by the Board,

(c) the Board may agree the Common Charges received and to be received by the Board shall constitute trust funds for the purpose of paying the debt; and

(d) the Board may agree to increase Common Charges at lender's direction to the extent necessary to pay any amount when due under the debt instruments.

Section R-13. Real Property Law Section 339-kk. Under RPL §339-kk, if an Owner rents his or her Residential Unit and fails to pay Common Charges, Special Assessments or other Additional Common Charges (including late fees) within sixty (60) days of the expiration of any grace period

after they are due, upon notice thereof to the tenant, all rental payments from the tenant shall immediately and directly be payable to the Condominium Board. The Owner may dispute the Condominium Board's claim to the rental payments and present facts supporting the Owner's position at the next scheduled meeting of the Condominium Board, which must be held within thirty (30) days of the date that such Board receives notice that such Owner seeks to dispute such claim.

Payment of rent by the tenant to the Condominium Board in accordance with the foregoing shall relieve the tenant from the obligation to pay the rent to the Owner and shall be an absolute defense in any nonpayment proceeding commenced by the Owner against the tenant for the rent.

At such time as such delinquent Owner is again current in payments for Common Charges, Special Assessments and other Additional Common Charges (including late fees), notice of such fact shall be given within three business days thereafter to said tenant and Owner. Thereafter, all rental payments shall be made payable to the Owner or such Owner's designated agent.

Nothing in RPL §339-kk limits any rights of the Unit Owner or the Condominium Board existing under any other Laws or agreement, nor excuses the obligations of the Owner to the tenant under the lease and applicable Laws.

Section 339-kk does not address certain issues, including the following:

(a) the priority of rights between the Condominium Board and a holder of a mortgage secured by the Unit of a delinquent Owner or the assignee of a collateral assignment of rents given by such Owner to collect rents from such Owner's tenant;

(b) the remedies of the Condominium Board if the tenant fails or refuses to make rental payments to the Board after giving the required notice under Section 339-kk; and

(c) the remedies of a delinquent Owner if such Owner disputes the Condominium Board's claim to rental payments and thereafter the Board fails, refuses or delays in scheduling the required meeting at which the delinquent Owner is entitled to present facts supporting such Owner's position or said meeting is held but the Board rejects such Owner's position.

Sponsor makes no representation with respect to the foregoing issues or the income tax consequences while the rental payments from such Owner's tenant are being collected by the Condominium Board, or otherwise. Prospective Purchasers are advised to consult their own attorneys or advisers with respect to Section 339-kk and its impact on them.

END OF SECTION R

SECTION S. REAL ESTATE TAXES

Section S-1. Separate Assessment of Units. Each Unit will be assigned a separate tax lot upon the recording and filing of the Condominium Documents in the City Register's Office. After the Units are separately assessed and billed for real estate taxes, each Unit will be taxed as a separate tax lot for real estate tax purposes and the Unit Owner will not be responsible for the payment of, nor will his or her Unit be subjected to, any lien arising from the nonpayment of, real estate taxes on other Units.

Section S-1.1. *Delay in Separate Assessments*. The time period after construction is completed in which the taxing authority (i.e., the DOF) will separately assess and bill Units for real estate taxes is uncertain and possibly may range from three months to up to one year from recording the Declaration. Until then, real estate taxes will continue to be assessed to the entire Property, which shall be included in the General Common Expenses and assessed and apportioned by the Condominium Board among the Units pro rata to their respective Common Interests as explained below.

Section S-1.2. *Procedure to Pay Real Estate Taxes to Board*. While the real estate taxes are assessed to the entire Property, each Unit Owner will pay his or her share of such taxes to the Condominium Board as part of the Unit's General Common Expenses, which is allocated and apportioned to all Units pro rata to their respective Common Interests. This is the same method used to determine each Unit's projected real estate taxes in the Offering Price Schedule.

Section S-1.3. *Adjustments*. Once the Units are separately assessed and billed for real estate taxes, the Condominium Board and each Unit Owner whose Unit was not separately billed for real estate taxes at the Closing of Title will have the right to adjust any overpayment or underpayment of such real estate taxes. The adjustment shall be based on the real estate taxes attributable to the Unit and paid by the Unit Owner as part of the General Common Expenses and the ratio that the initial actual separate assessed valuation of such Unit bears to the aggregate initial actual separate assessed valuations of all Units, in each case inclusive of any real estate tax exemption or abatement, if applicable, and the tax rate applicable to the Unit at Closing of Title.

Written notice setting forth a calculation of the amount due must be sent within a deadline of sixty (60) days after the Unit is separately assessed and billed for real estate taxes. Such sixty (60)-day period is a "TIME OF ESSENCE" period. If notice is not timely sent, no adjustment will be made. Any underpayment owing to the Condominium Board will be regarded as Additional Common Charges and, if not paid, will entitle the Condominium Board to all the rights and remedies in the case of nonpayment of Common Charges. Any overpayment to the Condominium Board will be credited against (that is, reduce) the next due payments of Common Charges or (at the sole option of the Condominium Board) refunded to the Unit Owner.

With respect to each Unit that Closes Title before the Unit is separately assessed and billed for real estate, the Purchaser of such Unit and Sponsor will each have the same right, for only said

sixty (60)-day deadline period ("TIME OF ESSENCE"), to adjust any overpayment or underpayment of real estate taxes apportioned at Closing in accordance with the foregoing.

Section S-2. Separate Assessment of Taxes.

Section S-2.1. *Tax Lots and Tax Class*. Upon application to the DOF and recording the Declaration and filing the Floor Pans in the City Register's Office and submitting an application to the DOF, the DOF shall assign individual tax lot numbers to each of the Units. In the opinion of Metropolitan Realty, the Residential and Storage Units will be designated as residential tax class 2 property and will pay on the class 2 tax rate and the Parking and Retail Units will be designated tax class 4 property and will pay on the nonresidential tax class 4 rate.

Section S-2.2. *Method to Determine Assessment*. Real estate taxes are set by the DOF based on its determination of a property's fair market value. Metropolitan Realty explains in its opinion letter (reproduced at the end of this Section S) that the DOF may apportion the real estate taxes among the Units based upon their respective Common Interest percentages if the Common Interest percentages are rationally and fairly determined. Metropolitan Realty does not represent, assure or guarantee that the DOF will actually use Common Interest percentages to apportion the assessed valuation of the Property among the Units and may instead use another method that differs from the Common Interest percentages. Accordingly, the actual apportionment of the assessed valuation among the Units may change and vary, perhaps substantially, from the projections used in estimating the real estate taxes of Units in the Offering Price Schedule. See Section A-10 and see Section S-5 for restrictions or limitations on assessments of condominium units under state laws.

Section S-3. Projected Real Estate Taxes in SCHEDULES A. The real estate taxes for the 2024 calendar year, the projected first year of Condominium operation, spans the last six months of the 7/1/23-6/30/24 fiscal tax year, when a *pre-completion of construction* assessed valuation of the Property is expected to be in effect, and the first six months of the 7/1/24-6/30/25 fiscal tax year, when a *post-completion of construction* assessed valuation of the Property is anticipated to apply. For purposes of presentation, the projected real estate taxes contained in SCHEDULE A -- the Offering Price Schedule (in Section E) are based on the projected *post-completion of construction* assessed valuation for the July 1, 2024 to June 30, 2025 fiscal tax year.

Metropolitan Realty estimates the assessed value, tax rates (using the July 1, 2022 to June 30, 2023 tax rates) and real estate taxes for all Units for the *post-completion of construction* July 1, 2024 to June 30, 2025 fiscal tax year as follows:

Unit	Assessed Value	Tax Rate[(1)]	Tax
Residential Units:	$4,235,246	12.267%	$519,538
Parking Units:	$ 57,120	10.646%	$6,081
Storage Units:	$ 55,545	12.267%	$6,814
Retail Units:	$ 919,890	10.646%	$97,931
Totals:	$5,267,801		$630,364

For further details, see Metropolitan Realty's opinion letter in Section S-9.

SPONSOR, SELLING AGENT AND METROPOLITAN REALTY DO NOT REPRESENT, ASSURE OR GUARANTEE THE ACTUAL ASSESSED VALUATION, TAX RATE, TAX CLASS, REAL ESTATE TAXES OR THE PORTION OF THE PROPERTY'S ASSESSED VALUATION TO BE ALLOCATED OR APPORTIONED TO EACH UNIT BY THE TAXING AUTHORITY, WHICH LIKELY WILL VARY, PERHAPS SUBSTANTIALLY, FROM THE ESTIMATES IN THIS PLAN AND METROPOLITAN REALTY'S OPINION.

Section S-4. Changes in Assessed Valuation. Metropolitan Realty advises that Real Property Tax Law Section 1805 provides for the creation of a transition assessment system within the City of New York. Under the transition assessment system, the usual increase in the actual assessed value of a property between one year and the next is phased in over a five-year period in equal installments. The five-year phase in does not apply to new construction or other increases due to physical improvements to the property. Increases due to such physical improvements or new construction are added in full to the next year's assessment. Pursuant to Real Property Tax Law Section 1805, the taxable assessment is determined to be the lesser of the actual assessed valuation or the transition assessed valuation. Metropolitan Realty believes that there will be an increase in actual value for tax year 2024/2025 as a result of the new construction which will be placed on the assessment roll immediately and not subject to the five-year phase in.

Section S-5. Real Property Law §339-y and Real Property Tax Law §581. The conversion of the Property to condominium ownership and the sale of Units under this Plan are not expected to have a material effect on the Property's assessment based on the impact of two statutes. They are: (a) Real Property Law §339-y(1)(b), which prohibits the aggregate of the assessment of condominium units plus their common interests from exceeding the total valuation of the property as though it were assessed as a single parcel; and (b) Real Property Tax Law §581, which requires a property owned on a condominium basis to be assessed no higher than it would have been had it not been owned on a condominium basis. The intended effect of these two laws is to prevent the total assessments of all units and their common interests in a property that is owned as a condominium from exceeding the total valuation of the property had it instead been operated as a rental. Since Laws are subject to varying interpretations, Sponsor, Selling Agent and Metropolitan

Realty cannot, and do not, represent, assure or guarantee how these Laws will be applied to the assessed valuations of the Units.

Section S-6. Tax Certiorari Proceedings. Sponsor reserves the right to seek to reduce the Property's real estate taxes for all fiscal tax years that begin prior to the First Unit Closing. Proceedings to reduce taxes are not pending at the date of this writing. Any refund, reduction or savings in real estate taxes for a tax year preceding the Closing of Title to a Unit will be paid and belong entirely to Sponsor. Any refund, reduction or savings in real estate taxes for the tax year in which the Closing of Title to a Unit is consummated, after deducting the Legal Expenses and related costs and expenses attributable to obtaining such refund, reduction or savings, will be apportioned between the Purchaser of such Unit and Sponsor in accordance with the respective portions of the tax year that each owns the Unit. The Legal Expenses and related costs and expenses of the application and (if applicable) proceeding to reduce taxes will not be charged to a Purchaser unless the tax year at issue relates to such Purchaser's period of ownership and the Purchaser's taxes are refunded, reduced or otherwise saved. In such case, the amount charged may not exceed the amount of the Purchaser's refund or the amount in taxes not paid based on a reduction or savings in real estate taxes (as applicable).

If Sponsor's application and (if applicable) the proceeding to reduce real estate taxes results in a refund, reduction and/or savings in an Owner's real estate taxes for a tax year subsequent to the tax year title closes, such Owner will reimburse Sponsor for his or her pro rata share of the Legal Expenses and related costs and expenses incurred to obtain such favorable result. However, in no event will the amount to be reimbursed exceed the amount of the refund or the amount not paid by reason of such reduction or savings. The Unit Owner is to reimburse Sponsor within ten (10) days after Sponsor sends said Owner a written demand for payment, which will include a detailed statement of all Legal Expenses and related costs and expenses incurred and the basis for their apportionment to the Owner.

Section S-7. By-Laws Provision on Review of Assessment. Under the By-Laws, the Condominium Board is authorized to act as agent for Unit Owners to seek reductions in the tax assessments with the taxing authority. The Board's authority includes applying for administrative and judicial review of the tax assessment and negotiating and settling with the taxing authority. A Unit Owner may revoke the Board's agency by written notice, which must be received before the Board commences any litigation on behalf of the Unit Owner. Sponsor and Selling Agent cannot, and do not, represent, assure or guarantee that the Condominium Board will exercise this authority or the outcome of any tax assessment reduction application or proceeding brought by the Condominium Board.

Section S-8. RPTL Section 467-a Tax Abatement. Since its enactment in 1996, RPTL Section 467-a (known as the Coop/Condo Tax Abatement) has provided partial tax abatement to owners of residential cooperative and condominium units. Owners of Residential Units who meet

the requirements of this Law can have their real estate taxes reduced. The amount of the abatement is based on the average assessed value of the Residential Units in the development. The abatement percentages are as follows:

Average Assessed Value	Benefit Amount Per Year
$50,000 or less	28.1%
$50,001 - $55,000	25.2%
$55,001 - $60,000	22.5%
$60,001 and above	17.5%

In order for a Unit Owner to qualify for the benefit:

(a) the Owner must have filed a real property transfer tax form or deed with the New York City Division of Land Records at *www.nyc.gov/acris*;

(b) the Unit is required to be the primary residence of the Owner;

(c) the Unit must be purchased on or before January 5 to qualify for the abatement for the upcoming tax year (if the Unit is purchased after January 5, the Owner can apply for the next following tax year);

(d) the Owner cannot own more than three Units in the Property and one of the Units must be the Owner's primary residence;

(e) the Unit Owners cannot be receiving real estate tax exemption benefits under Section J-51 (i.e., Section 11-243 of the New York City Administrative Code) or Real Property Tax Law Sections 420-c, 421-a, 421-b or 421-g;

(f) Units owned by a business (e.g., a limited liability company) are not eligible;

(g) Units held by Sponsor or its successor in interest are not eligible; and

(h) a Unit owned by a trust is eligible only if the Unit is the primary residence of the beneficiary of the trust, trustee, or life estate holder.

The Condominium Board must file a complete application for the entire premises with the Commissioner of the DOF by February 15th immediately preceding the July 1st to June 30th fiscal tax year. The burden of proof is on the applicant to show that the requirements for granting an abatement have been met.

SPECIAL RISK: The current version of RPTL 467-a is set to sunset on June 30, 2023. In order for the Unit Owners to receive Condo Tax Abatement benefits:

- the statute will need to be renewed;
- there is no guaranty that this provision will be renewed or if renewed, that the benefit will not be reduced or eliminated as it relates to tax year 2023/2024 and thereafter;

- since the average assessment per Unit for tax year 2023/24 is estimated to be greater than $100,000 per Unit, the Condominium Board will need to submit an affidavit stating that Building service employees who work at least eight hours per week are paid the prevailing wage for the duration of the Property's tax abatement;

- in order for a Unit Owner to be eligible for the Condo Tax Abatement for a fiscal tax year starting July 1 and ending June 30, the deed conveying a Unit to such Owner must be recorded by January 5th preceding such fiscal tax year. For fiscal tax year July 1, 2024 to June 30, 2025, the deed to a purchaser must be recorded by January 5, 2024. Purchasers whose deeds are recorded thereafter and by January 5, 2025 will first become eligible for the Condo Tax Abatement for the July 1, 2025 to June 30, 2026 fiscal tax year; and

- in the event that DOF determines that prevailing wages are required to be paid to Building employees, and such wages are not paid, then no Residential Unit Owners will qualify for any abatement pursuant to RPTL §467-a.

This Plan will be amended to reflect the status of RPTL Section 467-a when publicly available or known to Sponsor. Prospective purchasers are advised to consult with their attorney and/or a real estate tax expert to determine the real estate tax implications of their purchase. See Section A-10.2.

Under this Plan, Building service employees who work at least eight hours per week are scheduled to be paid the prevailing wage for the duration of the Property's tax abatement.

SPONSOR, SELLING AGENT AND METROPOLITAN REALTY DO NOT REPRESENT, ASSURE OR GUARANTY THAT THIS PROVISION WILL BE RENEWED OR THAT THE BENEFIT WILL NOT BE REDUCED OR ELIMINATED AS IT RELATES TO TAX YEARS 2023/2024 AND THEREAFTER.

Section S-9. Metropolitan Realty Opinion. The opinion of Metropolitan Realty of the estimated *post-completion of construction* assessed valuation of the Property, the projected allocation of such estimated valuation to the Units, the estimated tax rates applicable to the Units for the 2024/2025 fiscal tax years and the application of the RPTL Section 467-a partial tax abatement programs starts on the next page.

METROPOLITAN
Realty Exemptions

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October 6, 2022

171 Calyer Street Project, LLC
463 7th Avenue
New York, NY 10018

RE: 171 Calyer Street
Brooklyn, NY
Block & Lot: 2573 – 23

Letter of Opinion regarding proposed real estate tax liabilities for the project located at 171 Calyer Street, Brooklyn, NY

Project Details: Twenty-One (21) Residential Condominium Units, Twelve (12) Parking Condominium Units, Fifteen (15) Storage Condominium Units and Two (2) Retail Condominium Units (collectively, "Units")

To Whom It May Concern,

You have requested us to advise you with our opinion in respect to determining the projected Annual Assessment and tax liabilities regarding the above captioned Units according to our experience. Metropolitan Realty Exemptions Inc. is the leading expert in NYC tax abatement filings. For the past 20 years our firm has serviced property owners and developers as a one-stop shop for all property tax needs and have thus gained experience in the NYC's tax assessments. We have since provided all types of tax projection opinions, specifically, many new condominium projects in the Greenpoint and Williamsburg neighborhoods.

In order to prepare this letter and the opinion set forth herein, you have supplied us with the following information upon which we have relied:

1. The subject property is located at 171 Calyer Street, Brooklyn, NY, and is known as Block: 2573, Lot 23 with the New York City Department of Finance ("DOF").

2. The project is to consist of a newly constructed building containing twenty-one (21) residential condominium units, twelve (12) parking condominium units, fifteen (15) storage condominium units and two (2) retail condominium units.

3. The residential units will aggregate 28,811 interior square feet and 5,184 exterior square feet for an aggregate of 33,995, the parking units will aggregate 1,904 square feet, the storage units will aggregate 529 square feet, and the retail units will aggregate 6,814 square feet, for a total of 43,242 square feet.

4. There will be separate condominium tax lots filed with the DOF for each residential, parking, storage and retail unit.

5. Based on assessment guidelines, the DOF Surveyor's Office shall class the residential and storage units as a tax class 2 and thus levy the assessed value on a 45% rate of the market value.

6. The retail and parking units will be classed as a tax class 4 and the assessed value will also be levied on a 45% rate of the market value.

DOF Assessment Guidelines

The New York City Department of Finance assesses the values regarding all New York City residential and commercial properties annually. Based on the assessor's determination of the assessment on taxable status date January 5th, the Department of Finance releases tentative assessments of the property value in January of every year and final assessments every May, prior to the beginning of each tax year. Assessments in New York City are made on a fiscal year basis, beginning on July 1st of each year and ending on June 30th the following year.
The property tax assessment process commences when the city's assessors determine the market value of the property. Property tax is only levied on a portion of the market value. This portion is called the assessed value. Regarding 1-3 family homes and condominiums with no more than three (3) stories, provided such property was previous classified as class one (1), the assessed values are levied on 6% of the market value. Regarding all other properties, taxes are levied on 45% of the market value.

Real Property tax rates set each year by the City Council are applied to these property values, to determine each homeowner's annual tax liability. The current 2022/23 tax rates are 10.646% for tax class 4 and 12.267% for tax class 2.

Real Property Law §339 y(1)(b) prohibits the aggregate of the assessment of condominium units plus their common interests from exceeding the total valuation of the property as though it were assessed as a single parcel. Real Property Tax Law §581 requires a property owned on a condominium basis to be assessed no higher than it would have been had it not been owned on a condominium basis. The intended effect of these two laws is to prevent the total assessments of all units and their common interests in a property that is owned as a condominium from exceeding the total valuation of the property had it instead been operated as a rental.

Proposed Real Estate Tax Liabilities

We have taken the following factors in account when formulating our opinion: (a) the recent tax assessment history on the property; (b) comparable residential projects in Brooklyn (specifically, in the Greenpoint neighborhood) which have been newly constructed; (c) market conditions in the general area; (d) proposed estimate of the cost of construction; (e) calculation of the total floor area of usable space.

Assessments in New York City are made on a fiscal year basis, beginning on July 1st of each year and ending on June 30th the following year. The status of the building on January 5th of each year is the basis of the assessment for the fiscal year beginning that July 1st.

Real Property Tax Law Section 1805 provides for the creation of a transition assessment system within the City of New York. Under the transition assessment system, the usual increase in the actual assessed value of a property between one year and the next is phased in over a five-year period in equal installments. The five-year phase in does not apply to new construction or other increases due to physical improvements to the property. Increases due to such physical improvements or new construction are added in full to the next year's assessment. Pursuant to Real Property Tax Law Section 1805, the taxable assessment is determined to be the lesser of the actual assessed valuation or the transition assessed valuation.

We believe there will be a substantial increase in value for 2024/25 as a result of the new construction, and that such increase will be placed on the assessment roll immediately. However, in future years increases in assessed value will likely result in the taxable assessment being based on a phased-in transition assessment.

Post-Completion Projected Assessed Value and Tax Liability
Considering the aforementioned factors, we are estimating that for the post completion of construction 2024/2025 tax year, the DOF will set the Total Assessed Value at approximately $5,267,801.

Assuming the 2022/23 tax rates of 10.646% for tax class 4 and 12.267% for tax class 2, the projected tax liabilities for the post completion of construction 2024/2025 tax year, will be as follows:

Component	Assessed Value	Tax Rate	Real Estate Tax
Retail Portion	$919,890	10.646%	$97,931
Residential Portion	$4,235,246	12.267%	$519,538
Residential Storage	$55,545	12.267%	$6,814
Parking Space	$57,120	10.646%	$6,081
Total:	**$5,267,801**		**$630,364**

In determining the assessed values for the individual units, the Department of Finance may use the common interest percentages set forth in the condominium declaration if such percentages are rationally and fairly determined. However, the Department of Finance may also apportion common interest percentages based upon square footage, taking into account basic factors of value, including location (height and views), square footage, exclusive use of common elements, income producing potential, then existing leases or some combination of the foregoing.

METROPOLITAN Realty Exemptions, Inc.

Homeowners may be eligible for tax benefits [e.g. co-op/condo tax abatement and STAR exemption. See the below details of both programs:

Condo/Co-op Abatement

The Cooperative and Condominium Property Tax Abatement currently in effect will end June 30, 2023, unless extended again by the New York State legislature. Unless extended, as it has in the past, purchasers will not receive the benefits of this law. It is unknown at this writing whether law will be extended or if extended whether the benefits or terms of eligibility for the abatement will change. The following discussion of the benefits of this law is for informational purposes only.

Owners of cooperative and condominium units who meet the requirements of tis law can have their property taxes reduced. The amount of the abatement is based on the average assessed value of the residential units in the development.

Abatement percentages are as follows:

Average Assessed Value	Benefit Amount Per Year
$50,000 or less	28.1%
$50,001 - $55,000	25.2%
$55,001 - $60,000	22.5%
$60,001 and above	17.5%

Abatement Requirements

- Co-op and condo boards and managing agents must notify the Department of Finance of changes in ownership or eligibility for the Cooperative and Condominium Property Tax Abatement by February 15, or the following business day if February 15 falls on a weekend or holiday.
- New condominium owners must have filed a real property transfer tax (RPTT) form or deed with the Division of Land Records.
- The co-op or condo unit must be the owner's primary residence. Co-op shareholders and condo unit owners: Please tell your board or managing agent if the unit is your primary residence so that you can receive the abatement.
- You must have purchased the unit on or before January 5 to qualify for the abatement for the upcoming tax year. If the unit was purchased after January 5, you can apply for the next tax year.
- Co-op or condo owners cannot own more than three residential units in any one development and one of the units must be the owner's primary residence.
- The property must be classified as a tax class 2 property.

- Properties that are part of the Urban Development Action Area Program (UDAAP) cannot receive the abatement.
- Prevailing wage affidavits must be filed for properties that have 30 or more dwelling units and an average assessed unit value of more than $60,000, or that have less than 30 dwelling units and an average assessed unit value of more than $100,000.
- Co-op or condo owners cannot be receiving any of the following exemptions or abatements:
    - J-51 exemption
    - 420c, 421a, 421b, or 421g
    - The clergy property tax exemption

  The co-op or condo property cannot be any of the following:
    - a Housing Development Fund Corporation (HDFC)
    - a Limited Dividend Housing Company, Redevelopment Company
    - a Mitchell-Lama Building or
    - in the Division of Alternative Management Programs (DAMP).
- Units owned by a business (LLC) are not eligible.
- Units held by sponsors or their successors in interest are not eligible.
- Units owned by a trust are eligible only if the unit is the primary residence of all of the beneficiaries of the trust, trustee, or life estate holder.

NY State STAR Exemption

The STAR program can save residential unit owners considerable amounts each year. Residential unit owners only need to register once, and the Tax Department will send a STAR credit check each year, as long as eligible.

Homeowners may be eligible for the STAR credit if:

- a new homeowner;
- receiving the STAR exemption but want to switch to the STAR credit;
- a manufactured homeowner who received a letter that you must register for the STAR credit to continue receiving a STAR benefit (Form RP-425-RMM);
- an existing homeowner who is not receiving the STAR exemption or credit; or
- a senior who may be eligible for the Enhanced STAR credit. (Note: If you are already receiving the STAR credit, you do not need to register again. You will automatically receive the Enhanced STAR credit if you are eligible.)

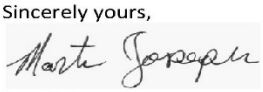
METROPOLITAN Realty Exemptions, Inc.

Disclaimer

Though the aforesaid estimate of the Actual Assessed Valuation is a good-faith estimate, it is not possible to estimate the same with any degree of certainty. Assessed valuations, when made, may be lesser or greater based on the interpretation of the administrative code and the applicable rules and regulations of the City of New York.

Although we believe our opinions are well-founded, they are not intended, and should not be construed as warranties or guarantees or representations as to future assessed valuations of the property under discussion and we accept no responsibility or liability in the event that the figures or projections set forth herein are incorrect or inaccurate. In no event will this firm, the Sponsor, the Sponsor's counsel or any other person be liable if the assessed valuation, when actually made, is lesser or greater than estimated above, or if the administrative code and the applicable rules and regulations of the City of New York are changed in the future, or if the facts as represented prove to be untrue.

Sincerely yours,



Martin Joseph
Metropolitan Realty Exemptions, Inc.

END OF SECTION S

SECTION T. OPINIONS OF COUNSEL

Section T-1. Opinion on Tax Deductions to Unit Owners. The following is a summary of the opinion of Miller & Miller LLP ("**Miller LLP**"), Sponsor's special income tax attorney.

The amounts for real estate taxes together with state and local income taxes deductible from federal income taxes for each taxable year before 2026 by an Owner of a Residential Unit used for personal use shall be limited to an aggregate of $10,000.00 (or $5,000.00 in the case of a married individual filing a separate tax return), but real estate taxes shall not be deductible for alternative minimum tax purposes.

The amount of interest deductible on debt to acquire and is secured by a Residential Unit used as a principal or second residence is limited to maximum of $750,0000.00 (or $375,000.00 in the case of a married individual filing a separate tax return), but interest on any other debt will not be deductible.

From and after 2026, the above limitation on deductions for real estate taxes together with state and local income taxes cannot be known at this time. In the case of the deductibility of interest, under present law, the debt to acquire a Unit will increase to $1,000,000.00 (or $500,000.00 in the case of a married individual filing a separate tax return) and other debt up to $100,000.00 (or $50,000.00 in the case of a married individual filing a separate tax return) will be allowed.

New York State and New York City income taxes are generally imposed in the same manner as federal income taxes.

The Miller LLP opinion does not address the tax consequences of owning a Unit in a trade or business, or for investment or production of income, or ownership of a Unit by a Foreign Person. See Section T-6 for the full discussion of the income tax consequences of owing a Unit.

Section T-2. Tax Status of Condominium Association. In the opinion of Miller LLP, the Condominium Association will not be eligible to elect to be treated as a "homeowners association" within the meaning of Internal Revenue Code §528 because at least 85% of the total square footage of all Units within the project will not be used by individuals for residential purposes (one of the tests to be met to be treated as a homeowners association).

As a result, the Condominium Association will be subject to Federal income tax each taxable year on any amount by which its "gross income" for that year — which would include Common Charges and Special Assessments received from Unit Owners — exceeds its operating expenses and other deductible amounts for that taxable year. Because the Condominium Association is expected to own little or no depreciable property, it likely will not be entitled to significant deductions for depreciation. As a result, the Association will in general be taxed at usual corporate rates on any amounts set aside as contingency or operating reserves. Amounts that the Condominium Association receives as contributions to capital are not includible in its "gross

income" and therefore are not subject to income tax. These include amounts received by the Condominium Board for specified capital improvements or replacements. However, it is unclear whether amounts collected for a reserve for capital improvements or replacements, to be determined in the future, would or would not be includible in the Condominium Association's gross income.

In addition, amounts of Common Charges received by the Condominium Board in excess of expenses can be excluded from that year's "gross income" and treated as collected in the following year if there is an affirmative determination by the Unit Owners each year as to whether to refund the excess or carry it over to the next year. Absent such affirmative determination, the excess would be included in gross income and taxable.

Here, the By-Laws provide that if in any completed budget year the General Common Charges shall exceed the actual General Common Expenses or the Residential Common Charges shall exceed the actual Residential Common Expenses, all Unit Owners (in the case of a surplus in the General Common Charges) or all Residential Unit Owners (in the case of a surplus in the Residential Common Charges) shall affirmatively determine by affirmative vote at the annual meeting of Unit Owners held the year immediately after the budget year in which such surplus was generated, whether to apply the surplus to defray the projected General Common Expenses or Residential Common Expenses (as applicable) of such immediately succeeding budget year or to refund the surplus to all then existing Unit Owners (in the case of a surplus in the General Common Charges) or Residential, Parking and Storage Unit Owners (in the case of a surplus in the Residential Common Charges). The Board or the Residential Managers (as applicable) shall apply the surplus as determined by said Unit Owners or Residential Unit Owners (as applicable). Sponsor, Selling Agent and Miller LLP do not represent, assure or guarantee whether this provision will result in excluding any surplus in General Common Charges or Residential Common Charges (as applicable) from the Condominium Association's gross income in the year such surplus was generated. See Section 3.2.11 of the By-Laws.

See Section T-6 for the full discussion of the income tax treatment of the Condominium Association.

Section T-3. Caveat. A prospective Purchaser is advised to read the tax opinion, preferably with the assistance of his or her attorney, accountant or tax adviser, for a complete understanding of the tax consequences of owning a Residential Unit under this Plan.

Section T-4. Disclaimer. THE TAX OPINION OF MILLER LLP SET FORTH BELOW IS BASED ON EXISTING LAW, REGULATIONS AND RULINGS APPLIED TO THE FACTS AND DOCUMENTS REFERRED TO IN THE OPINION, BUT IS NOT A REPRESENTATION, ASSURANCE OR GUARANTY BY MILLER LLP THAT RESIDENTIAL UNIT OWNERS WILL BE ENTITLED TO THE INCOME TAX DEDUCTIONS OR OTHER TAX BENEFITS REFERRED TO IN THE TAX OPINION. NO ASSURANCE CAN BE GIVEN THAT THE

TAX LAWS OR THE REGULATIONS OR RULINGS ISSUED THEREUNDER, OR ANY JUDICIAL INTERPRETATION THEREOF, UPON WHICH MILLER LLP BASES ITS OPINION WILL NOT CHANGE. IN NO EVENT WILL SPONSOR, MILLER LLP OR SELLING AGENT BE LIABLE IF THERE ARE CHANGES IN THE FACTS ON WHICH COUNSEL RELIED IN ISSUING ITS OPINION, OR IF THERE ARE CHANGES IN THE APPLICABLE STATUTES, REGULATIONS, RULINGS OR DECISIONAL LAW ON WHICH COUNSEL RELIED WHICH FURTHER CAUSE THE CONDOMINIUM ASSOCIATION TO NOT MEET THE REQUIREMENTS OF SECTION 528, AS AMENDED, OR NEW YORK STATE OR NEW YORK CITY TAX LAWS, AS AMENDED, OR UNIT OWNERS TO NOT BEING ENTITLED TO, OR TO CEASE BEING ENTITLED TO, INCOME TAX DEDUCTIONS.

THE SUMMARIES OF THE TAX DEDUCTIONS TO UNIT OWNERS AND THE TAX TREATMENT OF THE CONDOMINIUM ASSOCIATION IS ONLY THE OPINION OF MILLER LLP. MILLER LLP, SPONSOR AND SELLING AGENT CANNOT, AND DO NOT, REPRESENT, ASSURE OR GUARANTEE: THE TAX CONSEQUENCES OF OWNERSHIP OF ANY UNITS OFFERED UNDER THIS PLAN; THE TAX STATUS OF THE CONDOMINIUM ASSOCIATION; THE TAX TREATMENT OF THE COMMON CHARGES (INCLUDING THE PORTION ALLOCATED TO THE RESERVE FOR CAPITAL REPLACEMENTS), SPECIAL ASSESSMENTS, WORKING CAPITAL FUND CONTRIBUTIONS OR OTHER RECEIPTS OF THE CONDOMINIUM ASSOCIATION; OR THE TAX CONSEQUENCES OF THIS PLAN. NO ONE HAS BEEN AUTHORIZED TO MAKE ANY STATEMENTS OTHER THAN THOSE CONTAINED HEREIN.

Section T-5. RPL Section 339-i Opinion. The opinion of Seyfarth Shaw LLP, Sponsor's attorney as to assigning the percentage of Common Interest to each Unit in compliance with RPL Section 339-i is set forth in Section T-7.

END OF TEXT ON THIS PAGE

Section T-6. Opinion on Income Tax Deductions to Owners of Residential Units and Tax Status of the Condominium

The opinion of Miller LLP starts on the next page.

MILLER & MILLER LLP
ATTORNEYS AT LAW
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(516) 487-1260
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JOEL E. MILLER (1932-2022)
MARTIN B. MILLER*
ELIZABETH ILONA GILADY

*ALSO ADMITTED IN CT

August 29, 2022

171 Calyer Street Project, LLC
463 Seventh Avenue
New York, NY 10017

Re: The Calyer House

Ladies and Gentlemen:

In connection with the offering of condominium units (each, a "Unit") at 171 Calyer Street, Brooklyn, New York, in a condominium to be known as "The Calyer House" (the "Condominium"), pursuant to a plan of which you are the Sponsor (the "Plan"), you have requested our opinion concerning (1) the probable income tax treatment of the unit-owners association to be created upon the establishment of the Condominium (the "Association") and (2) the deductibility for Federal, New York State and New York City income tax purposes of certain real estate tax and interest expenses expected to be incurred by purchasers under the Plan.

The following is based on our review of the proposed Declaration and By-Laws of the Condominium, as well as the Internal Revenue Code of 1986, as amended (the "Code"), the Tax Law of the State of New York, the Administrative Code of the City of New York, the applicable regulations or rules promulgated thereunder, the current positions of the Internal Revenue Service and other administrative agencies, judicial decisions, and such other materials as we deemed relevant. It is emphasized, however, that legislative, judicial or administrative changes may be made that would require modification of the views expressed herein, and that the Internal Revenue Service ("IRS") or other administrative agencies may disagree with the views expressed herein.

Taxation of the Association

It is assumed that the Association, which will be an unincorporated association, will be treated as a corporation for income tax purposes. The taxation of such an association will depend on whether the association is eligible to have Code §528 apply to it and, if so, whether the association elects to have it apply. As discussed below, it does not appear that the Association would be eligible to elect to have Code §528 apply.

Notice: To ensure compliance with requirements imposed by the IRS, we inform you that any United States Federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

Code § 528 Rules and Eligibility

A condominium association that is eligible to have Code §528 apply and so elects is taxed under a special set of rules. Briefly summarized, under these special rules, a condominium association is not subject to Federal income tax on amounts received from its members (the unit-owners) as common charges and assessments. It is, however, subject to Federal income tax at the rate of 30% on any other net income that it might have (deducting only operating expenses and other deductible amounts directly applicable to such income) and is not allowed to deduct any loss carryovers or certain organizational costs that it might have.

Treatment under Code §528 (when an association is otherwise eligible) is elective, and elections can be made or not made on a year-by-year basis. An important point is that treatment under Code §528 is not always advantageous. Thus, condominium associations that are eligible to elect in a particular taxable year must determine (presumably with the advice of their accountants) whether or not to elect Code §528 treatment.

In order for a condominium association like the Association to be eligible to elect to be a "homeowners association" for a taxable year, it must satisfy the following five requirements:

(i) It must be organized and operated to provide for the acquisition, construction, management, maintenance and care of "association property."

(ii) 60% or more of its gross income for the taxable year must consist of common charges and assessments from the owners of residential units.

(iii) 90% or more of its expenditures for the taxable year must be for the acquisition, construction, management, maintenance and care of "association property."

(iv) No part of its net earnings may inure to the benefit of any private person (other than by acquiring, constructing or providing management, maintenance and care of "association property" or by rebates of excess common charges and assessments).

(v) "Substantially all" of the units must be used by individuals as residences.

As applied to the Association, "association property" would include the Units and the Common Elements.

Treasury Regulations promulgated under Code §528 provide that the "substantially all" test referred to above is met if at least 85% of the total square footage of all units within the project is used by individuals for residential purposes as of the last day of the taxable year (units occupied by one or more individuals on a short-term basis over more than half of the taxable year cannot be counted towards the 85% test in the Regulations).

Here, we are advised that the commercial Units constitute more than 15% of the total square footage of all of the Units and thus 85% of the square footage of all Units will not be used by individuals for residential purposes. Accordingly, notwithstanding whether the Association would satisfy the 60% income test and the 90% expenditure test for any given taxable year (which obviously cannot be determined at this time), we do not believe that the Association will be eligible to elect to be treated as a "homeowners association" within the meaning of Code §528.

Taxation of Association Not Qualified Under Code §528

If the Association is not eligible to be taxed as a "homeowners association" under Code §528 the Association will be subject to Federal income tax each taxable year on any amount by which its "gross income" for that year – which would include common charges and assessments received from the owners of Units – exceeds its operating expenses and other deductible amounts for that taxable year. Because the Association is expected to own little or no depreciable property, it likely will not be entitled to significant deductions for depreciation, so that the Association will in general, absent Code §528 qualification and election, be taxed at usual corporate rates on any amounts set aside as contingency or operating reserves.

In General

It should be noted that, regardless of whether or not an association like the Association is eligible to elect, and elects, to be treated as a "homeowners association" for any particular taxable year, amounts that such an association receives as contributions to capital are not includible in its "gross income" and therefore are not subject to income tax. Code §118; Rev. Rul. 75-371, 1975-2 C.B. 52. Similarly treated are amounts that such an association collects and holds as agent for its unit-owners, for instance, amounts to be used for specified capital improvements or replacements. Rev. Rul. 75-370, 1975-2 C.B. 25. It should be noted, however, that it is unclear whether amounts collected for a reserve for capital improvements or replacements, to be determined in the future, would or would not be includible in the Association's income. The assessments in Revenue Ruling 75-370 could be used only to replace specified common elements and were specifically approved by the unit owners. In one private letter ruling, the IRS specifically noted that no ruling had been requested and no opinion was being expressed whether direct assessments to be held for future capital improvements would be income to the taxpayer, though it did rule that assessments for an immediate, specified expenditure would not constitute income. PLR 200027029 (Apr. 10, 2000). On the other hand, the IRS has ruled privately that excess insurance recoveries by a condominium association with respect to a casualty that affected the condominium and which were, to the extent not immediately expended, to be held in a capital reserve fund would be treated effectively as a capital assessment and would not be income to the association. PLR 200439017 (May 28, 2004). It is not clear whether the IRS would reach the same conclusion for assessments by the Association to be held in a capital improvement or replacement reserve or would view the conclusion therein as specific to the facts involved therein. It also must be emphasized that a private letter ruling may not be cited as precedent, though it may reflect the IRS's thinking as to a certain matter at the time of its issuance.

Also, under certain circumstances amounts that such an association receives from its unit owners but does not currently need can be excluded from that year's "gross income" and treated as collected in the following year. Rev. Rul. 70-604, 1970-2 C.B. 9. However, Revenue Ruling 70-604 involved an affirmative determination by the unit owners each year as to whether to refund the excess or carry it over to the next year, and the IRS has stated that such a determination is crucial. E.g., TAM 9539001 (June 8, 1995).

Deductions by the Unit-Owners

The following discussion is for the general information of prospective purchasers of Units.

The owner of a condominium unit used for personal purposes is in general allowed income tax deductions for real estate taxes imposed on the unit and interest paid on indebtedness incurred to acquire the unit, but subject to severe limitations as described below.

Deductibility of Real Estate Taxes by Unit-Owner

Each Unit will constitute a parcel of real estate. N.Y. Real Prop. Law §339-y. Accordingly, the owner of each Unit will incur liability for real estate taxes imposed by the City of New York. Real estate taxes are in general deductible for regular income tax purposes by the owner of the subject property. Code §164. The Internal Revenue Service has recognized that the normal real estate rules apply to condominium units similar to the Units. Rev. Rul. 64-31, 1964-1 C.B. 300. As a result, real estate taxes with respect to Units should be deductible in the same manner and to the same extent as they are with respect to residences not in condominium form.

Attention is particularly called to the fact that, notwithstanding the foregoing, in the case of an individual and a taxable year beginning before 2026, the aggregate amount of real property taxes on all property (with exceptions not generally applicable to personal purposes as opposed to income-seeking purposes), together with all state and local income taxes, is limited to $10,000 ($5,000 in the case of a married individual filing a separate return). Code §164(b)(6). Obviously, it cannot be known at this time whether that limitation will continue thereafter.

Also, real estate taxes on property held for personal use are not deductible for alternative minimum tax purposes. Code §56(b)(1)(A).

Deductibility of Interest by Unit-Owner

Any interest charges incurred by the Association will not be deductible by the owners of Units.

If a purchaser incurs debt in order to acquire the Unit, interest on that debt may be deductible depending on certain factors. In general, interest on indebtedness is deductible, subject to certain limitations. Code §163. A major limitation of particular concern for purchasers of Units is that interest on debt incurred for personal purposes as opposed to income-seeking purposes is in

general not deductible by an individual unless it meets the definition of "qualified residence interest," and then is deductible only within the limits mentioned below.

Code § 163(h)

In order to constitute "qualified residence interest," the underlying debt must in any event be secured by the taxpayer's principal residence or a second residence. The below-described limits apply to both residences in the aggregate.

> As to debt incurred to acquire the residence(s), the amount is, for taxable years beginning before 2026, limited to $750,000 ($375,000 in the case of a married individual filing a separate return). Under present law, those amounts are to increase thereafter to $1,000,000 and $500,000, but there can of course be no assurance that the law will not change.
>
> As to additional debt, no such debt may be taken into account for taxable years beginning before 2026. Under present law, it will thereafter be possible to include such debt up to $100,000 ($50,000 in the case of a married individual filing a separate return), but there can of course be no assurance that the law will not change.

Accordingly, it is possible that a purchaser for personal occupancy, even if the Unit is subject to a purchase-money mortgage, may not be able to deduct all the interest charges incurred on debt taken on in order to acquire the Unit.

Purchasers of Units should also be aware that under Code §461(g), prepaid interest may not be deductible in the year in which paid, and that "points" paid to a lender in connection with financing may not in all circumstances be deductible when paid.

In General

This letter does not discuss the eligibility to deduct real estate taxes or mortgage interest in the case of taxpayers other than individuals, and does not address potential limitations on deductibility of such taxes and interest under provisions of the Code not discussed herein, including but not limited to the limitations on itemized deductions in Code §68, the "at-risk" rules of Code §461, and the passive loss rules of Code §469. Furthermore, the statements expressed herein might not be applicable to nonresident alien individuals.

* * * * * * *

New York State and New York City income taxes are generally imposed in the same manner as the Federal income tax.

It must be borne in mind that this opinion is not to any extent a guarantee. It is based on our understanding of the existing rules of law applied to the facts of which we have been apprised. Also, the undersigned will in no event be liable if there are changes in applicable statutes, regulations, decisional law, or administrative pronouncements on which the undersigned relied. No assurance can be given that the laws on which this opinion is based will not change, and we are taking on no obligation to advise anyone of any changes that might occur.

No opinion is expressed as to any legal or tax consequences other than as specifically set forth herein. Each person contemplating the purchase of a Unit should of course consult with his, her or its own legal and tax advisors.

We consent to the inclusion of this letter in the Plan.

Sincerely,

MILLER & MILLER LLP

By: 
Martin B. Miller

Section T-7. Opinion Regarding Compliance with Real Property Law Section 339-i

The opinion of Seyfarth Shaw starts on the next page.

Seyfarth

Seyfarth Shaw LLP
620 Eighth Avenue
New York, New York 10018

T (212) 218-5500
F (212) 218-5526

www.seyfarth.com

September 28, 2022

171 Calyer Street Project LLC
463 Seventh Avenue 4th Floor
New York, New York 10018

Re: Compliance with Real Property Law Section 339-i.1(iv) under Condominium Offering Plan for The Calyer Greenpoint, located at 171 Calyer Street, Brooklyn, New York 112222

Ladies and Gentlemen:

The definitions of the terms contained in the Condominium Offering Plan ("**Plan**") for 171 Calyer Street, Brooklyn, New York will apply when such terms are used herein without express definition.

You have requested our opinion on whether the method used to determine the undivided percentage interest of each Unit in the Common Elements in the above-referenced matter complies with Real Property Law Section 339-i.1(iv) ("**Section 339-i.1(iv)**"). In connection with this opinion, we have reviewed the Plan and assumed the statements and information contained therein are correct and accurate.

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

Included in the Plan is an opinion ("**Douglas Elliman Opinion**") of Douglas Elliman, LLC ("**Douglas Elliman**"). Douglas Elliman states, in the Douglas Elliman Opinion, in relevant part:

> It is our opinion that the allocation of Percentages of Common Interest allocated to the respective Units as set forth in Schedule A attached to the Plan are in compliance with the regulations issued pursuant to Real Property Law Article 9-B, Section 339-i.
>
> We have determined that the Sponsor has used the method contained in Section 339-i(1)(iv) of the New York Condominium Act, that is based upon floor space subject to relative value to the other space in the Condominium, the uniqueness of the Unit, the availability of the common elements for exclusive or shared use, and the overall dimensions of the particular Unit.
>
> A principal of Douglas Elliman, LLC has been engaged in the real estate and the brokerage business for over thirty (30) years in the New York metropolitan

area. In addition, Douglas Elliman has been actively associated with the sale and management of residential properties. The company's affiliate currently manages approximately 400 condominium or cooperative apartment buildings in New York City.

The Douglas Elliman Opinion correctly recites Section 339-i.1(iv) and appears to be based on the method stated in Section 339-i.1(iv) for determining Common Interests. However, we have not reviewed or verified any calculations of floor space and do not express any opinion as to the relative value of a Unit to other Units; the uniqueness of a Unit; the availability of Common Elements for exclusive or shared use; the overall dimensions of a particular Unit; the weight to be given to each factor in determining the Common Interest of a Unit; or the accuracy of the Douglas Elliman Opinion. Moreover, we have assumed, without independent verification or inquiry by us, that the reporting by Douglas Elliman of its experience as a real estate broker and management of condominium and cooperative buildings in New York City (with the implication that Douglas Elliman is qualified to render the Douglas Elliman Opinion) is accurate and objectively warranted, and we are expressing no opinion and making no judgment as to the accuracy of this reporting or otherwise, the experience level or qualifications of the Douglas Elliman broker and other personnel involved in the preparation and issuance of the Douglas Elliman Opinion.

This opinion is confined to the matters addressed herein with respect to Section 339-i.1(iv) and is not intended, nor should be construed, as an opinion on other aspects of the Plan, such as the valid creation of a condominium, which is to be determined by a title insurance company. Further, this opinion is based upon our review of applicable statutory law and judicial precedent, if any, existing as of the date hereof, and we express no opinion as to the effect of any law that is hereafter enacted or any court case that is hereafter decided. We assume no obligation to update or supplement this opinion to reflect, or to notify you as to, any changes in statutory law or judicial precedent, or any changes in fact or circumstances, that may hereafter come to our attention pertaining to the subject matter hereof, although we have advised you that you are obligated to cause a revised opinion letter to be rendered and published in an amendment to the Plan under such circumstances.

We are furnishing this letter to you solely for your personal benefit. This letter may not be relied on by any other person and is not to be used, circulated, quoted or otherwise referred to for any other purpose (other than inclusion in the Plan and to the references to our name in the Plan in connection therewith) without our consent. We are members of the Bar of the State of New York and this opinion is limited to matters of New York State law.

Very truly yours,

Seyfarth Shaw LLP

SEYFARTH SHAW LLP

END OF SECTION T

SECTION U. RESERVE FUND

Section U-1. Reserve Fund. Since the Building is being newly constructed with entirely new Units and Common Elements, each being outfitted with new modern Facilities, only a Reserve for Capital Replacements is included in the budget for the projected first year of Condominium operation (see Sections A-3 and A-4). No major capital replacements are anticipated during the first five years of Condominium operation. No representation, assurance or guaranty, however, is made or given when such capital expenditures will be required or that the Reserve for Capital Replacements will be sufficient when a capital replacement may be required. Unit Owners (in the case of the General Common Elements), or Residential Unit Owners `(in the case of the Residential Common Elements) or the Retail Unit Owners (in the case of the Retail Common Elements) will be obligated to pay their share of the cost of ordinary and capital repairs, replacements and/or improvements to the General Common Elements, Residential Common Elements or Retail Common Elements, respectively, as and when required. See Section A-3.

The Reserve for Capital Replacements in each annual budget of Condominium operation is to equal ten percent (10%) of all other budgeted expenses. Any change in such ten percent (10%) amount shall be disclosed in an amendment to this Plan as long as Sponsor owns an Unsold Unit. In addition, during only the Sponsor Veto Control Period, the consent of Sponsor is required to change or eliminate the Reserve for Capital Replacements set forth in the First Year's Budget (see Section F-6) and required to be included in each budget in accordance with the By-Laws. See Section P-2.1(a-3).

While Sponsor has voting control of the Condominium Board, the Reserve for Capital Replacements may not be used to reduce the projected Common Charges in this Plan.

Neither the Department of Law nor any other governmental agency has passed upon the adequacy of the Reserve for Capital Replacements.

Section U-2. Budget Reserves for Contingencies. Under the By-Laws, a budget adopted by the Condominium Board may include a reserve for unanticipated operating expenses, including an allowance for a possible increase in one or more expense items and/or to add one or more new expense items. During only the Sponsor Veto Control Period, any such reserve amounts may not exceed, in the aggregate, five percent (5%) of the projected annual Common Expenses for the then current budget year without obtaining the consent of Sponsor. See Section P-2.1(a-1).

Section U-3. Sources to Finance Capital Items. The potential means and options available to the Condominium Board to finance any needed or desired capital expenditures, such as to restore or replace major Building components or Building Systems, will be:

(a) the Reserve for Capital Replacement to the extent sufficient for such purpose;

(b) a loan from a bank or other lender, subject to obtaining Sponsor's consent during only the Sponsor Veto Control Period; and

(c) a Special Assessment levied on Unit Owners.

The ability of the Condominium Board to borrow money on a secured or unsecured basis will depend upon a number of factors, including then existing economic conditions, the policies of the proposed lender (including an "Owner-occupancy" quota that may be required), the creditworthiness of the Condominium Association, the physical condition of the Property, obtaining Sponsor's consent during only the Sponsor Veto Control Period, and complying with RPL §339-jj (see Section R-12). Neither Sponsor nor the Selling Agent represents, assures or guarantees that the Condominium Board will be able to obtain a secured or unsecured loan at any time.

To the extent all other sources mentioned above in clauses (a) and (b) are insufficient or unavailable to pay for a needed or desired capital expenditure, the Condominium Board will be required to increase the Common Charges or levy a Special Assessment, or a combination thereof on the Unit Owners (in the case of the General Common Elements) or the Residential, Parking and Storage Unit Owners (in the case of the Residential Common Elements). If a Unit Owner wishes to obtain a loan to pay a Special Assessment, such Owner's ability to arrange a loan will depend on the requirements of the lender, including (among other factors) the lender being satisfied with, among other things: (i) said Owner's income and credit; (ii) the appraised value of his or her Unit; (iii) the number of Units that are occupied by their Owners; and (iv) the physical condition of the Owner's Unit and the Building.

END OF SECTION U

SECTION V. WORKING CAPITAL FUND

Section V-1. Amount of Working Capital Fund. The Condominium Association is to be provided with a fund for operating and working capital ("**Working Capital Fund**") that ultimately will be in the projected total amount of approximately $49,062, which equals two months' projected Common Charges of all Residential, Parking and Storage Units as set forth in the Offering Price Schedule. If this Plan is amended prior to the First Unit Closing to increase or decrease the projected Common Charges of the Residential, Parking and Storage Units, the total amount of the Working Capital Fund will correspondingly increase or decrease.

Section V-2. Funding of Total Amount of Working Capital Fund. At Closing of Title, each Purchaser of a Unit is to make a payment to the Condominium's Working Capital Fund (the "**Working Capital Fund Payment**") in an amount equal to two months' projected Common Charges for each Residential, Parking and Storage Unit being purchased, based on the estimated monthly Common Charges shown in the Offering Price Schedule, as such projection may change prior to the First Unit Closing in a Plan Amendment. At the First Unit Closing, Sponsor will make a *reimbursable advance* payment to the Condominium's Working Capital Fund of $10,000.00 (the "**Initial Working Capital Fund**"). Sponsor is to be fully reimbursed for such advance of the Initial Working Capital Fund from the first Working Capital Fund Payments received from the first Bona Fide Purchasers of Residential, Parking and Storage Units. The Working Capital Fund Payment from each Purchaser will be made directly to the order of Sponsor at the Closing of Title until Sponsor is fully reimbursed for the advance payment of the Initial Working Capital Fund. Thereafter, all subsequent Working Capital Fund Payments from Purchasers will be made payable directly to the Condominium Board or Managing Agent, as directed, and given to Sponsor at the Closing of Title for forwarding to the Managing Agent.

Accordingly, the total amount of the Working Capital Fund will be fully funded only when and if title to all Residential, Parking and Storage Units are conveyed to Bona Fide Purchasers under this Plan. Sponsor and Selling Agent cannot, and do not, represent, assure or guarantee when or whether the total amount of approximately $49,062 will be paid into the Working Capital Fund, which will depend entirely on the time taken to sell and convey all Residential, Parking and Storage Units under this Plan.

The Working Capital Fund Payment is to be made only by a Bona Fide Purchaser of a Residential, Parking and/or Storage Unit under this Plan (whether for personal occupancy or for rental investment or resale), but not by anyone to whom such Purchaser resells or conveys the Unit, or who succeeds to such Purchaser's interest in the Unit after Closing of Title.

No Working Capital Fund Payment will be made by a Sponsor Designee as Owner of an Unsold Unit, but a Bona Fide Purchaser to whom a Sponsor Designee sells and conveys such Unsold Unit (whether for personal occupancy or for rental investment or resale) will be required

to make said Working Capital Fund Payment. No Working Capital Fund Payment will be made by a Purchaser of a Retail Unit.

Section V-3. Use of Working Capital Fund. The initial Working Capital Fund will be used as follows:

(a) to pay, to the extent sufficient, the net amount (if any) owed Sponsor for that portion of the Building expenses to be apportioned with the Condominium Board at the First Unit Closing (which will be disclosed in the Plan Amendment filed after the First Unit Closing, as explained in Section N-1.4); and

(b) the balance (if any) will be used for all appropriate purposes for the benefit of only the Residential, Parking and Storage Unit Owners as will be determined by the Residential Managers in the name and on behalf of the Condominium Board.

Sponsor anticipates that the Initial Working Capital Fund will be sufficient to pay the net amount of apportionments of Building expenses, if in favor of Sponsor. If the net amount of the Closing apportionments is in favor of Sponsor and exceeds the Initial Working Capital Fund, the Board will pay the excess to Sponsor from collection of the Residential Common Charges, without interest, in twelve (12) equal, consecutive monthly installments on the first day of each month, starting the month immediately following the First Unit Closing.

The Working Capital Fund (including the Initial Working Capital Fund to the extent sufficient) may also be used for operating or working capital and to defray increases in the Residential Common Charges, but may not be used to reduce the projected General or Residential Common Charges payable by the Residential, Parking and Storage Unit Owners in the First Year's Budget (Schedule B in Section F-6) while the Sponsor Managers constitute a majority of the Condominium Board. The Condominium Board will usually require operating or working capital to overcome normal cash shortages in operations. The cash shortages may occur from unevenness in the collection of Common Charges or in the payment of budgeted expenses (such as higher heating costs during the fall and winter months), or both. The Working Capital Fund may also be used to make needed repairs and/or alterations, from time-to-time.

Sponsor will control the permitted expenditures from the Working Capital Fund while the number of Sponsor Managers constitute a majority of the Condominium Board. As a result, all or part of the Working Capital Fund may be spent during the period Sponsor has voting control over the Condominium Board.

Section V-4. Adequacy of Working Capital Fund. The amount of the Working Capital Fund is based strictly upon the amount of the projected Common Charges of the Residential, Parking and Storage Units in the First Year's Budget (Schedule B), as such projection may be revised prior to the First Unit Closing in a Plan Amendment (see Section V-1 for details). Accordingly, the

Working Capital Fund is not intended, and should not be relied upon, as being adequate to make potential future needed or desired operating expenses.

Sponsor and Selling Agent cannot, and do not, represent, assure or guarantee that the Initial Working Capital Fund and any supplemental Working Capital Fund Payments from Purchasers will be adequate for operating or working capital purposes at any time. If additional monies are required for operating or working capital, the Board may increase the Common Charges (including levying a Special Assessment on the applicable Unit Owners).

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

END OF SECTION V

SECTION W. MANAGEMENT AGREEMENT, CONTRACTS AND LEASES

Section W-1. Management Agreement. The important terms of the proposed management agreement with the Managing Agent are summarized below.

Section W-1.1. *The Managing Agent*. At or prior to the First Unit Closing, the Condominium Board will enter into a management agreement with Flatiron Real Estate Advisors, LLC, having offices at 119 West 23rd Street, Suite 903, New York, New York 10011, an independent company unrelated to Sponsor or Sponsor's principals. Flatiron LLC, together with its principals, are experienced in residential management, including cooperatives and condominiums (see Section X-4 for discussion). Because no attorney has been retained to separately represent the Condominium Board, which is still to be created on recording the Condominium Documents, the proposed Management Agreement is not the result of an "arms-length" negotiation.

Section W-1.2. *Term of Management Agreement*. The management agreement will be for an initial term expiring at the end of twelve (12) full calendar months after the First Unit Closing. At the end of the initial term, the management agreement will be extended automatically from year to year unless the Condominium Board or Flatiron LLC elects not to extend the term by giving written notice of its election not to extend the term at least thirty (30) days prior to an annual extension. At least fifteen (15) days and not more than thirty (30) days before said thirty (30)-day period for serving such notice of the Board's election not to extend the term prior to each annual extension, Flatiron LLC shall give to the Board written notice, served personally or by certified mail, calling the attention of the Board to the existence of this provision in the management agreement.

Section W-1.3. *Fees and Other Compensation*. Flatiron LLC will receive an annual management fee of $27,192.00 for the first twelve (12) full calendar months of the First Unit Closing, payable in advance in equal, consecutive monthly installments of $2,266.00 each. In the event the term of the management agreement is extended, the annual fee from and after the first twelve (12) full calendar months of the term shall be increased by 3% over the preceding year unless otherwise agreed to in writing. The management fee is based on current market rates for a building of approximately the same size and location of the Building. If the management agreement with Flatiron LLC is not extended, the fees to another managing agent will depend on then exiting market conditions, which are unpredictable. Any significant increase in the management fee at such time might increase Common Charges, depending upon changes in other budget items at such time, which too are uncertain.

Flatiron LLC will also receive the following Unit service fees from an Owner of a Sold Unit:

(a) $500.00 on the sale or conveyance of a Sold Unit that is subject to (and not exempt from) the Board's Right of First Refusal under the By-Laws, or $350.00 if exempted;

(b) $500.00 on the leasing or renting of a Sold Residential, Parking and/or Storage Unit that is subject to (and not exempt from) said Right of First Refusal, or $350.00 if exempted;

(c) $750.00 for alterations to a Sold Residential Unit, other than a Unit Alteration that may be made without Condominium Board's approval, consent or oversight under the By-Laws;

(d) $350.00 on a mortgage financing or refinancing, or an appraisal, of a Sold Residential, Parking and/or Storage Unit, if any Board action is requested in connection therewith; and

(e) if the Board requests Flatiron LLC to manage a capital improvement or other special project that is not part of ordinary building operations and management, the Board shall pay Flatiron LLC an additional fee of 5% of the project's total cost, unless otherwise mutually agreed to in writing.

No Purchaser will be required to pay any fee to Flatiron LLC to purchase a Unit from Sponsor or to finance the Unit at Closing. No such Unit service fees will be paid by the Owners (including Sponsor) of Unsold Units or the Retail Unit.

In addition, the Condominium Board will collect a security deposit from an Owner or tenant of a Sold Residential Unit when moving into or out of the Building. The security deposit is to be applied by the Board to pay for any damage to the General or Residential Common Elements caused by such move. Any unapplied amount will be refunded after the move is completed. The security deposit will initially be set at $2,500.00 and may change from time to time by the Condominium Board, but may not be increased without obtaining the consent of Sponsor during only the Sponsor Veto Control Period. No such move-in or move-out security deposit or other fee or charge may be imposed on a tenant of an Unsold Unit without obtaining the consent of Sponsor in each instance.

Flatiron LLC may also receive commissions for placing insurance maintained by the Condominium Board and for renting space (if any) in the General or Residential Common Elements (if authorized and retained for such purpose by the Condominium Board). In the event the Condominium Board engages Flatiron LLC to arrange a loan for the Condominium Board, Flatiron LLC will be compensated separately in an amount to be negotiated at that time.

Section W-1.4. *Major Duties*. The major duties to be performed by Flatiron LLC will include the following:

(a) hire, pay, supervise and discharge the Building staff (the Condominium Board will have the right to approve the number and fitness of the staff);

(b) cause the Common Elements to be maintained in the condition satisfactory to the Condominium Board, including cleaning and ordinary repairs and alterations; however, the Condominium Board must approve any expenditure of over $2,500.00 for any one item, other than Emergency repairs;

(c) cause any orders or violations issued by a Governmental Authority or fire underwriters body to be complied with and corrected; however, the Condominium Board must approve any expenditure of over $2,500.00 for any one order or violation, except in the case of a "civil/criminal sanctions order or violation" (as defined in the management agreement);

(d) contract for necessary services to maintain and operate the Building (such as elevator and exterminator services); however, the Condominium Board must approve any contract costing more than $2,500.00 a year or lasting longer than one year;

(e) obtain and maintain insurance for fire, property damage, liability and such other coverage, and in such amounts, as the Condominium Board approves;

(f) if requested, ascertain and report to the Condominium Board and Unit Owners on the tentative assessed valuations of the Units and cooperate in the preparation of any application or litigation to correct their assessed valuations;

(g) audit and pay bills for services, work and supplies to maintain and operate the Building, including water and sewer bills;

(h) purchase all supplies necessary to properly maintain and operate the Building; however, the Condominium Board must approve any single supply costing more than $2,500.00 except if needed to make an Emergency repair or to correct a civil/criminal sanctions order or violation;

(i) (in the case of a proposed sale or lease of a Sold Residential, Parking and/or Storage Unit that is subject to the Condominium Board's Right of First Refusal under the By-Laws) obtain credit reports on the prospective purchaser or tenant (as applicable) and implement the procedures (including notifications) in the By-Laws to exercise or waive such Right of First Refusal;

(j) bill and collect the Common Charges and, if authorized by the Condominium Board, engage an attorney approved and selected by the Condominium Board to bring a litigation against a delinquent Unit Owner for unpaid Common Charges, including foreclosing the Board's lien under the By-Laws and the Condominium Act;

(k) maintain payroll records, and file all necessary forms for unemployment insurance, withholding and social security taxes and other forms relating to the Condominium Board's employees;

(l) render monthly statements of collections and disbursements;

(m) maintain accurate books of the Condominium Board (including checkbooks, minute books, payroll, records of cash billings and collections, and orderly files of documents, correspondence, insurance policies, Unit mortgages, etc.);

(n) prepare and submit to the Condominium Board by December 1st of each year, a proposed budget of projected income and expenses for the ensuing year and notify Unit Owners of the annual charges, assessments and any other sums set by the Condominium Board;

(o) arrange an annual audit by the Condominium Board's certified public accountant and distribute the accountant's certified financial statement to the Unit Owners;

(p) prepare and send notices of meetings of the Condominium Board and Unit Owners, arrange the place of each meeting, and attend and keep the minutes of each meeting; and

(q) send to a holder of a Permitted Mortgage a copy of a default notice sent to the Owner of the mortgaged Unit.

Section W-1.5. *Reimbursement for Expenses and Indemnities*. The Condominium Board will reimburse Flatiron LLC for certain expenses properly incurred to perform the duties required by the agreement or authorized by the Condominium Board. The Condominium Board will indemnify Flatiron LLC from and against claims, litigations, liabilities and damages based on: (a) injury to any person or property (unless caused by Flatiron LLC's negligence, willful misconduct or willful violation of the agreement); and (b) Flatiron LLC's acts properly performed pursuant to the agreement or authorized in writing by the Condominium Board.

Flatiron LLC will indemnify the Condominium Board and Unit Owners from and against claims, litigations, liabilities and damages arising from Flatiron LLC's negligence, willful misconduct or willful violation of the management agreement. Apart from such indemnity, the insurance to be obtained by the Condominium Board as part of the Common Expenses will include fidelity coverage insuring the Board and Unit Owners against loss occasioned by the dishonest acts of the Managing Agent or its employees (see applicable footnote to Schedule B in Section F-6 for details).

Section W-1.6. *Assignment*. The management agreement is not assignable by Flatiron LLC.

Section W-1.7. *Cancellation for Cause*. The Condominium Board or Flatiron LLC may cancel the management agreement for a specified cause after giving notice of the default and an opportunity for thirty (30) days from giving the default notice to cure the default and thereby void the cancellation notice.

Section W-2. Other Contracts and Leases. In addition to the management agreement, upon commencement of Condominium operation, the Condominium Board will be bound by arms-length contracts, licenses and leases with independent providers of Building Services having no affiliation with Sponsor or its principals, which are disclosed in, or authorized by, the First Year's Budget (see Note 11 to Schedule B in Section F-6 for potential services as to which contracts with providers are still to be negotiated and signed) or elsewhere in this Plan. No service contracts have been entered into at the date of this Plan.

Section W-3. <u>Sponsor's Limited Right to Bind Condominium Board</u>. Sponsor reserves the right to enter into other arms-length leases, licenses and service agreements with independent, unrelated service providers prior to the First Unit Closing to benefit the Unit Owners in accordance with the terms of this Plan that will be binding on the Condominium Board, but will amend this Plan to disclose them if:

(a) they will materially increase the Common Charges; or

(b) are for terms longer than five years, other than leases, licenses and service agreements to install, maintain, repair and operate cable television, telecommunications and other utility agreements and licenses that customarily are longer than five years, including renewal options.

Any work required in connection with the initial construction and installation of the utility services will be performed by, and at the sole cost and expense of, Sponsor or the utility provider (as applicable). The Board will be required to maintain and repair the portions of the Building in which the utility equipment is located as part of the General or Residential Common Expenses (as applicable).

END OF SECTION W

SECTION X. IDENTITY OF PARTIES

Section X-1. Sponsor.

Section X-1.1. *Identity*. Sponsor is 171 Calyer Street Project LLC, having an office at 463 Seventh Avenue, 4th Floor, New York, New York 10018. Sponsor is a Delaware limited liability formed on August 4, 2021. The sole managing member of Sponsor is M&M Calyer LLC, a New York limited liability company formed on August 6, 2021. Mark Adjmi is the sole managing member and principal of M&M Calyer LLC, a New York limited liability company. 171 Calyer Main Owner LLC, a Delaware limited liability company, is a member of Sponsor. Salomon Cojab Moadeb is a member of 171 Calyer Main Owner LLC. Sponsor and 171 Calyer Main Owner LLC have each designated the New York Secretary of State to receive service of process on it. Mark Adjmi and Salomon Cojab Moadeb are the sole principals of Sponsor.

Section X-1.2. *Experience*. Sponsor was organized for the purpose of owning and developing the Property, and sponsoring the sale of the Units being offered under this Plan.

Mark Adjmi has 20 years of real estate experience, including ownership interests in the following properties: 112 Liberty Street, Manhattan (a hotel development); 336 State Street/348 Atlantic Avenue, Brooklyn (11,049 square feet of residential and retail space); 161 Court Street and 163 Court Street, Brooklyn (a retail and residential renovation totaling 17,600 square feet);113 Greenwich Street, Manhattan (2,600 square feet of retail space in a Marriot hotel); and 151-155 Mulberry Street, Manhattan (3,816 square feet of a retail condominium unit).

Salomon Cojab Moadeb has been in the real estate industry as an owner/operator of single-story retail spaces since 2018 with properties in Brooklyn, Queens and the Bronx, in addition to three mixed-use buildings at 139 Montague Street (Brooklyn), 1694 Park Avenue (Manhattan) and 3052 3rd Avenue (Bronx). Mr. Moadeb has also been a part of the ownership group for two Brooklyn redevelopment sites at 114 6th Avenue and most recently 16 Monroe Place.

Section X-1.3. *Background*. There are no prior felony convictions of Sponsor or the principals of Sponsor.

There are no prior bankruptcies, convictions, injunctions and judgments against the Sponsor, any principal of Sponsor, and/or entities in which principals of Sponsor were principals, or any individual who owns or controls a ten percent (10%) or more equity interest in Sponsor that may be material to this Plan or to an offering of securities generally and that occurred within fifteen (15) years prior to the submission of the proposed condominium offering plan for the Property to the Department of Law.

Section X-1.4. *Other Cooperative and Condominium Offerings*. Sponsor, the principals of Sponsor and any affiliates of Sponsor or the principals of Sponsor have not previously offered for sale any other properties as cooperatives, condominiums, planned unit development homes or

timeshares that were first offered within the past five years. Sponsor and Sponsor's principals do not own, directly or indirectly, unsold units or shares constituting 10% or more of all units or shares of other condominiums, cooperatives or other cooperative interests in realty.

Section X-2. Sponsor's Attorneys. Seyfarth Shaw LLP, with offices at 620 Eighth Avenue, New York, New York 10018, represents Sponsor on this Plan. Seyfarth Shaw LLP has not passed upon the legal opinions of other attorneys appearing in this Plan nor passed upon or independently investigated the business or financial terms of this offering, the physical condition of the Building or the projections contained in this Plan. This Plan was prepared by Alan L. Kazlow, Esq., senior counsel to said firm.

Seyfarth Shaw LLP also is the Escrow Agent for Deposits of Purchasers under the Purchase and Sale Agreement and will perform Unit Closing services. The Purchase and Sale Agreement provides the Escrow Agent may represent Sponsor in any litigation, whether or not related to Purchase and Sale Agreement and irrespective of Escrow Agent being in possession of the Deposit. See Section A-2.12.

Metropolitan Realty Exemptions, Inc., with offices at 349 Keap Street, Brooklyn, New York 11211, was retained by Sponsor to render the opinion on the projected real estate taxes of the Units (see Section S-9).

Miller & Miller LLP, with offices at 343 Great Neck Road, Great Neck, NY 11021, was retained by Sponsor to render an opinion on the availability of income tax deductions to Unit Owners and the tax status of the Condominium Association.

No attorney has been engaged to represent the Condominium Association or the Condominium Board. Accordingly, the proposed management agreement between Flatiron Real Estate Advisors, LLC and the Condominium Board is not the result of an "arms-length" negotiation (see Section W-1 above).

Section X-3. Managing Agent. The proposed Managing Agent of the Condominium is Flatiron Real Estate Advisors, LLC, having an address at 119 West 23rd Street, Suite 903, New York, New York 10011. Flatiron LLC has no prior or present relationship with Sponsor or its principals, other in connection with this Plan.

Section X-3.1. *Experience*. Flatiron LLC, formed in January 2000, offers property management services with a concentration in New York City residential properties. Its portfolio under management is located within the New York-New Jersey-Connecticut Tri-State area, primarily in New York City, including cooperatives and condominiums, and owners of rental properties. Flatiron LLC's current portfolio under management includes 44 properties, comprising 599 units, including Manhattan residential cooperative or condominiums properties located at 110 Madison Avenue, 264 West 22nd Street and 1402 York Avenue, and the Brooklyn residential rental property located at 143 Skillman Street.

Section X-3.2. *Background*. The Managing Agent and its principal have no prior felony convictions. During the past fifteen (15) years, there were no prior convictions, injunctions or judgments against the Managing Agent or its principal that may be material to this Plan, or to an offering of securities generally, that occurred within fifteen (15) years prior to the submission of the proposed condominium offering plan for the Property to the Department of Law.

Section X-4. Selling Agent. The agent engaged by Sponsor to offer and sell the Residential Units under this Plan (the "**Selling Agent**") is Douglas Elliman, LLC d/b/a Douglas Elliman Real Estate ("**Douglas Elliman Real Estate**"), with offices at 575 Madison Avenue, New York, New York 10022.

Section X-4.1. *Experience*. Douglas Elliman Real Estate and its predecessors have been engaged in the sale of condominium and cooperative apartments on the Upper Westside and other areas of Manhattan for over 40 years. Some of those Manhattan properties include: 150 West 87th Street; 949 Park Avenue; 100 Eleventh Avenue; 333 East 91st Street; 301 East 81st Street; 225 West 86th Street; 1 West End Avenue; 235 West 75th Street; 344 West 72nd Street; and 70 West 139th Street.

Section X-4.2. *Background*. The Selling Agent and its principals have no prior felony convictions. During the past fifteen (15) years, there were no prior convictions, injunctions or judgments against the Selling Agent or its principals that may be material to this Plan, or to an offering of securities generally, that occurred within fifteen (15) years prior to the submission of the proposed condominium offering plan for the Property to the Department of Law.

Section X-5. Architect and Other Construction Professionals.

Section X-5.1. *Architect*. Sponsor engaged PKSB Architects, P*C* ("**PKSB**"), with offices at 630 Ninth Avenue, Suite 1200, New York, New York, 10036 to prepare the architectural plans, specifications, agency filing documents, and architect's report (Description of Property and Specifications contained in Document 4 in Part II of this Plan) for this new 6-story mixed use Building.

Section X-5.1.1. Experience. PKSB is recognized as an award-winning full-service architectural firm with a long history of completing projects of every scale and scope. Since 1964, PKSB Architects has been creating architecture and interior spaces with an ever-expanding range – including academic, preservation, institutional, residential, hospitality, public housing, infrastructure, public art, civic memorials, and houses of worship. PKSB's efforts have been rewarded with numerous design awards, including the prestigious P/A Award and AIA honor awards on the local, state, and national levels.

Section X-5.2. *Mechanical Engineer*. Sponsor has engaged Sharon Engineering, P.C., having offices at 34-27 Steinway Street, Suite 201, Long Island City, New York 11101, as the

mechanical, electrical, fire protection, and plumbing engineer in connection with the construction of the Building.

Section X-5.2.1. Experience. Sharon was founded in 1990. Its other projects include: in Brooklyn: 600 Bushwick Avenue, 4515 New Utrecht Avenue, 227 Fourth Avenue, 155 Noble Street, 530 Myrtle Avenue and 100 Steuben Avenue; and in Manhattan: 69 East 125th Street and 52 West 125th Street.

Section X-5.3. *Structural Engineer*. Titan Engineers PC ("**Titan**"), having offices at 1331 Stuyvesant Avenue, Union, New Jersey 07083, has been engaged by Sponsor as the structural engineer.

Section X-5.3.1. Experience. Titan's other Brooklyn projects include 375 Dean Street and 575 Fourth Avenue.

Section X-6. Real Estate Experts. Sponsor has also engaged Flatiron Real Estate Advisors, LLC to certify the adequacy of the First Year's Budget (see Section X-3.1 for experience) and Douglas Elliman Real Estate to give its opinion that the Common Interests allocated to the Units meets the requirements of §339-i of the Condominium Act (see Section X-4.1 for experience).

Section X-7. Relationship to Sponsor or Sponsor's Principals. Sponsor and Sponsor's principals are not related to the Selling Agent, the Managing Agent, the architect or the engineers listed in Section X-5 or the real estate experts identified in Section X-6, other than in connection with this Plan, or any person or firm who will provide services to the Condominium Association or the Property subsequent to commencement of Condominium operation.

END OF SECTION X

SECTION Y. REPORTS TO UNIT OWNERS

Section Y-1. Annual Financial Statements, Meetings and Budgets. The Condominium Board is obligated to give all Unit Owners annually the following:

(a) within four months after the end of each fiscal year adopted by the Condominium Board, a financial statement of the Condominium Association, including an annual report of receipts and expenditures, prepared by an independent certified public accountant or public accountant, which statement will be certified by the accountant while the Sponsor Managers constitute a majority of the Condominium Board;

(b) not less than ten (10) days advance written notice of the annual meeting of Unit Owners for the election of Managers of the Condominium Board; such annual meeting is to be held within approximately thirty (30) days of the anniversary of each previous annual meeting, unless changed by the Condominium Board; and

(c) at least ten (10) days before the start of each budget year, a copy of the annual budget of Condominium operation adopted by the Condominium Board; while the Sponsor Managers constitute a majority of the Condominium Board, each such budget will be accompanied by a certification of its adequacy from an independent expert experienced in residential management in accordance with Part 20.4(d) of the Department of Law's regulations.

END OF SECTION Y

SECTION Z. DOCUMENTS ON FILE

Section Z-1. Plan, Plan Amendments and Condominium Documents. For six years from the date of First Unit Closing, Sponsor shall keep copies of this Plan, every Plan Amendment, all documents referred to in this Plan and all Exhibits submitted to the Department of Law in connection with the filing of this Plan on file and available to prospective Purchasers, Purchasers and Unit Owners for inspection without charge and copying at a reasonable charge at Sponsor's office at 463 Seventh Avenue 4th Floor, New York, New York 10018.

At the First Unit Closing, Sponsor shall deliver to the Condominium Board, a copy of the Condominium Documents that are filed and recorded with the City Register's Office.

END OF SECTION Z

SECTION AA. GENERAL

Section AA-1. Litigation. There are no pending litigation, administrative proceedings or other proceedings the outcome of which may materially affect this offering, the Property, Sponsor's capacity to perform all of Sponsor's Obligations under this Plan, the Condominium Association or the operation of the Condominium.

Section AA-2. No Prior Cooperative or Condominium Offering of Property. The Property has not, to the knowledge of Sponsor, been the subject of any prior cooperative or condominium offerings. No preliminary binding agreements have been entered into and no money has been collected from prospective Purchasers by Sponsor for the sale of Units in the Building prior to the date of this Plan. All of the Units offered pursuant to this Plan are in the course of construction or to be constructed at the date of this Plan.

Section AA-3. Compliance with Civil Rights Laws. Sponsor and its agents, including the Selling Agent, will not discriminate against any person on any basis prohibited by civil rights Laws in connection with the offering for sale, the sale, the financing or the leasing of Units under this Plan. These Laws prohibit discrimination based on sex, age, race, creed, color, national origin, ancestry, disability, or marital status or other grounds prohibited by Laws.

Section AA-4. Plan Amendment. Sponsor reserves the right to file a Plan Amendment, including a Plan Amendment that may be materially adverse to then existing Purchasers. If there is a material Plan Amendment that adversely affects existing Purchasers, Sponsor must grant such Purchasers a right of rescission and a reasonable time that is not less than fifteen (15) days after the date of Presentation of such Plan Amendment to exercise the right to rescind.

Section AA-5. Use and Enjoyment of Property. The use and enjoyment of the Property are not affected by any reciprocal covenants or easements with owners of properties adjacent to the Property or any known impending adjacent high-rise construction, other than the recently completed high-rise at 1080 Lorimer Street. The Property is located in a historic district governed by the Landmarks Preservation Law.

Section AA-6. Contents of Plan. This Plan does not knowingly omit a material fact or knowingly contain an untrue statement of a material fact. Any statement, representation or information that is not expressly contained in this Plan or a Plan Amendment is not authorized and should not be relied upon. This Plan may not be modified orally and no provision may be waived orally.

The projections in the First Year's Budget (see Schedule B in Section F-6) and the projected Common Charges in the Offering Price Schedule are made in reliance upon the expertise of Flatiron Real Estate Advisors, LLC, which prepared the First Year's Budget and certified as to the adequacy of such First Year's Budget (see DOCUMENT 8C in Part II) and the adequacy of the Common Charges payable by the Retail Units represent the Common Expenses fairly attributable to the Retail Units (see DOCUMENT 8D in Part II).

The projected real estate taxes in the Offering Price Schedule are based on certain estimates of Metropolitan Realty and are made in reliance upon the expertise of such firm (see footnote 6 to the Offering Price Schedule (Schedule A in Section E-1) and Section S).

The Floor Plans of the Units set forth in DOCUMENT 5 in Part II and the report on the Description of Property and Specifications contained in DOCUMENT 4 in Part II have been included in this Plan in reliance upon the expertise of PKSB Architects, PC, which certified its accuracy in DOCUMENT 8B in Part II.

The statements in this Plan on the availability of income tax deductions to qualified Owners of Residential Units and the income tax status of the Condominium Association have been made in reliance upon the expertise of Miller & Miller LLP, whose tax opinion is set forth in Section T-6.

Section AA-7. Exemption Under ILSA. Because this offering contains fewer than one hundred (100) condominium units, the offering is exempt from the registration and disclosure requirements of the Federal Interstate Land Sales Full Disclosure Act (called "**ILSA**") pursuant to §1702(b)(1) of ILSA.

END OF SECTION AA

SECTION BB. RESERVATION OF AIR AND DEVELOPMENTAL RIGHTS

Section BB-1. Excess Development Rights. Sponsor is not submitting to condominium ownership and is reserving for its exclusive use and enjoyment the approximately 7,776 square feet of unused development rights that are expected to be available to the Property's zoning lot after completion of construction of the Building together with any future development rights that Sponsor might purchase or might become available to the Property's zoning lot by reason of a special permit or a change in zoning or otherwise (i.e., Excess Development Rights). Sponsor may sell and transfer all, or a portion of, the Excess Development Rights and retain all proceeds realized therefrom without participation of the Condominium Board or Unit Owners. However, no Excess Development Rights may be used to expand the size, height, bulk or density of any portion of the Property after the recording of the Declaration establishing the Condominium. If any of the Excess Development Rights are transferred to an adjoining premises, the light and air of the Building and views from Residential Units and/or their respective terraces might be adversely affected. See Sections A-1.4, B-2, and D-1.1.

END OF SECTION BB

SECTION CC. DESCRIPTION OF PROPERTY AND SPECIFICATIONS SPONSOR'S STATEMENT OF OR BUILDING CONDITION

Section CC-1. Report On Description of Property and Specifications. Sponsor adopts the report on the Description of Property and Specifications set forth as DOCUMENT 4 in Part II of this Plan. The report was prepared by PKSB Architects, PC and is included in this Plan in reliance upon the expertise of such professional.

Section CC-2. New Construction. Sponsor has undertaken to newly construct the Building with twenty-one (21) modern, newly constructed, equipped and outfitted Residential Units, two Retail Units, twelve (12) Parking Units, fifteen (15) Storage Units and Common Elements in accordance with Sponsor's Plans and Specifications. A summary of the new construction, including the Units and the Common Elements, is contained in DOCUMENT 4 in Part II and referred to in Section C-1. The projected timetable for completion of construction is contained in Section C-3. The Building, including the Units and the Common Elements are in the course of construction and are not habitable at the date of this Plan.

After the First Unit Closing, portions of the Common Elements and Units will still be undergoing construction, equipping, outfitting and decorating, which may extend up to possibly a year or more, subject to delays caused by completion of Units and Punch List Work (which will have the highest priority) and Unavoidable Causes. During this period, the electrical, plumbing, elevator and other Building Systems may be disrupted temporarily from time to time as work is performed or Building Systems are balanced and adjusted. The occupied Residential Units, however, will remain habitable and a tenant protection plan to the extent required by Laws will be in place. See Section A-18.2.

Section CC-3. Certificate of Occupancy. Upon completion of construction, a Certificate of Occupancy is to be issued authorizing the number of Units for the proposed use set forth in this Plan as part of Sponsor's Obligations. Prior to the Closing of Title to a Unit, Sponsor must obtain either a Final Certificate of Occupancy or (at Sponsor's exclusive option) a Temporary Certificate of Occupancy authorizing the use of such Unit for the purpose stated in this Plan. In the case of the Storage Units and Parking Units, a TCO or FCO that authorizes storage on floor 2 or parking on the cellar level shall conclusively be deemed to authorize the fifteen (15) Storage Units to be located on floor 2 and the twelve (12) Parking Units to be located on the cellar level. See Section A-7.3.1.

Section CC-4. Official Inspection Reports. Official inspection reports reflecting upon the condition of the Property (such as notices of Building Code violations as at the date of search) and reports required by local law are noted in the report on the Description of Property and Specifications (DOCUMENT 4 in Part II).

According to PKSB, as of September 28, 2022, the following violations were issued against the Property:

OATH/ECB Violation Number: 35641530P

The above violation is related to pedestrian protection that will be resolved by removal of obstructions in public right of way.

OATH/ECB Violation Number: 39022264Y

The above violation is related to collection of rain water on the roof of existing building and will be resolved by the demolition of the existing building.

OATH/ECB Violation Number: 34841467L

OATH/ECB Violation Number: 34841500Y

OATH/ECB Violation Number: 34841149X

OATH/ECB Violation Number: 34450221N

OATH/ECB Violation Number: 34451751P

The above listed violations are related to the use of the previously existing building and will be resolved by the demolition of the building and construction of a newbuilding with a new Certificate of Occupancy for the approved uses.

See Section O-2.23 and Section O-2.24, respectively, for Sponsor's Obligations to correct violations noted or issued that are outstanding at the First Unit Closing and to update official inspection certificates and permits for Building equipment that expire at or prior to the First Unit Closing.

END OF SECTION CC

END OF PART I

PART II

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PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement ("**Agreement**") is dated as of _____, 202__, between the "**Seller**" and "**Purchaser**" signing as such below (together, "**Parties**" and each, "**Party**").

1. Agreement to Purchase and Sell

1.1 Purchaser agrees to purchase, and Seller agrees to sell, the [Residential][Parking][Storage] Unit ("**Unit**") and its appurtenant Common Interest in the Common Elements of the proposed The Calyer Greenpoint ("**Condominium**") located at 171 Calyer Street, Brooklyn, New York 11222 ("**Building**") for the Purchase Price and on the Terms and Conditions, all as defined and stated below:

	Number	Common Interest
_____ Unit:	_____	_____%

2. Purchase Price

2.1 The "**Purchase Price**" of the Unit is $_____, which Purchaser agrees to pay to Seller as follows:

$_____ (**"Deposit"**) on signing this Agreement; and

$_____ (**"Balance"**) on delivery to Purchaser of the deed to the Unit ("**Close**" or "**Closing**").

3. Date of Receipt of Offering Plan

3.1 Purchaser acknowledges receiving the condominium offering plan for the Property ("**Plan**") and the _____ amendments thereto ("**Amendments**") on _____ ___, 202__.

4. Information on Purchaser

4.1 Purchaser's address for notices and personal information are:

Street:_____, Apt. No._____

City: _____; State: ____ Zip Code:_____

Phone #: _____; Mobile:_____

(Social Security/Federal EIN No. and Birth Date are to be provided separately on Purchaser signing this Agreement.)

5. Purchaser's Attorney

5.1 "**Purchaser's Attorney**" is:

Individual Attorney: _____

Firm Name: _____

Address: _____

_____

_____

Phone #: (____) _____

Fax #: (____) _____

E-Mail: _____

6. Identity of Participating Broker

6.1 The only brokers and salespersons that Purchaser has dealt with on this transaction are the Selling Agent, Douglas Elliman, LLC, and:

Participating Broker: _____*

Salesperson:_____

* [If inapplicable, state "None".]

7. No Mortgage Contingency

7.1 SPECIAL RISK: This Agreement is not contingent upon Purchaser obtaining financing (secured or unsecured). See paragraph 32.

CONTINUED ON THE FOLLOWING "TERMS AND CONDITIONS", WHICH ARE PART HEREOF

Seller and Purchaser agree that the provisions of this Agreement are legal and valid, binding on each of them and fully enforceable in accordance with its terms

SELLER:	PURCHASER:	ESCROW TERMS AGREED TO:
171 Calyer Street Project LLC	Sign:_____	Seyfarth Shaw LLP
By: M&M Calyer LLC,	Name:_____*	By:_____
Managing Member	Sign:_____	Name:_____
By:_____	Name:_____*	
Name/Title:_____	**Date Signed:_____ ___, 202_**	
Date Accepted:_____	***EXACT NAME TO BE ON THE DEED.**	

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TERMS AND CONDITIONS

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8. Glossary

8.1 The meanings of the capitalized terms used but not defined in this Agreement are contained in the Plan, including the Condominium Declaration or By-Laws contained in Part II of the Plan. Seller is the Sponsor of the Plan. The lowercase words used in this Agreement shall be interpreted as indicated below and shall apply to derivations or variations thereof. All other lowercase words shall have their ordinary meanings.

"arising from" is the same as and interchangeable with "attributable to", "by reason of", "due to", and "in connection with".

"attributable to" is the same as and interchangeable with "arising from", "by reason of", "due to", and "in connection with".

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

"business hour" is from 9:00 a.m. to 5:00 p.m. (Eastern Time).

"by reason of" is the same as and interchangeable with "arising from", "attributable to", "due to", and "in connection with".

"change" is to amend, modify, revise, rewrite, supplement, add, eliminate, delete, repeal, replace, substitute, or otherwise vary.

"claim" is any contention, dispute, controversy or disagreement.

"cost" is any price, charge or fee.

"damages" means actual or compensatory damages, but not consequential, indirect, incidental, special or punitive damages.

"day" is any day of the year, unless expressly stated to be a business day.

"deadline" is a time period that cannot be extended and is *of the essence*.

"default" is a breach, failure or violation, whether knowingly or unknowingly, inadvertent, negligent or otherwise.

"due to" is the same as and interchangeable with "arising from", "attributable to", "by reason of", and "in connection with".

"expense" is any pecuniary expenditure, outlay, imposition, penalty or fine.

"in connection with" is the same as and interchangeable with "arising from", "attributable to", "by reason of", and "due to".

"include" shall be interpreted to mean "include (without limitation).

"indemnify" shall be interpreted to always be deemed to mean "indemnify, defend and hold harmless".

"legal expenses" are all reasonable attorney's fees and disbursements together with court cost and associated litigation expenses.

"legal requirements" are federal and state laws, and city ordinances, and the codes, rules, regulations, directives and requirements of governmental or other authorities having competent jurisdiction.

"liable" is any manner of legal responsibility, obligation or accountability.

"liquidated damages" are damages limited to the amount in question, which the Parties mutually agree are fair and reasonable under the circumstances and not subject to contest.

"litigation" is a court action or proceeding, or where expressly provided an arbitration, mediation or other dispute resolution body.

"loss" means a financial or economic harm, including damages, as well as all costs and expenses.

"on behalf" means with the authority or permission, or at the direction, or at the behest of, or for the benefit of.

"per diem interest" is daily interest at the annual rate equal to the lower of nine per cent (9%) or the maximum legal rate, computed from the due date to the date each amount owed is fully reimbursed, unless otherwise expressly provided.

"repair" is to fix, correct, mend, refurbish and renovate.

"restore" is to rebuild, reinstate, replace and otherwise bring back to good and proper working order and first-class condition and appearance.

"shall" is the same as must.

"tender" is the date delivered by hand or emailed with wire transfer of the Deposit, or the next business day after being sent by a nationally recognized overnight courier service or five (5) calendar days after being sent by mail (as applicable).

"violation" is the same as and interchangeable with "default" so that the use of one shall include the other.

9. Part of Agreement

9.1 These "**Terms and Conditions**" form a part of the Agreement and are additional provisions governing Seller's agreement to sell, and Purchaser's agreement to purchase, the Unit.

10. Payment of Purchase. Purchaser shall pay the Purchase Price in the amount stated in paragraph 2 in accordance with these Terms and Conditions without abatement, set-off or credit, and without recourse against Seller or its managers, members, employees, agents, representatives and attorneys (collectively with Seller, "**Seller Parties**").

10.1 Purchaser shall pay the Deposit by Purchaser's unendorsed good personal collectible check or (at Seller's exclusive option) Purchaser's certified check or official cashier's or bank check, in the amount specified in paragraph 2.1 (which equals 10% of the Purchase Price) made payable to the order of "*Seyfarth Shaw LLP, as Escrowee*" for placement in an interest bearing escrow account. The Deposit shall be paid on signing and delivering this Agreement to Seyfarth Shaw LLP ("**Seller's Attorney**") at 620 Eighth Avenue, New York, New York 10018, as instructed by Seller's Attorney. Any earned interest on the Deposit shall be paid to Purchaser at Closing.

10.2 Purchaser shall pay the Balance of the Purchase Price at Closing in the amount specified in paragraph 2.1 by Purchaser's unendorsed good certified personal check or official cashier's or bank check, made payable to the direct order of *"171 Calyer Street Project LLC"*, or to such other payee(s) as Seller may specify on not less than two business days' prior oral notice or three business days' prior written notice to Purchaser or Purchaser's Attorney (if any).

10.3 At Seller's exclusive option, Purchaser shall pay the Deposit and/or the Balance in "immediately available funds" (that is, by electronic wire transfer to a bank account designated by Seller). Any payment made by wire transfer shall not be deemed to have been made until confirmed as received by Seller's bank and credited to Seller's account.

10.4 All checks for the Deposit and the Balance of the Purchase Price must be drawn on (and payable by) a member bank of the New York Clearing House Association L.L.C., or a local bank, saving bank, savings and loan

association, trust company, licensed mortgage banker, or insurance company (collectively, "**Institutional Lender**") acceptable to Seller (in its sole discretion). Purchaser shall not use a third party check (other than that of an Institutional Lender), including a check of an entity (unless Purchaser is the entity), to pay either the Deposit or the Balance.

10.5 Simultaneously with Purchaser's execution and delivery of this Agreement, Purchaser shall complete, sign and deliver to Seller or Seller's Attorney: (a) (if Purchaser is subject to backup withholding rules) Internal Revenue Service ("**IRS**") form W-8 BEN "Certificate of Foreign Status" (if Purchaser is a non-resident alien or foreign entity) or IRS form W-9 "Request for Taxpayer Identification Number" (if Purchaser is a United States citizen or resident alien), as applicable.

11. Closing Date, Time and Place

11.1 After the Plan is amended to disclose it has been declared effective by Seller ("**Effectiveness Amendment**"), Seller will fix the date and time for Closing ("**Closing Date**") on not less than thirty (30) days' prior written notice to Purchaser. The Closing Date is anticipated to be set on a date within the twelve (12)-month period commencing January 1, 2024, based on the construction schedule at the date of the Plan, subject to delays due to events or circumstances beyond the reasonable control of Seller, as explained below. The Closing Date shall be on a business day, during business hours and at the offices of Seyfarth Shaw LLP, 620 Eighth Avenue, New York, New York 10018. Depending upon the then current state of the COVID-19 coronavirus and its variants in New York City, the Closing may be conducted virtually under terms to be determined by Seller's Attorney, which shall be similar to the conveyance of title in other like real estate transactions conducted virtually by Seller's Attorney.

11.2 Seller has the right to postpone the Closing one or more times to remove a title objection or satisfy a Closing prerequisite under the Plan or for any other good faith reason. In the event Seller postpones the Closing or Purchaser is at fault for failing to Close on the Closing Date fixed by Seller in accordance with paragraph 11.1 (or any postponed dated fixed by Seller in accordance with this paragraph 11.2), Seller will fix a new date and time for Closing. Purchaser will be given written or oral notice of a postponement by Seller and at least ten (10) days' prior written notice of the new date and time for Closing fixed by Seller. In the event Seller postpones the Closing, Purchaser will pay the full amount of Purchaser's Closing payments contained in paragraph 14.1 on the postponed date of Closing, including the Balance of the Purchase Price. Nothing contained herein shall excuse Purchaser from failing to Close in the Closing date set by Seller in accordance with this Agreement.

11.3 Under the Plan, the First Unit Closing is targeted to occur on or about January 1, 2024, but may actually occur earlier or later. Purchaser understands that completion of the Unit and/or the Building may be delayed due to events or circumstances beyond Seller's reasonable control, such as inclement weather; fire; explosion; power failure; labor strikes, lockouts, stoppages or other disputes affecting Seller or Seller's contractors or subcontractors; shortages or late delivery of materials or supplies affecting Seller or Seller's contractors, subcontractors or suppliers; and delays in issuing permits or licenses or conducting inspections by, or other actions or inactions of, Governmental Authorities having competent jurisdiction (collectively, "**Unavoidable Causes**"). Accordingly:

(a) Seller does not represent, assure or guarantee when the actual date of the First Unit Closing will occur, which might be earlier or substantially later than January 1, 2024;

(b) Seller does not represent, assure or guarantee when the actual day of Closing to the subject Unit will occur, which might be substantially after the First Unit Closing;

(c) Seller will determine the order in which Units shall Close, which need not coincide with the sequence in which they are contracted for sale or the numerical order of the floors;

(d) Purchaser will not be excused from paying the full Purchase Price, without abatement, set-off or credit, and without recourse of any kind against the Seller Parties or the Selling Agent, in the event the First Unit Closing occurs substantially later than said targeted date of January 1, 2024 or the Closing to the subject Unit is substantially after the First Unit Closing or is postponed. If, however, the First Unit Closing is not held within twelve (12) months from January 1, 2024, or twelve (12) months from such later date as may be set forth in a Plan Amendment served on Purchaser before Purchaser signs and delivers this Agreement, Purchaser will be offered the option (if Purchaser is not then in default hereunder beyond the applicable grace period and the Effectiveness Amendment has been filed by the Department of Law) to rescind this Agreement and recover the Deposit and any interest earned thereon (together, "**Purchase Monies**") as Purchaser's sole right and remedy; and

(e) in no event shall the Seller Parties or the Selling Agent be liable to Purchaser for any damages or losses due to any delay in completing construction of the Unit or in erecting, equipping and outfitting the Building or in consummating the Closing.

11.4 If Seller and Purchaser enter into a Purchase and Sale Agreement for two or more Units, then at Seller's exclusive option, all Units shall Close simultaneously, provided only that a temporary, partial or final (at Seller's exclusive option) Certificate of Occupancy of the Building shall be issued authorizing the use of all such Units for the purposes contained in the Plan.

12. Purchaser's Closing Costs

12.1 At Closing, Purchaser shall pay the following mandatory Closing costs, which are in addition to (and not part of) the Purchase Price:

(a) Purchaser shall pay the New York City Real Property Transfer Tax and the New York State Real Estate Transfer Tax applicable to this purchase and sale together with the fee of an ACRIS service provider (if any) to prepare such transfer tax returns, the then governmental fees and charges, and title company's service charge, to prepare and file these transfer tax returns, together with the New York State equalization and assessment form, and to record the Deed;

(b) in addition to any net credit in favor of Seller resulting from the closing apportionments, Purchaser shall pay a sum equal to two months' projected Common Charges for the Unit as set forth in SCHEDULE A – Offering Prices and Related Information in Section E of Part I of the Plan, as such projected Common Charge may be revised in a Plan Amendment filed prior to the First Unit Closing, which payment represents Purchaser's contribution to the Condominium's Working Capital Fund and shall be made payable to the direct order of, and delivered to, Seller or Seller's Attorney until the amounts paid by purchasers under the Plan who Close fully reimburse Seller for its "advance" payment to the Working Capital Fund and, thereafter, will be made payable to the Board of Managers of The Calyer Greenpoint or as otherwise directed by the Condominium Board and delivered to Seller at Closing for forwarding to the Board or its Managing Agent, all as set forth in the Plan; and

(c) Purchaser shall pay Seller's Attorney the following sum: (a) (if Purchaser is buying without mortgage financing) $3,000.00; or (b) (if Purchaser buying with mortgage financing) $3,500.00 (such payment to cover the cost of Unit Closing legal services in connection with this purchase and sale)

12.2 At Closing, Purchaser shall also pay the following elective Closing costs:

(a) if Purchaser elects to obtain a mortgage loan:

(a-1) Purchaser shall pay the mortgage recording tax, the governmental fee and charges to record the mortgage and a service charge to the title company to record the mortgage;

(a-2) Purchaser shall pay Seller an amount equal to all of Purchaser's savings in the mortgage recording tax to which Purchaser is entitled, whether such savings results from an assignment of an existing mortgage on the Unit (regardless of whether Purchaser's lender accepts such assignment) or is pursuant to Real Property Law Section 339-ee, or otherwise;

(a-3) if Purchaser's Institutional Lender or its attorney refuses to Close at the offices of Seller's designated attorney, Seyfarth Shaw LLP as set forth in paragraph 11.1, and requires the Closing to be held elsewhere in The City of New York, Purchaser shall also pay Seyfarth Shaw LLP a travel fee of $500 (if the Closing is held in Manhattan) [NOTE: Seller and Seller's Attorney are not required to attend the Closing outside of the office of Seller's designated attorney or outside of New York City];

(a-4) Purchaser shall pay the premium for mortgage title insurance (if required by Purchaser's mortgage lender); and

(a-5) Purchaser shall pay all escrows (such as for Common Charges and real estate taxes), private mortgage insurance fee (if any) and other mortgage closing costs and expenses required by Purchaser's mortgage lender (if any);

(b) if Purchaser elects to order title insurance, Purchaser shall pay the premium of Purchaser's title insurer or agent for the title policy together with all charges and costs of title searches and any escrow for real estate taxes relative to Purchaser's period of ownership of the Unit;

(c) if Purchaser elects to retain an attorney, Purchaser shall pay the fees and other charges of Purchaser's Attorney; and

(d) if Purchaser has dealt with any broker other than the Selling Agent and the Participating Broker (if any) identified in paragraph 6.1, Purchaser shall pay the fee or commission earned by such broker.

12.3 At Closing, Purchaser shall also pay the following delinquent Closing costs if Purchaser fails for any reason whatsoever not due to the fault of Seller to Close on the Closing Date to be fixed by Seller in accordance with paragraph 11.1 or if the Closing Date so fixed by Seller is postponed because Purchaser or Purchaser's Attorney fails to

timely notify Seller or Seller's Attorney of a title objection as provided in paragraph 16.4:

(a) Purchaser shall reimburse Seller for lost opportunity of earnings on the Purchase Price, a sum equal to per diem interest on the Purchase Price, prorated for each day's delay, starting on the fifth (5th) business day after the original Closing Date fixed by Seller pursuant to paragraph 11.1 through the end of the day prior to the actual date of Closing;

(b) Purchaser shall also reimburse Seller for the Unit's Common Charges and real estate taxes for the period of such delay; and

(c) Purchaser shall pay Seller's Attorney the sum of $250.00 for each default notice sent to Purchaser (for the costs to send such notice) and a further sum of $250.00 for each time the Closing is rescheduled (for the costs to fix a new Closing Date and time, to coordinate the attendance of all persons, to re-date the Closing documents and to recalculate the Closing apportionments).

12.4 Purchaser shall pay Purchaser's Closing costs under this paragraph 12 based on the applicable governmental and title company rates in effect at Closing.

12.5 All sums payable to Seller and Seller's Attorney under paragraph 12.3 shall be payable in the same manner as the Balance (see paragraphs 10.2 and 10.4).

12.6 The New York City and the New York State transfer taxes payable by Purchaser under paragraph 12.1.a shall be paid by Purchaser's unendorsed certified check or unendorsed official cashier's or bank check made payable directly to the appropriate taxing authority or to Purchaser's title insurer or agent for forwarding to such taxing authority.

12.7 Purchaser shall pay any additional tax or tax deficiency in such New York City and State transfer taxes payable by Purchaser under paragraph 12.1.a. Similarly, if Purchaser obtains a mortgage loan, Purchaser shall pay any additional tax or tax deficiency in the mortgage recording tax payable by Purchaser under paragraph 12.2.a. Purchaser shall also pay any interest and penalties assessed by a taxing authority in connection with any of these additional tax or tax deficiency payments.

12.8 Purchaser shall indemnify Seller (with attorneys selected by Seller) from and against any and all costs and expenses resulting from Purchaser's agreements in paragraphs 12.1 and 12.7.

12.9 Purchaser's obligations under paragraph 12.1.a (to pay the New York City State transfer taxes), paragraph 12.2.d (to pay the commission earned by Purchaser's broker, other than the Selling Agent and Participating Broker identified in paragraph 6.1, if any), paragraph 12.7 (to pay all additional taxes, tax deficiencies, interest and penalties) and paragraph 12.8 (to indemnify Seller from any breach of Purchaser's obligations in paragraph 12.7) shall survive the Closing.

13. Closing and Post-Closing Apportionments

13.1 At Closing, Seller and Purchaser shall apportion the following items with respect to the Unit as of 11:59 p.m. of the preceding day:

(a) real estate taxes and the then current installment of any special real estate tax assessment covering the tax period within which the Closing occurs; and

(b) the monthly Common Charge and the then current installment of any Condominium special assessment for the period in which Title Closes.

All such apportionments shall be based on the actual number of days of the billing period in question for said items. If the Closing occurs before the Unit is separately assessed and billed for real estate taxes, then real estate taxes shall be apportioned pro rata to Common Interest as provided in the Plan and after the Unit is so separately assessed and billed, Seller and Purchaser shall each have the right, within a deadline of only sixty (60) days after the Unit is so separately assessed and billed to adjust post-Closing any overpayment or underpayment of real estate taxes apportioned at Closing as set forth in the Plan (see Section N-1.3 of Part I of the Plan). If the Closing occurs after the Unit is separately assessed but before the bill rate for real estate taxes is fixed covering the period in which the Closing occurs, then such real estate taxes shall be apportioned based upon the billing rate in effect at Closing.

13.2 The net amount resulting from the apportionments in paragraph 13.1 shall be paid to the proper Party at Closing (and, if owed by Purchaser, shall be in addition to the Purchase Price).

13.3 Installments for any real estate tax assessment or for any Condominium special assessment due after the Closing are not a defect in, or objection to, title and shall be paid by Purchaser without abatement, set-off or credit against the Purchase Price and without recourse of any kind against the Seller Parties. However, the then current installment for any special real estate tax assessment or any Condominium special assessment shall be apportioned at Closing in accordance with paragraph 13.1.

13.4 All conventional practices recommended by The Real Estate Board of New York, Inc. in its "Customs in Respect to Closings" shall be followed for Closing

apportionments unless inconsistent with the express provisions of this paragraph 13.

13.5 Any errors or omissions in computing apportionments at Closing shall be corrected, and payment made to the proper Party, promptly after receipt of a written notice containing a calculation of the amount owed, provided and on condition such notice is sent within a deadline of six (6) months after the actual Closing Date.

13.6 If either Party receives subsequent to Closing a refund, savings or abatement in the Unit's real estate taxes for the fiscal tax year in which the Closing is held, the Party receiving the tax benefit shall pay to the other Party the portion thereof fairly attributable to the other Party after deducting costs and expenses (including legal expenses) paid or incurred in connection therewith.

13.7 The utility service account in Seller's name with respect to the Unit for electricity shall be terminated as of the day of Closing. Purchaser shall be responsible to arrange obtaining electric service for the Unit from and after the Closing, including paying any deposit required by the utility provider. In the event Seller shall be billed by the utility provider for any separately metered electric service consumed by Purchaser from and after the Closing, Purchaser shall pay or (at Seller's option) reimburse Seller within five (5) business days after notice thereof is given to Purchaser accompanied by a copy of the bill from the utility provider, the amount so billed applicable to Purchaser's consumption.

13.8 If an amount owed after Closing is not received by the applicable Party within ten (10) days after giving a reasonably detailed notice thereof, then the aggrieved Party owed such payment shall be reimbursed by the delinquent Party the following:

(a) per diem interest on the amount owed, prorated for each day's delay following the end of said ten (10)-day period to the end of the day prior to the date full payment of the amount owed is received by the aggrieved Party (such payment is to compensate for lost opportunity of earnings on the amount owed); and

(b) all legal expenses together with per diem interest thereon to pursue, enforce, uphold, defend and protect this provision and to collect the foregoing amounts.

13.9 The respective obligations of Seller and Purchaser under paragraphs 13.1, 13.5, 13.6, 13.7 and 13.8 shall survive the Closing.

14. Closing Payments and Documents

14.1 At Closing:

(a) Purchaser shall pay Seller the Balance of the Purchase Price in the amount stated in paragraph 2.1 and in the manner described in paragraphs 10.2, 10.3 and 10.4;

(b) Purchaser shall pay Purchaser's Closing costs as set forth in paragraph 12;

(c) the net Closing apportionments shall be paid to the appropriate Party in accordance with paragraph 13;

(d) Seller and Purchaser shall sign and (where required) notarize and deliver (in duplicate) the then current forms for the New York City and New York State transfer tax returns, the New York State equalization and assessment form applicable to this transaction and the New York City Smoke Detecting (Alarm) Device Affidavit and Carbon Monoxide Detection Device Affidavit (if applicable);

(e) Purchaser shall deliver the required checks in the proper amounts and to the proper payees of such New York City and New York State transfer taxes;

(f) if Purchaser is obtaining mortgage financing:

(f-1) Purchaser shall pay, sign and deliver all amounts, instruments and documents as required by Purchaser's mortgage lender in order to Close the mortgage loan simultaneously with the Closing hereunder; and

(f-2) Purchaser shall sign and deliver an appropriate affidavit for exemption from, abatement of and/or credit against the mortgage recording tax as a result of an assignment of an existing mortgage or the mortgage tax credit under Real Property Law Section 339-ee or otherwise (the foregoing notwithstanding, Seller may, at Seller's option, sign, notarize and deliver said affidavit; however, regardless of who signs the affidavit, Purchaser shall pay Seller the amount of Purchaser's available savings in the mortgage recording tax as provided in paragraph 12.2(a-2));

(g) Seller and Purchaser shall sign in recordable form, and Seller shall deliver, Seller's standard Bargain and Sale Deed with covenant against grantor's acts (**"Deed"**), in proper statutory form for recording and containing the covenant required by Section 13, subdivision 5 of the Lien Law, whereby Seller transfers legal ownership (fee simple title) of the Unit to Purchaser (such Deed to be substantially in the form set forth in Part II of the Plan);

(h) Seller shall deliver and pay all governmental fees and charges, and title company service charge, to record and file, a mortgage lien release and UCC-3 Termination Statement or other appropriate instrument (signed in recordable form) discharging the Unit and its contents from any mortgage lien and security interest in the "Personal Property" (defined in paragraph 17.1), other than the lien of any mortgage loan Purchaser obtains;

(i) Seller shall sign, notarize and deliver an affidavit stating that the Unit is not a "multiple dwelling" as defined in applicable laws;

(j) Seller shall deliver to Purchaser a certification of non-foreign status signed by Seller as required by the applicable provisions of the federal income tax code and regulations;

(k) Seller shall sign, notarize (where required) and deliver to Purchaser's title insurer or agent (as applicable) such title affidavit and other evidence as said title insurer or agent (as applicable) may reasonably require in order to omit from its title insurance policy all exceptions for judgments, bankruptcies or other returns against Seller and persons or entities whose names are the same as, or are similar to, Seller's name; and Purchaser shall likewise sign, notarize and deliver such title affidavit and other evidence as said title insurer or agent may reasonably require to omit from its fee or mortgage title insurance policy all such exceptions with respect to Purchaser;

(l) Purchaser shall deliver to Purchaser's title insurer or agent (as applicable) certified or non-certified checks of Purchaser (as directed), in such amounts and to such payees, as said title insurer or agent may require in connection with any escrow to be held and applied by the title insurer or agent for payment of the next due real estate taxes with respect to the Unit (if and as required by Purchaser's title insurer or agent);

(m) Seller shall assign and deliver to Purchaser, to the extent in Seller's possession, all applicable unexpired and transferable warranties or undertakings of contractors, suppliers and manufacturers relative to the Personal Property in the Unit that is included in this purchase and sale (such assignment shall expressly provide that it is made without any kind whatsoever of guaranty, warranty or representation by, or recourse against, the Seller Parties and is subject to all faults, defects, risks, damages, conditions and need for repairs or corrections);

(n) Seller shall deliver to Purchaser a statement by the Condominium Board or its Managing Agent as to the status of payment of Common Charges and any special assessments for the Unit (such statement will be sufficient for apportioning these items under paragraphs 13.1 and 13.3);

(o) Seller shall deliver to Purchaser a certificate from the Condominium Board's insurer of the Property showing Purchaser and (if Purchaser is obtaining a mortgage loan) Purchaser's mortgage lender as additional insured parties under the Board's master liability policy;

(p) Seller shall deliver a copy of a temporary or partial or final (at Seller's exclusive option) Certificate of Occupancy of the Building authorizing the use of the Unit for the purpose set forth in the Plan; and

(q) (in the case of a Residential Unit) Seller shall deliver to Purchaser all keys to the Unit and any mailbox or (at Seller's option) such keys shall be given to the Building's superintendent or Managing Agent for delivery to Purchaser.

14.2 The following documents and checks described in paragraph 14.1 shall be delivered to Purchaser's title insurer or agent, as applicable (or, if none, to Seller's Attorney) for recording or submission to the New York City Register's Office of the County of Kings: the New York City and State transfer tax returns and checks, the New York State equalization and assessment form, and (if applicable) the New York City Smoke Detector Affidavit and Carbon Monoxide Detection Device Affidavit, the Deed, the mortgage lien release and the UCC-3 Termination Statement (if applicable), and the non-multiple dwelling affidavit. After being recorded, the Deed and the mortgage lien release and said UCC-3 (if any) shall be returned to Purchaser.

14.3 Seller's covenant in the Deed is for Purchaser's personal benefit and shall not inure to the benefit of Purchaser's successors or subrogees (including Purchaser's title insurer or agent, as applicable). Purchaser must first look to Purchaser's title insurer or agent (as applicable) before seeking recourse against the Seller Parties for recovery on any claim or liability based upon a breach of such covenant. Purchaser agrees that Seller's liability will be limited to any loss or damage not covered by title insurance. In the event that Purchaser elects not to purchase title insurance, then Seller's liability shall be limited to any loss or damage that would not have been covered by the title insurance that was available to Purchaser at the Closing. The terms of any title policy or marked-up title binder of any title insurance company authorized to do business in New York State issued in connection with any other unit of the Condominium shall be conclusive evidence of the title insurance coverage that

was available to Purchaser. This provision shall survive the Closing.

14.4 Purchaser's payment of the Balance of the Purchase Price and acceptance of the Deed shall constitute Purchaser's recognition and agreement that Seller has satisfactorily performed those obligations stated in this Agreement, the Plan and the Plan Amendments to be performed by Seller to and through Closing. This, however, shall not excuse Seller from performing those obligations (if any) expressly stated in this Agreement, the Plan or Plan Amendments to be performed subsequent to the Closing, nor reduce or otherwise abridge any of Purchaser's rights under Article 23-A of the General Business Law, the Plan or Part 20 of the regulations issued by the Department of Law.

15. Possession

15.1 At Closing, Seller shall deliver possession of the Unit to Purchaser vacant and free of all leases, occupants and rights of others to possession. Seller shall not enter into a lease or other occupancy agreement for the Unit with a third person unless this Agreement is canceled or terminated and then only in accordance with the Plan.

15.2 Prior to Closing, Purchaser shall not be entitled to, and (unless Seller agrees to give Purchaser an Interim Use and Occupancy Agreement, which Seller is not obligated to give) Purchaser shall not use or occupy the Unit, or store Purchaser's household furniture, furnishings, belongings or other items in the Unit, or paint or otherwise decorate, or make any improvements or additions to the Unit or any portion thereof. Any violation of this provision shall be a material default of Purchaser's obligations entitling Seller to the remedies contained in paragraph 22.

16. State of Title

16.1 Seller shall convey, and Purchaser shall accept, title to the Unit and its appurtenant Common Interest free and clear of all liens, encumbrances and title conditions, other than the following:

(a) the "**Permitted Encumbrances"** as defined and listed in Section M-4 of Part I of the Plan, which is hereby incorporated herein with the same force and effect as if set forth at length; and

(b) such other matters as: (b-1) either (at Seller's option) First American Title Insurance Company of New York or its agent (each, "**Title Insurance Company**") or Purchaser's title insurer or agent (as applicable) shall be willing, without additional cost to Purchaser beyond its regular rates, to omit as exceptions to coverage or to except with insurance against collection out of, or enforcement against, the Unit; and (b-2) shall be accepted by the Institutional Lender (if any) which has offered in writing to make a loan to Purchaser, whether or not conditional upon any factor, secured by a first mortgage on the Unit ("**Loan Commitment Letter**"), and accepted by Purchaser, except that if such acceptance by Purchaser's Institutional Lender is unreasonably withheld, delayed or conditioned, such acceptance shall be deemed to have been given.

The Deed shall be considered to be subject to the Permitted Encumbrances, even though they are not repeated or referred to in the Deed.

Title exceptions may include the state of facts shown on a stated survey and any additional state of facts a subsequent survey would show, provided that such additional state of facts does not render title unmarketable.

16.2 Any lien, encumbrance, charge or title condition not included in the Permitted Encumbrances (collectively, "**Title Exception**") shall not be considered an objection to title, and Seller shall not be obligated to cause Purchaser's title insurer to omit it from Purchaser's title insurance policy, if:

(a) at or prior to the Closing, the instrument required to remove it "of record" together with the requisite recording or filing fees, has been delivered to either (at Seller's option): (a-1) the Title Insurance Company for recording in the proper office, and a copy of said instrument is delivered at Closing to the representative of Purchaser's title insurer or agent, or Purchaser's Attorney (or, if none, to such other person as Purchaser shall direct); or (a-2) Purchaser's title insurer or agent; or

(b) either the Title Insurance Company or (at Seller's exclusive option) Purchaser's title insurer or agent (as applicable) is willing to insure Purchaser (at Purchaser's expense, but at its regular rate and without additional premium) against collection or enforcement of the Title Exception out of the Unit and is willing to insure the mortgage lien of Purchaser's Institutional Lender (if any) free and clear of any such Title Exception (it being agreed that Seller shall have the right, in lieu of payment and discharge of such Title Exception, to make such deposits and/or to give such assurances and/or to pay such special or additional premiums as the Title Insurance Company or (at Seller's option) Purchaser's title insurer or agent (as applicable) may require in order to so insure); or

(c) (in the case of a condition in the Unit that is a violation noted or issued by a governmental authority having competent jurisdiction) an architect or

engineer designated by Seller certifies in writing to Purchaser that the condition causing the violation has been corrected and Seller undertakes in writing to Purchaser and Purchaser's title insurer or agent (as applicable) and Institutional Lender (if any) to use commercially reasonable diligence and efforts to cause the violation to be removed of record (such agreement shall survive the Closing), without escrowing any monies; provided only that such undertaking shall be reasonably acceptable to Purchaser's title insurer and Institutional Lender (if any).

16.3 Any unpaid taxes and assessments, together with the interest and penalties thereon to a date not less than two days following the date of Closing, and any other liens and encumbrances that Seller is obligated to pay and discharge or that are against corporations, limited liability companies, partnerships, estates or other persons in the chain of title, together with the cost of recording or filing any instruments necessary to discharge such liens and encumbrances of record, may be paid out of the proceeds of the monies payable at the Closing if Seller delivers to Purchaser at the Closing official bills for such taxes, assessments, interest and penalties and instruments in recordable form sufficient to discharge any such other liens and encumbrances of record. Upon request made on not less than two business days' prior oral notice or three business days' prior written notice before the Closing, Purchaser shall provide at the Closing separate checks for the foregoing payable to the order of the holder of any such lien, charge or encumbrance and otherwise complying with paragraph 10.2.

16.4 At least ten (10) days prior to the Closing Date, Seller's Attorney shall receive from Purchaser or Purchaser's Attorney written notice addressed to Seyfarth Shaw LLP, 620 Eighth Avenue, New York, New York 10018, Attn: Alan L. Kazlow, Esq. (or an associate attorney or legal assistant designated by Seyfarth Shaw LLP), stating any and all title objections. If Purchaser elects to obtain title insurance, then a copy of the title report and every continuation thereof issued by Purchaser's title insurer or agent (as applicable) will suffice in lieu of such notice. In such event, the title report also must be received by Seller's Attorney at least ten (10) days prior to the Closing Date and each continuation must be sent directly to Seller's Attorney by Purchaser's title insurer or agent (as applicable), or sent to Seller's Attorney within two business days after being received by Purchaser or Purchaser's Attorney.

16.5 Purchaser shall be at fault if Seller is required to postpone the Closing to remove a title objection due to Purchaser's failure to timely comply with paragraph 16.4 and the objectionable title condition existed at the time Purchaser is required to send the title objection notice or the title report and every continuation thereof issued by Purchaser's title insurer or agent (as applicable).

16.6 In the event Purchaser is at fault for the postponement of the Closing, Purchaser shall pay Seller and (if applicable) Seller's Attorney, at Closing, the delinquent Closing costs stated in paragraph 12.3.

16.7 If Purchaser's title insurer or agent raises one or more Title Exceptions that would be omitted by the Title Insurance Company as provided in paragraph 16.2, then Purchaser either (at Purchaser's option) shall take subject to such Title Exceptions (without abatement, set-off or credit against the Purchase Price, or escrowing any monies, and without recourse of any kind against the Seller Parties) or may procure title insurance from the Title Insurance Company (and thereby have title to the Unit insured free of such Title Exceptions).

16.8 Because the Title Insurance Company is already familiar with title to the Unit, any title issues might be more easily resolved by obtaining title insurance from the Title Insurance Company (i.e., First American Title Insurance Company of New York, telephone number (212) 922-9700).

16.9 Notwithstanding any provision to the contrary in this Agreement, express or implied, or any contrary rule of law or custom, if Seller shall be unable to convey the Unit in accordance with this Agreement (provided that Seller shall release, discharge or otherwise cure at or prior to Closing any matter intentionally created by Seller in bad faith after the date hereof and any existing mortgage, unless this purchase and sale is subject to it) and if Purchaser elects not to complete this transaction without abatement, set-off or credit against the Purchase Price, without escrowing monies, and without recourse of any kind against the Seller Parties, the sole liability of Seller shall be to cause the Escrow Agent to release the Purchase Monies to Purchaser, and for Seller to pay Purchase the reasonable costs of the examination of title to, and departmental violation searches in respect of, this Agreement actually paid by Purchaser (the latter costs of title examination and searches are collectively, "**Title Search Costs**"), and upon releasing the Purchase Monies and making such payment, this Agreement shall be deemed cancelled and of no further force or effect, and neither Party shall have any further rights against, or liabilities to, the other Party by reason of this Agreement, other than those agreements, representations, indemnities or liabilities expressly stated to survive the cancellation or termination of this Agreement. However, nothing contained in this paragraph 16.9 shall be construed to relieve Seller from Purchaser's remedy for specific performance under paragraph 23.3 due to a willful default.

17. Personal Property Included in Sale

17.1 In the case of a Residential Unit only, this purchase and sale includes the kitchen and bathroom sinks, cabinets, appliances, plumbing and electrical fixtures and hardware (collectively, "**Personal Property**"), all as and to the extent set forth in the Plan (see Document 4 in Part II of the Plan for all items and their manufacturers and model numbers where applicable). The Personal Property will be new and the appliances, the electrical and plumbing fixtures and heating and air conditioning units will be in working order at Closing.

17.2 Seller shall have the exclusive right and discretion to make substitutions of no less equal or better quality, design and function for any Personal Property without Purchaser's approval or consent, without amending the Plan, and without abatement, set-off or credit against the Purchase Price or recourse of any kind against the Seller Parties.

17.3 No portion of the Purchase Price is attributable to the Personal Property, which will be transferred to Purchaser without consideration at the Closing. If the Closing does not occur, Purchaser will not have any right or interest in, and may not acquire or purchase, the Personal Property.

17.4 Apart from the Personal Property, the Unit shall be purchased by Purchaser without furnishings or decorations. Purchaser acknowledges and agrees that:

(a) furniture, floor coverings, wall coverings, furnishings and other decorations, finishes and treatments in or about any model and not expressly set forth in the Plan as part of the Personal Property included in the sale of the Unit, are for display purposes only and are not included in this purchase and sale; and

(b) there will be no modifications or extras unless agreed to in writing by Seller.

18. Seller's Construction Obligations

18.1 Seller is newly constructing the Building, including the Units and Common Elements, in accordance with Seller's Plans and Specifications, as they may be amended from time to time in accordance with the Construction Change Requirements set forth and defined in Section O-2.9 of Part I of the Plan. The quality of construction is to meet or exceed any relevant specific standards required by any applicable building code and, if no such standard is required, the workmanship and materials are to meet or exceed the standard of locally accepted building practices for equivalent newly constructed buildings located in the locale of the Property and containing Building facilities and amenities comparable to this Building ("**Building Construction Standard**"). Nothing contained herein is, and shall not be construed to be, a representation, warranty or guaranty that the Unit or the Building, as built, will meet or comply with all applicable laws or the Plans and Specifications, as the same may be amended from time to time. See paragraph 18.5 for Seller's obligation for Construction Defects.

18.2 Purchaser shall accept title to the Unit without abatement, set-off or credit against the Purchase Price, without escrowing monies, and without recourse of any kind against the Seller Parties, subject to:

(a) the Plans and Specifications and all amendments thereto made in accordance with the Construction Change Requirements;

(b) any immaterial variations or discrepancies from the Plans and Specifications, whether caused by site conditions, or construction or job or governmental requirements, or customary construction allowances, tolerances or variations, or otherwise, provided, however, that all such variations or discrepancies shall comply with all applicable laws;

(c) any immaterial variations or discrepancies between any floor plan of the Unit and the actual aggregate floor area of a Unit or the individual floor area of a room or area therein when built, as measured in accordance with Plan and repeated in paragraph 18.3(b); and

(d) any substitutions of Personal Property made in accordance with paragraph 17.2.

18.3 Purchaser understands and agrees as follows:

(a) any floor plan of the Unit in the Plan or a brochure or elsewhere are based on construction drawings and are only approximations of its configuration, fenestration, floor area and room dimensions (collectively, **"Unit Layout"**);

(b) in accordance with customary practice, the floor area or square footage of the Unit shown on any floor plan and in the Plan is measured from the exterior side of all Building Walls and other boundary walls enclosing the Unit, or the midpoint of a wall separating the Unit from another unit, and thus will substantially exceed the Unit's usable floor area;

(c) the actual Unit Layout may differ in immaterial respects from any floor plan or drawing due to changes: (c-1) required by the New York City Department of Buildings or other Governmental Authorities having competent jurisdiction; or (c-2) necessitated by site conditions or construction, job or governmental requirements; or (c-3) resulting from normal construction allowances, tolerances and variations;

(d) the actual overall size and Unit Layout as constructed will govern and supersede any immaterial variation or discrepancy in the overall size or Unit Layout set forth on any floor plan of the Unit or any Unit information contained in the Plan; and

e. if the actual overall size of the Unit when built, as similarly measured from behind the Building Walls and boundary walls enclosing the Unit, is materially smaller than the total square footage (i.e., floor area) estimated on its floor plan in DOCUMENT 5 in Part II of the Plan, or in SCHEDULE A in Section E of Part I of the Plan, the provisions of paragraph 23.6 shall apply.

18.4 The issuance of a final Certificate of Occupancy of the Building authorizing the use of the Unit for the purpose set forth in the Plan shall be presumptive evidence that Seller constructed, equipped and outfitted the Unit and the Building in accordance with applicable law, the Plan and the Plans and Specifications (as each of same may be amended). However, this does not excuse Seller from Seller's obligation to correct any Construction Defects in the Unit or the Common Elements (as defined in Section O-2.12.2 and provided in Section O-2.12.3 of Part I of the Plan) is summarized in paragraph 18.5.

18.5 In accordance with the Plan, if the Unit is a Residential Unit, Seller's only liability for Construction Defects shall be to repair, replace or otherwise correct in the manner determined by Seller (in its sole judgment) only those:

(a) Patent Construction Defects in Purchaser's Unit that are listed in Purchaser's Final Inspection Statement and Patent Construction Defects in the Common Elements that affect Purchaser's Unit as to which a reasonably detailed written notice ("**Defect Notice**") signed by Purchaser and received by Seller within a deadline of six months from the Closing (any item noted to be in working order in the Final Inspection Statement signed by Purchaser shall govern and control any conflict or inconsistency in the Defect Notice); or

(b) Latent Construction Defects in Purchaser's Unit and Latent Construction Defects in the Common Elements that affect Purchaser's Unit as to which a reasonably detailed Defect Notice signed by Purchaser and received by Seller within a deadline of one year following the Closing; and

(c) Patent and Latent Construction Defects in the Common Elements that are listed in a Defect Notice signed by any Independent Manager and received by Seller within a deadline of one year from the later of issuance of a Temporary Certificate of Occupancy of the Building or completion of that portion of the Common Elements which is claimed to be defective.

18.6 Nothing contained herein shall reduce or otherwise abridge any rights of Purchaser under Article 23-A of the General Business Law, or Part 20 of the Department of Law's regulation nor excuse Seller from Seller's obligations to comply with Article 23-A of the General Business Law or Part 20 of the Department of Law's regulations.

All Defect Notices are to be sent by certified mail (return receipt requested) to both: Seller, 171 Calyer Street Project LLC, at 463 Seventh Avenue 4th Floor, New York, NY 10018; and simultaneously to Seller's Attorney, Seyfarth Shaw LLP, at 620 Eighth Avenue, New York, NY 10018, Attention: Alan L. Kazlow, Esq.

18.7 Seller shall conclusively be regarded as having satisfied Seller's obligation to correct Construction Defects in the Unit and the Common Elements if the corrective work is done in accordance with the Building Construction Standard as determined in the sole judgment of Seller's architect, engineer or contractor (who shall not be a principal of Seller).

18.8 Seller shall be excused, released and discharged from its obligations for Construction Defects in the Unit or in the Common Elements (as applicable) if reasonable continuous access thereto by Seller and its agents, and employees, together with the architect, engineers, construction manager, contractors, subcontractors, consultants and expediters, and their respective workers and employees (collectively, "**Seller's Work Parties**") engaged by or on behalf of Seller to perform the corrective work, is prevented and is not given within a deadline of thirty (30) days after written notice thereof is mailed or hand delivered to: (a) (in the case of the Unit) Purchaser, or (b) (in the case of the Common Elements) any Independent Manager.

18.9 In accordance with the Plan, the following are not Construction Defects and shall not be corrected by Seller nor excuse Purchaser from Purchaser's obligations under this Agreement to pay the full Purchase Price (without abatement, set-off or credit, without escrowing monies, and without recourse of any kind against the Seller Parties):

(a) all Construction Changes (defined in Section O-2.9 of Part I of the Plan) made in accordance with Construction Change Requirements;

(b) all immaterial variations from the Plans and Specifications, the floor plan of the Unit or a description of the Building (including the Units and Common Elements) set forth in the Plan;

(c) all variations necessitated by site conditions or construction, job or governmental requirements, or customary construction allowances, tolerances or variations, provided all Construction Change Requirements are met to the extent applicable;

(d) all Construction Defects covered by assignable unexpired warranties or other undertakings (however denoted) from manufacturers, contractors, material suppliers or others which are assigned to, or benefit (without assignment), Purchaser or the Condominium Board;

(e) any condition caused by normal use, wear, tear, deterioration, settlement or shifting, or aging or seasonal variations; and

(f) all immaterial conditions or defects involving color, alignment, fit, noise, drafts, cracks, chips, scratches, breaks, curling, warpage or other imperfections.

18.10 Seller's liability for Construction Defects in or affecting: (a) the Unit and its appurtenant Limited Common Elements shall be enforceable by only Purchaser and not subsequent owners of the Unit; and (b) the General and Residential Common Elements shall be enforceable only by the Condominium Board.

19. Purchaser's Changes and Extras

19.1 After this Agreement is fully executed and given to each Party, Seller shall not be obligated to make any changes to the Plans and Specifications applicable to the Unit or its appurtenant Limited Common Element or provide any extras or upgrades that hereafter might be requested by Purchaser. Seller's refusal to make such changes or provide such extras or upgrades shall not excuse Purchaser from Purchaser's obligation to consummate the Closing timely, without abatement, set-off or credit against the Purchase Price, without escrowing monies, and without recourse of any kind against the Seller Parties.

19.2 Any changes, extras or upgrades requested by Purchaser and agreed to be made by Seller shall not be binding on either Party unless and until the terms thereof, including the additional amount to be paid and when same is payable by Purchaser are set forth in writing signed and exchanged by Seller and Purchaser as part of this Agreement. Any additional payment made by Purchaser for changes, extras or upgrades shall not be part of the Purchase Price and initially shall be placed in the subaccount with Purchaser's Deposit and may immediately thereafter be withdrawn from the subaccount and used to pay for the agreed upon changes, extras and/or upgrades (as applicable). In such case the additional payment shall be retained by Sponsor and shall not be refundable. Such additional payment for advances made for changes, upgrades, extras, or other custom work received in connection with this Agreement, are not Purchaser's money, may not be comingled with any other money or pledged or hypothecated by Seller, and may be used only to pay for such changes, upgrades, extras, and/or custom work.

20. Pre-Closing Inspection by Purchaser

20.1 The provisions of this paragraph 20 shall apply only if the Unit is a Residential Unit.

20.2 Until Seller notifies Purchaser in writing when construction of the Unit is sufficiently completed and ready for inspection, Purchaser and Purchaser's representatives (including architect, engineer, contractor, decorator and appraiser) shall not, nor have the right, to inspect or visit the Unit or Building or any portion thereof.

20.3 Seller shall notify Purchaser in writing that construction of the Unit is sufficiently completed and is now ready for inspection. The inspection is to occur on a business day that falls within five (5) days from the giving of such inspection notice, and during business hours, fixed by Seller. Seller will endeavor (but shall not be obligated) to fix such inspection to occur on a business day and at a business hour that shall be mutually convenient to Seller and Purchaser. Seller's representative shall be present during the period of inspection. At conclusion of the inspection, Purchaser shall complete, and Purchaser and Seller or Seller's representative are to sign and deliver to each other, the Final Inspection Statement (on the form annexed as EXHIBIT A to this Agreement) containing all items to be corrected and any unfinished work (collectively, **"Punch List Work"**).

20.4 Seller shall be obligated to correct or cause to be corrected any Personal Property (including appliances, electrical and plumbing fixtures, and heating and air conditioning units) that are not in working order and are listed on the Final Inspection Statement signed by both Purchaser and Seller or Seller's representative. Seller shall not, and shall not be required to, perform any Punch List Work that is not noted on the Final Inspection Statement or in a reasonably detailed Defect Notice received by Sponsor within a deadline of six months from the Closing to the Unit (any item noted to be in working order in the Final Inspection Statement signed by Purchaser shall govern and control any conflict or inconsistency in the Defect Notice). Purchaser shall consummate the Closing and pay the full Balance of the Purchase Price on the date fixed by Seller in accordance with this Agreement (all: without escrowing monies, without delay; and without abatement, set-off or credit against the Purchase Price) notwithstanding:

(a) Purchaser's failure to arrange or attend the Unit inspection prior to Closing or to complete, sign and deliver the Final Inspection Statement; or

(b) the failure of Purchaser and Seller or Seller's representative to agree upon the Punch List Work (such disagreement shall not excuse Seller to complete or correct any proper Patent Construction Defects listed on the Final Inspection Statement signed by Purchaser and delivered to Seller or Seller's representative at the time of inspection or at Closing); or

(c) the existence of required Punch List Work not performed or completed (which Seller shall complete or correct in accordance with Seller's obligations under this Agreement), provided only that: (c-1) the Unit is authorized for the use contained in the Plan on a temporary, partial or final (at Seller's exclusive option) Certificate of Occupancy of the Building, as required herein; (c-2) the Unit is substantially completed with an operable kitchen and bathroom, and with the appliances, electrical and plumbing fixtures, and heating and air conditioning units in working order; and (c-3) the Unit is substantially in broom clean condition (subject to the conditions to be corrected by the Punch List Work, if any).

20.5 Seller shall endeavor in good faith to complete all Punch List Work within approximately thirty (30) days after the Closing Date or such longer period as may be reasonable in light of the extent of the work involved, but not to exceed ninety (90) days after Closing, unless:

(a) delayed due to Unavoidable Causes, in which case such incomplete work shall be completed with reasonable diligence and continuity after the event or circumstance causing the delay ceases; or

(b) Purchaser refuses or fails to give Seller and Seller's Work Parties reasonably continuous access to the Unit (Seller shall be excused, released and discharged from its obligation to correct Punch List Work and Latent Construction Defects if such reasonably continuous access is prevented and not given within a deadline of thirty (30) days after giving written notice requesting access).

Seller's obligation to perform and complete the required Punch List Work in accordance with this Agreement shall survive Closing.

20.6 If Seller fails to complete the Punch List Work within the applicable time period set forth in paragraph 20.4, Purchaser's sole right and remedy shall be to compel Seller to so do in a court action or proceeding for specific performance. In no event shall Seller be liable for any loss, damage, cost or expense, or legal expense, incurred by Purchaser due to Seller's failure or default. The provisions of this paragraph 20.5 shall survive the Closing.

20.7 During the inspection, Purchaser's and Purchaser's representatives shall not: (a) probe, penetrate or disturb the surfaces of the walls, floors or ceilings of the Unit or any portion of the Building; or (b) make any alterations or changes to the Unit; or (c) store any furniture or other belongings in the Unit or elsewhere in the Building prior to Closing.

20.8 Seller's obligations to correct Patent and Latent Construction Defects in the Unit or Patent and Latent in the Common Elements that affect the Unit are contained in the Plan and control any provision in this Agreement that is inconsistent therewith.

21. Risk of Loss

21.1 The risk of damage or destruction ("**Loss**") to the Unit and Personal Property during the course of construction and until the Closing is assumed by Seller on the following terms, unless Purchaser is given possession of the Unit prior to Closing or the Loss is caused by Purchaser or Purchaser's representatives (in either of which cases the provisions of paragraph 21.5 shall apply).

21.2 If Seller assumes the risk of Loss, Seller shall have the exclusive right to elect either: (a) to repair or restore the Loss; or (b) to cancel this Agreement and refund the Purchase Monies to Purchaser, unless the First Unit Closing has occurred and the Condominium Board is obligated to repair or restore the Loss. Seller will give Purchaser notice ("**Loss Notice**") of the Loss and of Seller's election or the Board's obligation (as applicable) within thirty (30) days after the Loss occurs.

21.3 If Seller elects to repair or restore the Loss or if the Condominium Board is obligated to do so, such repair or restoration is to be completed by the later to occur of the date fixed by Seller for Closing in accordance with paragraph 11.1 or ninety (90) days from the date the Loss occurs ("**Restoration Period**"). The Closing shall not occur until the Unit and Personal Property are substantially in the condition required for Closing as provided in paragraph 20.3.c.

21.4 If Seller fails to give the Loss Notice within the thirty (30)-day period specified in paragraph 21.2 or if the repair or restoration is not completed within the Restoration Period in accordance with paragraph 21.3, Purchaser's sole right and remedy shall be to cancel this Agreement on notice to Seller given within a deadline of seven (7) days thereafter, failing which Purchaser shall lose such right to cancel and shall remain bound by this Agreement. If Purchaser timely elects to cancel, the Purchase Monies will be refunded to Purchaser with reasonable promptness.

21.5 If the Loss occurs after Purchaser is given possession of the Unit under an Interim Use and Occupancy Agreement or otherwise, or the Loss is caused by Purchaser

or a representative of Purchaser (including an architect, engineer, contractor, decorator or appraiser, or an agent or an employee of any of the foregoing), Purchaser shall assume the risk of Loss to the extent the Loss is not covered by insurance maintained by Seller or (if the First Unit Closing has occurred) the Condominium Board, and the following shall apply:

(a) Purchaser shall be obligated: (a-1) to accept title to the Unit on the Closing Date, without delay, subject to such Loss; and (a-2) to pay the full Balance of the Purchase Price without abatement, set-off or credit, without escrowing monies, and without recourse of any kind against the Seller Parties;

(b) Purchaser may not commence work to restore the Loss until after the Closing is consummated, except work may begin, at Purchaser's expense, in accordance with an alteration agreement in form and content prepared by, and satisfactory to, Seller, if Purchaser is in possession under an Interim Use and Occupancy Agreement or other possession agreement; and

(c) if Purchaser fails to timely comply with this paragraph 21.5, such failure shall constitute a material default by Purchaser entitling Seller to cancel this Agreement and receive and retain the Deposit and all other amounts specified in paragraph 22 as liquidated damages.

22. Purchaser's Events of Default; Seller's Remedies

22.1 Purchaser shall be in default upon the occurrence of any of the following events ("**Events of Default**" or each, "**Event of Default**" or "**default**"):

(a) Purchaser fails to timely and properly pay the full amount of the Balance of the Purchase Price, as provided in paragraphs 2.1, 10.2 and 10.3;

(b) Purchaser fails to pay any of Purchaser's Closing costs as required in paragraph 12;

(c) Purchaser fails to pay the net Closing apportionments, if in favor of Seller, as required in paragraph 13;

(d) Purchaser fails to deliver any of the Closing documents (properly completed and signed in recordable form, where required) in accordance with paragraph 14.1;

(e) Purchaser advertises or publicizes in any media (including newspaper, magazine, television, radio, Internet or other print, broadcast, electronic or other form of public or social media or communication) the availability of the Unit for sale or lease prior to the Closing;

(f) Purchaser fails to pay, perform, observe, fulfill or to otherwise comply with any of Purchaser's other obligations in this Agreement or any other Purchase and Sale Agreement between Seller and Purchaser for one or more other Units of the Condominium, or any of Purchaser's representations in this Agreement or such other Purchase and Sale Agreement shall not be true, accurate or correct in all respects (the Parties intend and agree that a default by Purchaser under this Agreement or such other Purchase and Sale Agreement shall be a default under both of said Agreements and Purchaser shall have only one grace period (if any) to cure the default as set forth in the applicable Purchase and Sale Agreement that first went into default); or

(g) if Purchaser is given an Interim Use and Occupancy Agreement for the Unit and defaults in making any payment or in performing, observing, fulfilling or otherwise complying with any obligation thereunder, which is not remedied within the applicable cure period (if any) set forth therein, such uncured default shall become a default under this Agreement if a final judgment or order is issued by a court of competent jurisdiction granting Seller possession of the Unit or Purchaser vacates or abandons the Unit (in such case, Purchaser shall have only the single grace period stated in the Interim Use and Occupancy Agreement to cure such default).

(h) Purchaser assigns any of Purchaser's property for the benefit of creditors, or Purchaser files a voluntary petition in bankruptcy; or

(i) 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

(j) a judgment or tax lien is filed against Purchaser and Purchaser does not pay or bond the same within thirty (30) days.

22.2 Upon the occurrence of an Event of Default, Seller's sole right and remedy shall be to cancel this Agreement after Purchaser has first been given notice specifying the default and a deadline of thirty (30) days from the giving of such default notice to cure the specified default or (in the case a default under paragraph 22.1. (g) above) the applicable cure period contained in the Interim Use and Occupancy Agreement, except no thirty (30)-day cure period shall apply for a default under paragraph 22.1(h) above.

22.3 If Purchaser fails to cure the default within such thirty (30)-day deadline period or the cure period specified in paragraph 22.1. g for a default thereunder (as applicable), then this Agreement shall be deemed canceled

and after the Plan is consummated (as evidenced by the acceptance of a post-Closing Plan Amendment by the Department of Law), Escrow Agent is directed give to Seller and Seller shall receive and retain as liquidated damages, the Deposit together with any interest earned thereon, except there will be no limit on Seller's remedies for a breach of Purchaser's representation in paragraph 30 ("Broker").

22.4 Purchaser agrees that Seller's actual damages would be impossible to ascertain and that Seller receiving and retaining the Deposit and any the earned interest thereon as liquidated damages shall be fair, reasonable and equitable compensation under the circumstances, and is not a forfeiture or penalty. Purchaser is represented on this transaction by experienced and knowledgably counsel and agrees to this liquidated damages provision freely after consulting with counsel and without duress or coercion, and shall not institute any litigation or assert any claim inconsistent with the foregoing.

22.5 Upon payment of the Deposit and earned interest to Seller, this Agreement shall be of no further force or effect and neither Party shall have any further rights against, or liabilities to, the other Party by reason of this Agreement, other than those agreements, representations, indemnities or liabilities expressly stated to survive the cancellation or terminations of this Agreement.

23. Purchaser's Remedies on Seller's Default or Inability to Perform

23.1 Purchaser must give Seller written notice of any default by Seller in paying, performing or complying with any of Seller's agreements, obligations, representations or conditions in this Agreement, whether at or prior to Closing, specifying the default in reasonable detail.

23.2 Seller shall be allowed a grace period to cure the default. The grace period shall start from Seller's actual receipt of the default notice and shall run for thirty (30) days thereafter or (if the default is not reasonably capable of being cured within thirty (30) days) such longer period as is commercially reasonable to cure the default, but in no event more than ninety (90) days.

23.3 If Seller fails to cure the default within the applicable grace period, Purchaser's only legal and equitable rights and remedies shall be to require Seller to specifically perform Seller's obligations (other than those obligations Seller is unable in good faith to perform as to which paragraph 23.6 shall apply and govern) or to cancel this Agreement and recover the Purchase Monies and (if canceled pursuant to paragraph 16.9) Purchaser's actual Title Search Costs (if any).

23.4 In the event Purchaser elects to cancel, the Purchase Monies and (if canceled pursuant to paragraph 16.9) Purchaser's actual Title Search Costs (if any), will be refunded to Purchaser within thirty (30) days after Seller and Escrow Agent receive Purchaser's cancellation notice accompanied by a copy of Purchaser's bill for the Title Search Costs from Purchaser's title insurer or agent (if and as applicable). Purchaser shall in no event have recourse of any kind against the Seller Parties for any loss, damage, cost or expense, including legal expenses, paid or incurred by Purchaser beyond recovery of said Purchase Monies and (if applicable) Title Search Costs, by reason of Seller's uncured default or good faith inability to perform. Upon the payment of the said Purchase Monies and (if applicable) Title Search Costs, the Parties shall have no further liability to each other under this Agreement, except that the Parties shall remain liable for those agreements, representations, indemnities and liabilities expressly stated to survive the cancellation or termination of this Agreement.

23.5 Nothing contained herein will excuse Seller from a willful default for intentionally causing a Title Exception to frustrate this sale in bad faith, nor excuse Seller from obtaining a release of any lien on the Unit, including a mortgage lien (other than a mortgage Purchaser obtains to purchase the Unit).

23.6 If at Closing Seller shall be unable in good faith to perform Seller's obligations or satisfy any condition applicable to Seller or the Unit in accordance with this Agreement (including the actual overall size of the Unit, when built, being materially smaller than the square footage of the Unit estimated in the Plan or its floor plan) or title to the Unit shall not be in accordance with this Agreement, Purchaser's sole right and remedy shall be either (at Purchaser's option):

(a) to fully pay, perform and comply with Purchaser's agreements and obligations under this Agreement and to accept such title to the Unit as Seller is able to convey, without abatement, set-off or credit against the Purchase Price or provision for escrowing monies and without recourse of any kind against the Seller Parties; or

(b) to cancel this Agreement and recover said Purchase Monies and (if canceled pursuant to paragraph 16.9) Purchaser's Title Search Costs (if any), which is the limit on the amount Purchaser may recover, regardless of any loss, damage, cost or expense, including legal expenses, paid or incurred by Purchaser (except the Parties shall remain liable for those agreements, representations, indemnities or liabilities expressly stated to survive the cancellation or termination of this Agreement).

23.7 Purchaser shall elect either such right and remedy in the preceding paragraph 23.6 in writing given within a deadline of five (5) business days after Seller gives Purchaser notice of such inability, but in no event later than the Closing Date fixed by Seller in accordance with this Agreement. If Purchaser fails to timely make such election within said five (5)-business day deadline period, then Purchaser shall conclusively be deemed to have elected to proceed with Closing as provided in paragraph 23.6.a.

23.8 Seller shall be excused from performing Seller's agreements and obligations during any period when Seller is prevented from performing them due to Unavoidable Causes. Seller's time to perform such agreements and obligations shall be extended for a period equal in length to the period during which Seller's performance is excused, but this shall not extend the ninety (90)-day period set forth in paragraph 23.2 or any other similar outside period or date expressly provided in this Agreement within which Seller must perform.

24. Claims Released On Cancellation and Disbursement of Purchase Monies

24.1 Upon cancellation of this Agreement and payment of the Purchase Monies to the proper Party pursuant to the provision of this Agreement and (if applicable) the payment to Seller for the costs and expenses, including legal expenses and per diem interest thereon to pursue, enforce, uphold, protect and defend its rights under this Agreement and to collect the amounts due it, or (if applicable) the payment to Purchaser of Purchaser's Title Search Costs, the rights and liabilities of the Parties under this Agreement, the Plan and Amendments shall end and be null and void, and all claims or liabilities Purchaser may have the right to assert hereunder against Seller Parties, or Seller may have the right to assert against Purchaser, or the respective executors, administrators, legal representatives, heirs, legatees and distributees of each of the foregoing, shall be released and discharged, except that the Parties shall remain liable for, and shall not be released or discharged from, those agreements, representations, indemnities and liabilities expressly stated to survive the cancellation or termination of this Agreement.

25. Escrow Agreement

The provisions of this paragraph 25 constitute an agreement ("**Escrow Agreement**") among Seller, Purchaser and Seyfarth Shaw LLP (as Escrow Agent).

25.1 Establishment of Escrow Account.

25.1.1 The law firm of Seyfarth Shaw LLP ("**Escrow Agent**"), with an office at 620 Eighth Avenue, New York, New York 10018, telephone number (212) 218-5500, shall serve as Escrow Agent for Seller and Purchaser. The Escrow Agent has established an escrow account for the purpose of holding the Deposit made by Purchaser pursuant to this Escrow Agreement (which is also part of the Purchase and Sale Agreement attached as Document 1 in Part II of this Plan) for the purchase and sale of this Unit at Israel Discount Bank of New York ("**Bank**"), at its office located at 1114 Avenue of the Americas, New York, New York 10036, a bank authorized to do business in the State of New York. The escrow account is entitled "Seyfarth Shaw LLP Master Attorney Escrow Account" ("**Escrow Account**"), which is a master escrow account. The Deposit of Purchaser shall be maintained in a separate subaccount of this master Escrow Account.

25.1.2 Escrow Agent has designated Cynthia Mitchell, Esq., Marc Gurell, Esq. and Mitchell Kaplan, Esq. as the only signatories on the Escrow Account and the subaccount in which the Deposits of purchasers are to be maintained, each of whom is admitted to practice law in the State of New York.

All of the signatories on the Escrow Account have an address at Seyfarth Shaw LLP, 620 Eighth Avenue, New York, New York 10018, telephone number (212) 218-5500.

25.1.3 Escrow Agent and all authorized signatories hereby submit to the jurisdiction of the State of New York and its Courts for any cause of action arising out of this Escrow Agreement or otherwise concerning the maintenance of or release of the Deposit from escrow.

25.1.4 Neither Escrow Agent nor any authorized signatories on the Escrow Account are the Seller, Selling Agent, Managing Agent (as those terms are defined in the Plan), or any principal thereof, or have any beneficial interest in any of the foregoing.

25.1.5 The master Escrow Account is not an interest bearing account. The subaccount of the master Escrow Account in which Deposits are placed and maintained is not an "Interest on-Lawyer's-Account". The said subaccounts are federally insured by the FDIC at the maximum amount of $250,000 per Deposit. Any Deposit in excess of $250,000 will not be insured. Escrow Agent, Seller and Selling Agent, and their respective members, managers, partners, principals, employees and agents, shall not be liable for the amount collected on checks given in payment of the Deposit or any other purchase monies, or for any losses resulting from the failure of the depository.

25.2 Deposits into the Escrow Account.

25.2.1 All Deposits received from Purchaser prior to Closing, whether in the form of checks, drafts, money orders, wire transfers, or other instruments which identify the payor, shall be placed into the Escrow Account. All instruments to be placed into the Escrow Account shall be drawn on (and payable by) a member bank of the New York Clearing House Association L.L.C. or a local bank or other institutional lender acceptable to Seller in its sole discretion, unendorsed and made payable directly to the direct order of "*Seyfarth Shaw LLP as Escrowee*" pursuant to the terms set forth in the Plan. Any instrument payable to, or endorsed other than as required hereby, and which cannot be deposited into such Escrow Account, shall be returned to 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 the Deposit, the instrument shall be deemed not to have been delivered to Escrow Agent pursuant to the terms of this Escrow Agreement.

25.2.2 Within five (5) business days after this Escrow Agreement has been tendered to Escrow Agent along with the Deposit and Form W-8 or W-9 (as applicable), Escrow Agent shall place the Deposit into the subaccount of the Escrow Account. Within ten (10) business days of placing the Deposit in the subaccount of the Escrow Account, Escrow Agent shall provide written notice to Purchaser and Seller, by ordinary first class mail in a properly addressed postage prepaid wrapper, confirming the Deposit. Such notice shall set forth the Bank, the subaccount number, and the initial interest rate earned thereon. If the Purchaser does not receive notice within fifteen (15) business days after tender of the Deposit, the Purchaser may cancel this Agreement and the Escrow Agreement within a deadline of ninety (90) days after tender of the Deposit. Complaints concerning the failure to honor such cancellation requests may be referred to the New York State Department of Law, Real Estate Finance Bureau, 28 Liberty Street, New York, NY, 10005. Rescission shall not be afforded where proof satisfactory to the Attorney General is submitted establishing that the Deposit was timely placed in the Escrow Account in accordance with the New York State Department of Law's regulations concerning the Deposit and requisite notice was timely mailed to the Purchaser.

25.3 Release of Funds.

25.3.1 Under no circumstances shall Seller seek or accept release of the Deposit of Purchaser to Seller until after consummation of the Plan, as evidenced by the acceptance of a post-closing amendment by the New York State Department of Law, subject to paragraph 25.3.2. Consummation of the Plan shall not relieve Seller or Escrow Agent of any obligation to Purchaser as set forth in GBL §§ 352-e(2-b) and 352-h.

25.3.2 Escrow Agent shall release the Deposit to Purchaser or Seller as directed:

(a) pursuant to terms and conditions set forth in this Agreement upon Closing of title to the Unit;

(b) in a subsequent writing signed by both Seller and Purchaser; or

(c) by a final, non-appealable order or judgment of a court.

25.3.3 If Escrow Agent is not directed to release the Deposit pursuant to the preceding paragraph 25.3.2, and Escrow Agent receives a request by either Seller or Purchaser to release the Deposit, then Escrow Agent must give both the Purchaser and Seller prior written notice of not fewer than thirty (30) days before releasing the Deposit. If Escrow Agent has not received notice of objection to the release of the Deposit prior to the expiration of the thirty (30)-day period, the Deposit shall be released to the requesting party and Escrow Agent shall provide further written notice to both Purchaser and Seller informing them of said release. If Escrow Agent receives a written notice from either Purchaser or Seller objecting to the release of the Deposit within said thirty (30)-day period, Escrow Agent shall continue to hold the Deposit until otherwise directed pursuant to the preceding paragraph. Notwithstanding the foregoing, Escrow Agent shall have the right at any time to deposit the Deposit contained in the Escrow Account with the Clerk of the county where the Unit is located and shall give written notice to both Seller and Purchaser of such deposit. In addition, if the Escrow Agent is uncertain as to Escrow Agent's responsibilities or doubts the genuineness of any document or signature, Escrow Agent also may refrain from taking any action and continue to hold the escrowed funds until the uncertainty or genuineness is resolved.

25.3.4 Seller shall not object to the release of the Deposit to:

(a) Purchaser, if Purchaser timely rescinds in accordance with an offer of rescission contained in the Plan or a Plan Amendment; or

(b) Purchaser after a Plan Amendment abandoning the Plan is accepted for filing by the New York State Department of Law.

25.4 Record Keeping.

25.4.1 Escrow Agent shall maintain all records concerning the Escrow Account for seven years after release of the Deposit.

25.4.2 Upon the dissolution of the law firm which was Escrow Agent, the former partners or members of the firm shall make appropriate arrangements for the

maintenance of these records by one of the partners or members of the firm or by the successor firm and shall notify the New York State Department of Law of such transfer.

25.4.3 Escrow Agent shall make available to the Attorney General, upon request, all books and records of Escrow Agent relating to the funds deposited and disbursed hereunder.

25.5 General Obligations of Escrow Agent.

25.5.1 Escrow Agent shall maintain the Escrow Account under its direct supervision and control.

25.5.2 A fiduciary relationship shall exist between Escrow Agent and Purchaser, and Escrow Agent acknowledges its fiduciary and statutory obligations pursuant to GBL§§ 352-e(2-b) and 352-h.

25.5.3 Escrow Agent may rely upon any paper or document which may be submitted to it in connection with its duties under this Escrow Agreement and which is believed by Escrow Agent to be genuine and to have been signed or presented by the proper party or parties and shall have no liability or responsibility with respect to the form, execution, or validity thereof.

25.6 Responsibilities of Seller.

25.6.1 Seller agrees that it shall not interfere with Escrow Agent's performance of its fiduciary duties and statutory obligations as set forth in GBL §§ 352-e(2-b) and 352-h and the New York State Department of Law's regulations.

25.6.2 Seller shall obtain or cause the Selling Agent to obtain a completed and signed Form W-9 or W-8, as applicable, from Purchaser and deliver such form to Escrow Agent together with the Deposit and this Escrow Agreement.

25.7 Termination of Escrow Agent.

25.7.1 This Escrow Agreement shall remain in effect unless and until it is canceled by either:

(a) written notice given by Seller 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 a Plan Amendment with the Department of Law providing for a successor escrow agent that meets the requirements set forth in applicable regulations of the New York State Department of Law. Purchaser shall be deemed to have consented to such cancellation; or

(b) the resignation of Escrow Agent, which shall not take effect until Escrow Agent is replaced by a successor escrow agent that meets the requirements set forth in applicable regulations of the New York State Department of Law, and notice is given to Purchaser of the identity of the successor escrow agent, the bank in the State of New York where the Deposit is being held, and the account number therefor.

25.7.2 Upon termination of the duties of Escrow Agent as described clause (a) or (b) of Section 25.7.1 above, Escrow Agent shall deliver to the successor escrow agent the Deposit held by Escrow Agent, this Escrow Agreement and any other documents maintained by Escrow Agent relating to the Deposit.

25.8 Successors and Assigns. This Escrow Agreement shall be binding upon Seller, Purchaser and Escrow Agent and their respective successors and assigns.

25.9 Governing Law. This Escrow Agreement shall be construed in accordance with and governed by the laws of the State of New York.

25.10 Escrow Agent's Compensation. Prior to release of the Deposit, Escrow Agent's fees and disbursements shall neither be paid by Seller from the Deposit nor deducted from the Deposit by any financial institution under any circumstance.

25.11 Severability. If any provision of this Escrow Agreement or the application thereof to any person or circumstance is determined to be invalid or unenforceable, the remaining provisions of this Escrow 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.

25.12 Indemnification. Seller agrees to defend, indemnify, and hold Escrow Agent harmless from and against all costs, claims, expenses, and damages incurred in connection with or arising out of this Escrow Agreement or the performance or non-performance of Escrow Agent's duties hereunder, except with respect to actions or omissions taken or suffered by Escrow Agent in bad faith or in willful disregard of thereof or involving gross negligence of Escrow Agent. This indemnity includes disbursements and attorneys' fees either paid to retain attorneys or representing the hourly billing rates with respect to legal services rendered by Escrow Agent to itself.

25.13 Entire Agreement. This Escrow Agreement, read together with GBL §§ 352-e(2-b) and 352-h and the New York State Department of Law's regulations, constitutes the entire agreement between the Parties with respect to the subject matter hereof.

25.14 Litigation. Escrow Agent may represent Seller in any litigation, whether or not related to this Escrow Agreement and irrespective of Escrow Agent being in possession of the escrowed funds.

26. Effectiveness Amendment Requirement

26.1 In accordance with the Plan, Seller's obligations under this Agreement are contingent upon Seller declaring the Plan effective and the Effectiveness Amendment being accepted for filing by the Attorney General. Seller may declare the Plan effective only in accordance with the terms contained in the Plan (see "Section L. Effective Date" in Part I of the Plan).

26.2 Seller has the exclusive right and discretion to declare the Plan effective or to abandon the Plan at any time before declaring it effective. In addition, if Seller declares the Plan effective, Seller may thereafter and before the First Unit Closing abandon the Plan under the limited circumstances explained in the Plan (see "Section L. Effective Date" of said Part I).

26.3 If Seller elects to abandon the Plan, Seller shall submit a Plan Amendment disclosing its election to abandon the Plan and shall refund Purchaser's Purchase Monies within five (5) days after such Amendment is accepted and filed by the Department of Law, whereupon this Agreement shall be considered to have been cancelled and neither Party shall have any liability to the other for any claims, damages, or costs or expenses, including legal expenses, based on this Agreement or the Plan or any Plan Amendments, except the Parties shall not be released from those agreements, representations, indemnities or liabilities expressly stated to survive the cancellation or termination of this Agreement.

26.4 Unless and until the Plan is abandoned by Seller or deemed abandoned, Purchaser shall remain irrevocably bound to fully pay, perform, observe, fulfill and comply with all of Purchaser's agreements and obligations as provided in this Agreement, and in no event may Purchaser cancel this Agreement based on this contingency.

27. Plan and Plan Amendments Govern

27.1 The Plan and Plan Amendments (whether filed before or after the date of this Agreement, but before Closing) form a part of this Agreement. The Parties are bound by the provisions of the Plan and all such Plan Amendments. If the provisions of this Agreement are inconsistent or conflict with the Plan or Plan Amendments (other than permitted negotiated changes in accordance with Section I-2 of Part I of the Plan), such inconsistency or conflict shall be resolved according to the terms of the Plan and Plan Amendments, which are paramount and shall govern.

27.2 Seller has the right to file Plan Amendments without Purchaser's consent. The Plan Amendments may change, among other things, the projected Common Charges and projected real estate taxes to be paid by Purchaser, or any of the other provisions of the Plan or this Agreement; except that after Purchaser signs and returns this Agreement, Seller may not change the Purchase Price, or the payment provisions in paragraph 2.1 or the escrow provisions in paragraph 25. The Plan and all Plan Amendments filed prior to Closing, including all material adverse changes:

(a) shall be binding on Purchaser; and

(b) shall not excuse Purchaser from paying the full amount of all Closing payments under paragraph 14.1, including the Balance of the Purchase Price, without abatement, set-off or credit against the Purchase Price or provision for escrowing monies and without recourse of any kind against the Seller Parties (except as otherwise provided in paragraph 27.3).

27.3 In the case only of a material adverse Plan Amendment affecting Purchaser, the Amendment will afford Purchaser the right, for not less than fifteen (15) days after presentation of said Plan Amendment, to rescind this Agreement and recover the Purchase Monies in accordance with Section 20.5(a)(5) of Part 20 of the regulations issued by the Attorney General.

28. Purchaser's Time to Review Plan and Amendments

28.1 At Seller's option:

(a) Purchaser will be given at least three business days to review the Plan and any Plan Amendments before Purchaser signs and delivers this Agreement and the check for the Deposit; or

(b) (if, and only if, Purchaser is given less than three business days for such review) Purchaser will have a deadline of seven days after Purchaser signs and delivers this Agreement and the check for the Deposit to rescind this Agreement and recover Purchaser's Deposit (without interest).

In the latter case, Purchaser must elect to rescind in a written notice sent to Seller within the mentioned seven (7)-day deadline period. If Purchaser fails to timely do so, Purchaser will no longer have the right to rescind under this paragraph 28.1 and will be fully bound to purchase the Unit.

29. Seller's Acceptance or Rejection of Agreement

29.1 Seller is not bound by this Agreement until Seller or Seller's duly authorized agent or representative signs and returns a counterpart of this Agreement to Purchaser or Purchaser's Attorney (if any). No inference shall be drawn that Seller accepted this Agreement or is bound by its provisions based on:

(a) the submission of the Plan or this Agreement to Purchaser;

(b) the delivery to Seller or Seller's Selling Agent or Seller's Attorney of this Agreement signed by Purchaser and Purchaser's check for the Deposit; or

(c) the placement of Purchaser's Deposit check for collection (whether or not inadvertent).

29.2 Until Seller rejects or is deemed to have rejected this Agreement as provided in paragraph 29.3, Purchaser shall be irrevocably bound by its provisions and will not be entitled or permitted to recover Purchaser's Deposit.

29.3 Seller will be deemed to have rejected this Agreement unless Seller hand delivers or mails (by electronic mail (i.e., "e-mail") or by ordinary or certified mail, with or without return receipt requested) to Purchaser or Purchaser's Attorney (if any), within ten (10) business days after Seller or Seller's Selling Agent or attorney receives this Agreement signed by Purchaser together with Purchaser's check for the Deposit, and IRS form W-8 BEN or W-9 (if and as applicable), a counterpart of this Agreement signed by Seller or Seller's duly authorized agent or representative. In the event Seller rejects or is deemed to have rejected this Agreement, Purchaser's check for the Deposit will promptly be refunded to Purchaser, without interest. Upon making such refund, neither Party shall have any liability to the other Party based on this Agreement or the Plan or any Amendments.

29.4 Purchaser understands that the placement of Purchaser's Deposit check in the Escrow Account or a subaccount within the five (5)-business day period stated in paragraph 25.2.2 is required by regulation of the Attorney General, which period may expire before the lapse of the ten (10) business days Seller has to accept or reject this Agreement in accordance with paragraph 29.3. *Purchaser agrees that such placement of the Deposit check will NOT be regarded as Seller's acceptance of this Agreement nor prejudice or impair Seller's right to reject this Agreement as provided in paragraph 29.1.*

30. Broker

30.1 Purchaser represents to Seller that Purchaser has not dealt with any broker, salesperson or finder, whether licensed or unlicensed, in connection with this purchase and sale other than the Selling Agent and its salesperson and the Participating Broker (if any) and its salesperson identified in paragraph 6.1.

30.2 Seller will pay the commission earned by the Selling Agent and the Participating Broker (if any) pursuant to a separate agreement with each of them. This obligation shall survive the Closing. The Selling Agent and the Participating Broker (if any) shall not be deemed a third-party beneficiary of this provision.

30.3 Each Party agrees to indemnify the other Party (with attorneys selected by Seller) from and against any and all claims, litigations, liabilities and damages arising from:

(a) (in the case of Purchaser) Purchaser's representation in paragraph 30.1; or

(b) (in the case of Seller) Seller's agreement in paragraph 30.2.

Seller shall have the exclusive right to control the defense, compromise and settlement (including choosing the attorney) of any claim or litigation for which indemnity is sought by Seller under this paragraph 30.3. Purchaser, at Purchaser's sole cost and expense, shall have the right to participate and be represented by separate counsel in the defense, compromise and settlement of said claim or litigation.

This indemnity shall survive the Closing or (if the Closing does not occur) the cancellation or termination of this Agreement.

31. Notices

31.1 Unless otherwise expressly provided elsewhere in this Agreement, any notice (other than a notice of placement of the Deposit in paragraph 25.2.2), request, consent, election, demand or other communication (collectively, "**notice**") to be given or made by the Parties or Escrow Agent under this Agreement:

(a) must be in writing and sent as follows

(a-1) if to Seller, at Seller's address in the preamble, with a copy sent simultaneously and in like manner to Seller's Attorney at its address in paragraph 10.1;

(a-2) if to Purchaser, at Purchaser's address in paragraph 4.1 or (after the Closing) to the Unit, with a copy sent simultaneously and in like manner to Purchaser's Attorney (if any), at its address in paragraph 5.1;

(a-3) if to Escrow Agent, to Seyfarth Shaw LLP, 620 Eighth Avenue, New York, New York 10018, Attention: Alan L. Kazlow, Esq.; and

(b) unless otherwise expressly provided elsewhere in this Agreement, shall conclusively be deemed given, received and effective:

(b-1) when personally delivered with receipt requested or sent by facsimile or electronic mail with facsimile or electronic confirmation of transmission followed by sending the original

notice the same day by any other method permitted herein (or if not so delivered or sent on a business day and received during business hours, the first business day thereafter); or

(b-2) the first business day after being sent by Federal Express or other nationally recognized overnight courier service for next day delivery; or

(b-3) the third business day after being mailed by registered or certified mail (with or without return receipt requested), in a properly addressed postage prepaid wrapper in any post office or branch post office regularly maintained by the United States Postal Service; except a notice mailed from outside the United States or a notice of a change of address or an additional addressee shall not be considered effective until actually received.

31.2 Each Party may from time to time, by notice to the other Party and Escrow Agent, designate a different address to which future notices are to be sent and add an addressee to whom copies of notices are to be sent simultaneously and in like manner when giving a notice to such Party. The refusal or failure to accept a notice shall be deemed receipt of the notice and shall not affect the effectiveness, validity or enforceability of the notice, nor excuse or justify delaying the performance of an act or obligation.

32. No Mortgage Financing Contingency

32.1 SPECIAL RISK: This Agreement is NOT contingent upon Purchaser obtaining financing (secured or unsecured) to pay the Purchase Price set forth in paragraph 2.1, or any portion thereof. If Purchaser desires financing, Purchaser assumes and accepts full and sole risk to obtain and close the loan simultaneously with the Closing under this Agreement. Under no circumstance shall Purchaser have the right to cancel this Agreement, or to delay the Closing, or to be relieved or excused from paying the full Purchase Price (without abatement, set-off or credit, and without recourse of any kind against the Seller Parties) in the event: (a) Purchaser is unable to arrange financing; or (b) Purchaser receives a Loan Commitment Letter, but before the Closing the interest rate or other terms change unfavorably, or such Loan Commitment Letter expires and is not extended or renewed, or is extended or renewed on less favorable terms, or is terminated because of: an adverse change in Purchaser's financial condition, or an appraisal of the Unit is not satisfactory to the lender, or any other condition or factor is not met.

33. Payment and Collection Terms

33.1 All amounts owed by one Party to the other Party under this Agreement shall be paid within a deadline of ten (10) days after a reasonably detailed and itemized notice of the amount owed is given to the indebted Party, accompanied by copies of supporting bills or statements evidencing such amount, failing which the indebted Party shall reimburse the aggrieved Party for all legal expenses, together with per diem interest thereon. However, if the indebted Party litigates its alleged liability or the amount allegedly owed, the aggrieved Party shall be entitled to receive only the amount (if any) awarded in a final, non-appealable order or judgment of a court having competent jurisdiction. The losing Party in such litigation shall reimburse the prevailing Party for all costs and expenses, including legal expenses and per diem interest thereon, paid or incurred in connection therewith, if and as provided in said final, non-appealable order or judgment. These terms ("**Payment and Collection Terms**") shall apply whenever one Party is indebted to the other Party under this Agreement, even though not expressly stated elsewhere in this Agreement.

34. Smoking and E-Smoking Ban

34.1 The provisions set forth below are contained in Section 3.16 of the By-Laws.

34.2 Definitions. The following words shall have the meanings indicated:

"**E-Smoking**" means electronic cigarettes or e-smoking (i.e., a battery-operated device that heats a liquid, gel, herb or other substance and produces vapor for people to inhale).

"**Smoke**" means the byproduct of Smoking.

"**Smoking**" means exhaling, burning or carrying any lighted or heated cigar, cigarette, little cigar, pipe, water pipe or hookah, herbal cigarette, non-tobacco smoking product (e.g., marijuana or non-tobacco shisha), or any similar form of lighted object or device designed for people.

"**Vapors**" mean the byproduct of E-Smoking.

34.3 Smoking and E-Smoking Ban. Smoking, E-Smoking, Smoke and Vapors are prohibited in every indoor and on every outdoor area of a Common Element (collectively, "**Smoking and E-Smoking Ban**"). Ashtrays are prohibited in and on all areas of the Common Elements.

This Smoking and E-Smoking Ban in and on the areas of the Common Elements shall apply to all Owners, Unit Users, the Board's agents and employees, the contractors and subcontractors engaged by or on behalf of the Board, and their respective employees, and any other person at any time in or on the Common Elements. Each Unit Owner shall be responsible and accountable to ensure that such Owner's

Unit Users are informed of this Smoking and E-Smoking Ban and shall not permit or suffer (whether knowingly or unknowingly), a violation of this Smoking and E-Smoking Ban by a Unit User of its Unit.

The Smoking E-Smoking Ban does not apply to Smoking, E-Smoking, Smoke and Vapors in or on a Unit; provided, however, any Smoke or Vapors that emanates beyond the Unit must be abated immediately by the Unit's Owner at its sole cost and expense. Such abatement may include the sealing of openings, the purchase and installation of "smoke-enders" to be installed in each room of the Unit, and the purchase and installation of air purifiers. The effectiveness of such abatement must be satisfactory to the Condominium Board. The failure by an Owner to effectively abate any such Smoke or Vapors to permeate into the Common Elements or other Units following notice by the Condominium Board shall be a violation of this Smoking and E Smoking Ban by such Unit Owner.

The Condominium Board shall not permit or suffer (whether knowingly or unknowingly), and shall be responsible and accountable for, a violation of this Smoking and E-Smoking Ban attributable to a Board's agents and employees, the contractors and subcontractors engaged by or on behalf of the Board, and their respective employees.

The Condominium Board shall post a copy of this Smoking and E-Smoking Ban in a prominent location in the Building or deliver this Smoking and E-Smoking Ban to all Unit Owners at least annually.

This Smoking and E-Smoking Ban shall be disclosed by an Owner to a tenant of Owner's Unit and shall be incorporated in each lease or agreement to sell the Owner's Unit.

34.4 Remedies. A violation of this Smoking and E-Smoking Ban by an Owner or a Unit User of Owner's Unit shall entitle the Board, in addition to all rights and remedies available at law or in equity, to:

(a) all of the remedies set forth in Article 5;

(b) (in the case of a violation by a tenant of Owner's Unit or a Unit User of a tenant), implement all remedies available under the tenant's lease by reason of such violation in the name and on behalf and at the expense of the Owner of the Unit leased to such tenant, including to terminate the lease and evict the tenant by summary proceedings or otherwise; and

(c) levy upon the Owner, as Additional Common Charges:

(d) a fine equal to the maximum lawful daily rate, but not to exceed $75.00 a day for each day such violation occurs one or more times;

(e) a charge of $250 for each notice of said violation of this Smoking and E Smoking Ban is given by counsel engaged by Board in order to reimburse the Board for the Legal Expenses incurred, which charge shall constitute liquidated or agreed upon damages incurred by the Board in connection with such notice; and

(f) an amount equal to all expenses (including Legal Expenses) paid or incurred by the Board to remedy such violation as evidenced by invoices, statements or other documentary proof thereof.

The Payment and Collection Terms shall apply to all amounts owed the Board hereunder.

A violation of this Smoking and E-Smoking Ban by the Condominium Board shall entitle an Owner to all of the remedies set forth in Article 5 [of the By-Laws]. All amounts payable by the Board due to such violation occurring in a Common Element shall be assessed to those Owners entitled to use such Common Element.

34.5 Indemnity. Each Owner shall indemnify all other Owners and the Board, on the terms set forth in Article 19 of the Declaration, from and against any and all claims, litigations, liabilities, losses and damages attributable to a violation of this Smoking and E Smoking Ban by such Owner or a Unit User of said Owner's Unit.

35. Standard Terms

35.1 Date of Agreement. Seller shall date this Agreement as of the date this Agreement or a counterpart hereof is signed by Seller and returned to Purchaser or Purchaser's Attorney.

35.2 Authorization of Attorneys: Seyfarth Shaw LLP is authorized by Seller, and Purchaser's Attorney (if any) identified in paragraph 5.1 is authorized by Purchaser, to sign any notice or extend any time period in this Agreement. The officers, partners, counsel, associate attorneys and legal assistants so authorized by said attorney of a Party are similarly authorized to act for such Party.

35.3 Merger: All prior and contemporaneous "statements" (defined below) made to each Party with regard to this transaction, as well as all prior and contemporaneous statements made between each Party and Escrow Agent with regard to the escrow provisions of paragraph 25, are merged in this Agreement and have no effect unless they are expressly contained or incorporated by reference in this Agreement. The term **"statements"** includes representations, promises, understandings, discussions, negotiations, agreements, estimates, valuations, projections and opinions, whether written or

oral, as well as a broker's set-up, terms sheet, floor plans, drawings and data of any kind.

35.4 Entire Agreement: This Agreement, together with the Plan and Plan Amendments accepted for filing by the Attorney General's office prior to Closing, constitute the entire understanding and agreement of the Parties. Any rider to this Agreement signed by Seller and Purchaser is part of this Agreement. Any statements not contained in a written rider attached to this Agreement and signed by the Parties is not part of this Agreement and not binding on, or enforceable by or against, the Parties.

35.5 Changes and Waivers: A provision of this Agreement will be considered to have been changed or waived only if the change or waiver is expressly made in writing signed by the Party to be charged or (if applicable) by the Escrow Agent, unless such provision is expressly provided to have been waived or deemed waived if not exercised, satisfied or performed within a specified period. The failure to insist on strict performance of any provision will not mean that the provision has been waived or that the right to insist thereafter on strict performance of that or any other provision has been waived.

35.6 Parties to Cooperate: Each Party will reasonably cooperate with the other Party, and each Party is to obtain, execute and/or deliver (as applicable) such documents as are in the possession or control of such Party and are reasonably necessary in order to implement the Closing or to effectuate or confirm any provision of this Agreement. These documents include: (a) the federal tax forms to report the Closing and Purchaser's receipt of interest on the Escrow Fund; and (b) documents Purchaser's title insurer (if any) might reasonably require to show that: (b-1) delivery of the Deed has been properly authorized by Seller's organization; and (b-2) any judgments, bankruptcies or other title issues against names the same as or similar to Seller or Purchaser are not against Seller or Purchaser, respectively. This, however, does not obligate either Party to give an indemnity, to escrow monies or to make representations not contained in this Agreement. The provisions of this paragraph 35.6 shall survive the Closing.

35.7 Governing Law; Venue for Litigation: The internal laws of the State of New York will govern this Agreement and the interpretation and enforcement of its provisions, without regard to legal principles of conflict of laws. Any litigation arising out of this Agreement or the Plan or Amendments thereto: (a) must be brought in the Supreme Court of the State of New York or (if such court lacks jurisdiction) a court of competent jurisdiction; (b) must be brought in the county in which the Unit or Seller is located; and (c) may be commenced by serving the summons and/or complaint by certified or registered mail (return receipt requested), postage prepaid, deposited in an official depository maintained by the U.S. Postal Service, and sent to the Party at the Party's address referred to in paragraph 31.1 or any other address of which the Party has given notice in accordance with paragraph 31.2. The provisions of this paragraph 35.7 shall survive the Closing or (if the Closing does not occur) the cancellation or termination of this Agreement.

35.8 Waiver of Jury Trial: EACH PARTY WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY LITIGATION ARISING FROM THIS AGREEMENT OR THE PLAN OR PLAN AMENDMENTS, OTHER THAN A LITIGATION IN WHICH A JURY TRIAL CANNOT LEGALLY BE WAIVED. ANY CLAIM FOR WHICH A JURY TRIAL CANNOT LEGALLY BE WAIVED SHALL NOT BE ASSERTED AS A COUNTERCLAIM OR JOINED WITH ANY LITIGATION IN WHICH A JURY TRIAL IS WAIVED, UNLESS THE FAILURE TO ASSERT IT WOULD PREVENT THE CLAIM FROM BEING MADE LATER. The provisions of this paragraph 35.8 shall survive the Closing or (if the Closing does not occur) the cancellation or termination of this Agreement.

35.9 Co-Purchasers: If Purchaser is more than one person, then each is jointly obligated with the other, and each is solely, fully and personally obligated, to pay and perform Purchaser's obligations under this Agreement. In addition, any notice given to or by one co-Purchaser, and any provision changed or waived by one co-Purchaser, will be sufficient to bind all co-Purchasers.

35.10 No Assignment: Purchaser may not assign this Agreement or Purchaser's rights hereunder. Any purported assignment hereof by Purchaser in violation of this provision shall be null and void, as well as an Event of Default under paragraph 22.1. If Seller, in its sole and absolute discretion, permits Purchaser to assign this Agreement, then the provisions of Section K-17 of Part I of the Plan shall apply and govern.

35.11 No Lien: Neither this Agreement nor the Purchase Monies are a lien against the Unit or the Property. Purchaser shall not record this Agreement or a memorandum hereof and any attempted recordation of same shall be null and void and a material default hereunder.

35.12 Subordination: This Agreement and all of Purchaser's rights under it are subordinate to the liens of all mortgages, and renewals, extensions and modifications thereof, and to all advances, fundings and payments thereunder, whether made before or after Purchaser signs this Agreement. No further legal document is required to be signed by Purchaser to effectuate this subordination. However, if requested, Purchaser shall promptly sign in

recordable form and return to Seller a document prepared by Seller's Attorney which confirms this subordination.

35.13 Invalid Provisions Severed: The invalidity or unenforceability of any provision of this Agreement shall not affect the validity of the other provisions, which shall be enforced to the fullest extent permitted by law.

35.14 Indemnity Generally. The following terms shall apply whenever one Party ("**Indemnifying Party**") agrees to indemnify the other Party or Escrow Agent ("**Indemnified Party**") under this Agreement, unless otherwise expressly provided:

(a) the indemnity shall include the Indemnified Party's past, present and future (if and as applicable) shareholders, officers, directors, partners, managers, members, principals, employees, agents and attorneys;

(b) with prompt diligence after an Indemnified Party receives notice of any claim or is served with a summons and/or pleadings in a litigation for which indemnity is sought from the Indemnifying Party, such Indemnified Party, with commercially prompt diligence, shall notify the Indemnifying Party in writing of such claim accompanied by copies of any writings thereof or the commencement of such litigation accompanied by copies of a summons with notice and/or pleadings, as applicable;

(c) the Indemnifying Party, at such Party's sole cost and expense, with counsel chosen by the Indemnifying Party, shall:

(c-1) control and conduct the defense, compromise and settlement of the indemnified matter (including all appeals of any order, judgment or award in a litigation, for which indemnity is sought), subject to compliance with the following clause (d); and

(c-2) keep the Indemnifying Party and the representatives and counsel of the Indemnifying Party promptly and reasonably apprised of all compromise and settlement negotiations and legal proceedings;

(d) if and to the extent that the Indemnifying Party is named as a party in any claim or litigation and such claim or litigation is compromised or settled:

(d-1) the Indemnified Party shall not be adversely affected beyond a *de minimis* extent by a proposed compromise or settlement of such claim or litigation (as applicable) without obtaining the prior written consent of the Indemnified Party, which consent is discretionary and may be withheld, denied or conditioned without cause or explanation, without any manner of recourse against the Indemnified Party and without affecting the liability of the Indemnifying Party under the indemnity;

(d-2) the Indemnified Party shall be fully and unconditionally released and discharged in writing from all liabilities with respect to such claim by all claimants or (if applicable) by all plaintiffs or petitioners or counter-claimants or cross-claimants in such litigation; and

(d-3) the Indemnifying Party shall give the Indemnified Party a fully executed original or counterpart original of such compromise or settlement agreement (as applicable) with prompt diligence after the execution and delivery thereof to the Indemnifying Party or its counsel;

(e) the Indemnified Party, without fee or charge, shall make available to Indemnifying Party, at the Building or a location in or reasonably convenient to the Building, documents (whether paper or electronic or similar records, material or data capable of reproduction) requested by the Indemnifying Party that the Indemnified Party determines in good faith to be reasonably related to the defense of said claim or litigation (as applicable) and are in the possession or under the control of the Indemnified Party and existing at or after the time the Indemnifying Party was given notice of the claim or litigation (as applicable), other than documents that are subject to a non-disclosure agreement legally binding on the Indemnified Party;

(f) the Indemnifying Party, without fee or charge, shall fully cooperate with the Indemnified Party and its representatives and counsel (chosen by such Indemnified Party), including the following:

(f-1) consult with the Indemnified Party and its representatives and counsel with respect to the proposed terms of the defense, compromise and settlement of such claim or litigation (as applicable) and all proposed writings related thereto; and

(f-2) give the Indemnified Party and its representatives and counsel, with commercially prompt diligence after being received by the Indemnifying Party or its representatives or counsel, and (to the extent practicable) a commercially reasonable period in advance before being given by the Indemnifying Party or its representatives or counsel to the claimants or their respective representatives or counsel in said claim or to the plaintiffs or petitioners or

counter-claimants or cross-claimants, or their respective representatives or counsel, in said litigation (as applicable), copies of the following:

(f-2.1) all notices and writings with respect to said claim received or to be given;

(f-2.2) all pleadings, complaints, answers, counterclaims, cross-claims, petitions, applications, certifications, motions, briefs, memoranda, affidavits, affirmations, interrogatories, bills of particulars, transcriptions of depositions and otherwise writings with respect to said litigation, and all drafts and revisions thereto, received or to be given; and

(f-2.3) all proposed and final tolling, compromise, settlement, release or discharge agreements with respect to such claim or litigation (as applicable), and all drafts and revisions thereto, received or to be given;

(g) the Indemnified Party and its representatives and counsel shall have the right, but not the obligation, to participate in the defense, compromise and settlement of said claim or said litigation (as applicable), including to attend all depositions in the litigation and all proceedings before a court or arbitration panel or other dispute resolution body;

(h) the Indemnified Party shall pay the fees and disbursements of its separate counsel, unless such participation is necessitated by a conflict of interest between the Indemnified Party and the Indemnifying Party's counsel, in which case the Indemnifying Party shall pay the reasonable legal fees and disbursements of the Indemnified Party's counsel; provided, however, if the Indemnifying Party contests payment of said reasonable legal fees and disbursements, the obligation to make such payment must be awarded in a final, non-appealable order or judgment of a court having competent jurisdiction.

(i) if the Indemnified Party is determined in a final non-appealable order or judgment of a court of competent jurisdiction to be at fault in the indemnified matter, the Indemnified Party shall contribute to the award in a litigation, and related losses in such proportion as is appropriate to reflect the relative fault of the Indemnified Party, on the one hand, and the Indemnifying Party, on the other hand, as well as any other relevant equitable considerations, as determined in said final non-appealable court order or judgment, except the entire award shall be paid by the Indemnified Party or the Indemnifying Party (as applicable) if said non-appealable final court order or judgment finds bad faith or intentional wrongdoing on the part of the Indemnified Party or the Indemnifying Party (as applicable);

(j) the indemnity shall exclude all losses resulting from the negligence, gross negligence or intentional wrongdoing of the Indemnified Party;

(k) the Indemnifying Party shall timely pay all amounts owing to all claimants or litigants pursuant to a compromise or settlement agreement with respect to such claim or litigation (as applicable) or to all plaintiffs or petitioners or counter-claimants or cross-claimants in such litigation pursuant to a final, non-appealable order or judgment or award in a litigation (if and as applicable); and

(l) if the Indemnifying Party fails to timely make such payment, the Indemnified Party shall have the right (but not the obligation), in addition to all other rights and remedies available at law and in equity:

(l-1) to compel the Indemnifying Party to comply with the Indemnifying Party's obligations hereunder by appropriate court action or proceeding; and/ or

(l-2) if the default remains uncured after giving the Indemnifying Party not less than ten (10) days' prior written notice of its intention to do so, the Indemnified Party shall also have the right, for the account and at the expense of said Indemnifying Party, to pay and perform the obligations of the Indemnifying Parties hereunder.

In either case, the Indemnifying Party shall reimburse the Indemnified Party for all costs and expenses, and (if applicable) the amount paid pursuant to said compromise or settlement agreement, or final, non-appealable order or judgment or award in a litigation, as applicable, in accordance with the Payment and Collection Terms set forth in paragraph 33.1.

35.15 Satisfaction and Discharge: All agreements and liabilities of the Parties are considered satisfied and discharged at Closing or upon the effective date of cancellation or termination hereof in accordance with the terms of this Agreement (as applicable), except only those agreements, representations, indemnities or liabilities which are expressly stated in this Agreement or the Plan or Plan Amendments to survive the Closing or to be paid or performed subsequent to Closing or to survive said cancellation or termination (as applicable), which shall o survive, whether or not expressly stated to so survive.

35.16 No Negative Inference: The Parties acknowledge that they are sophisticated and/or are

represented by experienced, knowledgeable attorneys and/or advisors. The normal rules of construction to resolve ambiguities against the Party whose attorney drafted this Agreement shall not be followed in the interpretation of this Agreement. Consequently, no adverse or negative inference or interpretation shall be made by a court in construing or enforcing the provisions of this Agreement against the Party whose attorney drafted this Agreement.

35.17 Purchaser's Representations:

33.17.1 Purchaser represents that: (a) Purchaser is a bona fide purchaser; (b) Purchaser is not related to Seller, the Selling Agent or the proposed managing agent identified in the Plan, or to any of their respective principals, by blood, marriage or adoption, or as a business associate, an employee, a shareholder or a limited partner; and (c) Purchaser is not purchasing as an accommodation to, or for the account or benefit of, Seller or a principal of Seller.

33.17.2 If Purchaser is or includes an individual, Purchaser further represents that Purchaser is at least 18 years old.

33.17.3 If Purchaser is or includes a corporation, partnership, limited liability company, trust or other entity, Purchaser represents still further that: (a) Purchaser has been duly organized; (b) Purchaser is validly existing and in good standing under the laws of the state or jurisdiction in which it was formed and is authorized to do business in the State of New York; (c) Purchaser has all requisite organizational power and authority to execute this Agreement; (d) this Agreement constitutes a legally binding and valid agreement of Purchaser; (e) this Agreement has been duly authorized by all requisite organizational action of Purchaser, is being duly executed by an authorized officer or signatory of Purchaser, and is fully enforceable against Purchaser in accordance with its terms, without defense, set-off or counterclaim; (f) any right to assert a defense with respect to the legality, validity or enforceability of this Agreement, or any set-off or counterclaim with respect to this Agreement, are hereby irrevocably and unconditionally waived by Purchaser; (g) the execution and delivery of this Agreement by Purchaser, and the performance of Purchaser's covenants and agreements hereunder, do not violate or contravene any laws affecting Purchaser or the enforceability of this Agreement against Purchaser; and (h) neither Purchaser or (if Purchaser is an entity) nor any member, partner or shareholder of Purchaser, nor, to Purchaser's knowledge, any person with actual authority to direct the actions of any member, partner or shareholder of Purchaser, nor, to Purchaser's knowledge, any other persons or entities ("**Persons**" or "**Person**") holding any legal or beneficial interest whatsoever in Purchaser: (h-1) are named on any list of Persons and governments issued by the Office of Foreign Assets Control of the United States Department of the Treasury ("**OFAC**") pursuant to Executive Order 13224 - Blocking Property and Prohibiting Transactions with Persons Whom Commit, Threaten to Commit, or Support Terrorism, as in effect on the date hereof, or any similar list known to Purchaser or publicly issued by OFAC or any other department or agency of the United States of America (collectively, the "**OFAC Lists**"), (h-2) are included in, owned by, controlled by, knowingly acting for or on behalf of, knowingly providing assistance, support, sponsorship, or services of any kind to, or otherwise knowingly providing assistance, support, sponsorship, or services of any kind to, or otherwise knowingly associated with any of the Persons referred to or described in the OFAC Lists, or (h-3) has knowingly conducted business with, or knowingly engaged in any transaction with, any Person named on any of the OFAC Lists or any Person included in, owned by controlled by, acting for or on behalf of, providing assistance, support, sponsorship, or services of any kind to, or (to Purchaser's knowledge) otherwise associated with any, of the Persons referred to or described in the OFAC Lists.

All references herein to "this Agreement" shall include the exhibits to this Agreement and any agreement (including a rider) being executed by Purchaser pursuant to or in connection with this Agreement. Purchaser agrees that Seller may rely upon the foregoing representations, which shall survive the Closing or the cancellation or termination hereof (as applicable).

35.18 Liability: Each Party agrees that it shall have no recourse against any member, officer, director, shareholder, manager, agent, employee, attorney or affiliate (whether direct or indirect, disclosed or undisclosed) of the other Party (collectively, "**Related Persons**") in connection with this Agreement or the enforcement of this Agreement and shall not join the other Party's Related Persons in any litigation or seek to recover any costs or expenses against said other Party's Related Persons.

35.19 Legal, Valid and Binding: Each Party represents and agrees that: (a) this Agreement is legal, valid and binding upon, and fully enforceable in accordance with its terms (without defense, set-off or counterclaim) against, the representing Party, and any right to assert otherwise is hereby irrevocably and unconditionally waived by the representing Party; (b) this Agreement has been duly authorized by all requisite organizational action of the representing Party; (c) this Agreement is being executed by a duly authorized signatory of the representing Party; (d) the execution, delivery, and performance of this Agreement will not conflict with any of such representing Party's obligations or any law, rule, or regulation applicable to such representing Party; and (e) all of the foregoing may be relied upon by the other Party.

35.20 Section 1031 Exchange: Seller 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 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. Seller hereby agrees to reasonably assist and cooperate in such tax deferred exchange, provided, however, that: (a) any action taken in connection with such tax deferred exchange or requested of Seller shall not delay the Closing or result in any cost, expense or liability on the part of Seller or increased risk to Seller relating to the transaction contemplated by this Agreement (and among other things, Purchaser acknowledges that a fee may be payable to Seller's counsel in connection with the review of any documentation related to such tax-deferred exchange); (b) no action or failure on the part of Purchaser (or any other party to such tax deferred exchange) or cooperation on the part of Seller in connection with or related to said tax deferred exchange will frustrate the purpose of this Agreement or otherwise result in a reduction of Seller's rights, remedies and privileges under this Agreement or increase any of Seller's obligations or duties under this Agreement or otherwise; and (c) Seller 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 Seller from and against any and all liabilities for claims, litigations, costs and expenses (including legal expenses) incurred by Seller in connection with or resulting from the said tax deferred exchange, which indemnity shall survive the Closing or the termination of this Agreement. Notwithstanding the foregoing, Seller 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 the Unit.

35.21 Waiver of Diplomatic or Sovereign Immunity:

35.21.1 Purchaser hereby waives any and all immunity from suit or other actions or proceedings and agrees that, should Seller 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.

35.21.2 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.

35.21.3 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: (a) 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; (b) any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum; or (c) any claim that it is not personally subject to the jurisdiction of such courts or Purchaser's assets are exempt or immune from attachment or execution, or the suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by said 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. Purchaser waives, to the fullest extent permitted under applicable law, the benefit of any defense that would hinder, fetter or delay the levy, execution or collection of any amount to which Seller or its assigns is entitled pursuant to a final judgment of any court having jurisdiction.

35.21.4 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 paragraph 35.21.

35.21.5 Nothing in this paragraph 35.21 shall affect the right of Seller to bring proceedings against Purchaser in the courts of any jurisdiction or jurisdictions.

35.21.6 The provisions of this paragraph 35.21 shall survive the Closing or the termination of this

Agreement for the purpose of any litigation arising directly or indirectly, out of or relating to this Agreement.

35.21.7 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.

35.21.8 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 State Department of State prior to purchasing a Unit and provide a copy of such notice to Seller. Seller shall not be bound under this Agreement unless and until the earlier to occur of: (a) a notification of approval is received by the Department of State; or (b) sixty (60) days after Purchaser's notice is received by the Department of State.

35.22 Legal Expenses. In any litigation between Purchaser and Seller, Purchaser will not be obligated to pay Seller's legal expenses unless warded in a final non-appealable order or judgment of a court having competent jurisdiction.

35.23 Captions: The paragraph captions and Table of Contents are for convenience only and are not part of the text of this Agreement, nor to be used to interpret its provisions.

35.24 References: All references in this Agreement to a paragraph, subparagraph, clause, Exhibit, refer to the paragraphs, subparagraphs and clauses of this Agreement and to an Exhibit attached to this Agreement. The words "hereof", "herein", "above", "below" and similar terms mean this Agreement. Each Exhibit attached to this Agreement is part of this Agreement.

35.25 Grammar: Any number (plural or singular), or gender (masculine, feminine or neuter) or tense (past, present or future) used herein shall be deemed to include any other number, any other gender and any other tense, as the context may require or to correct a grammatical error.

35.26 U.S. Dollars: All payments and dollar amounts in this Agreement are in the currency of the United States (i.e., U.S. dollars).

35.27 Credit Check: Purchaser authorizes Seller and its designated mortgage broker, agents and employees to check Purchaser's credit and judgment history and to obtain reports on Purchaser's credit and judgment history from credit agencies, bureaus and companies. Upon written request from Purchaser, Seller will inform Purchaser of the name and address of each agency, bureau or company furnishing said report.

35.28 Counterparts and Signatures: The Parties are separately signing counterparts of this Agreement with an actual or electronic signature and transmitting the executed counterpart by facsimile, electronic, PDF format or other comparable transmission, which shall be deemed an original for all purposes, with all such separately executed and transmitted counterparts comprising one and the same instrument, fully valid, binding and enforceable for all purposes. The Parties waive the "best evidence rule" or any similar law or rule in any litigation in which said signed reproduction of the signed original of this Agreement is presented as evidence or for enforcement.

END OF TERMS AND CONDITIONS OF PURCHASE AND SALE AGREEMENT
The Exhibits to this Purchase and Sale Agreement start on the following page.

EXHIBIT A

FINAL INSPECTION STATEMENT

171 Calyer Street Project LLC
463 Seventh Avenue 4th Floor
New York, New York 10018

Re: Residential Unit ___ ("**Unit**")
The Calyer Greenpoint
171 Calyer Street
Brooklyn, New York 11222

Gentlemen:

This is to confirm that based on my/our personal inspection of the above referenced Unit, I/we have found the Unit and its Limited Common Elements, including its floors, walls, doors, fixtures, appliances, hardware, facilities and all other items listed below (if and to the extent included in the sale pursuant to the Purchase and Sale Agreement to which this EXHIBIT A is attached) to be in good and satisfactory working order and condition, free of chips, marks, scratches, breaks, defects or other imperfections, except for those matters (if any) expressly noted and detailed below under "Exceptions" requiring repair, adjustment or correction:

Item	Exceptions (or Accepted if not otherwise noted)	Purchaser's Initials
1. Unit Interior:		
(a) Walls:		
(b) Floors:		
(c) Ceilings:		
(d) Windows: (glass, sash, pane, sill, etc.)		
(e) Doors:		
(f) Electrical fixtures:		
(g) Painted surfaces:		
(h) Countertops:		
(i) Kitchen Cabinets:		
(j) Refrigerator/Freezer:		
(k) Cooktop:		
(l) Oven/Microwave Oven:		
(m) Dishwasher:		

	Item	Exceptions (or Accepted if not otherwise noted)	Purchaser's Initials
(n)	Washer/Dryer		
(o)	Kitchen Sink:		
(p)	Bathroom Sink(s):		
(q)	Water Closet(s):		
(r)	Bathtub/Shower:		
(s)	Hardware: (doorknob, faucets, locks, etc.)		
(t)	Intercom:		
(u)	Bathroom Vanity/Cabinet:		
(v)	Bathroom Medicine Cabinet:		
(w)	Other:		

2. General Operating Condition:

(a)	All Doors:		
(b)	All Windows:		
(c)	All Plumbing (including Hot Water):		
(d)	All Hardware:		
(e)	All Cabinets:		
(f)	Other:		

I/We understand that to prevent pilferage, certain items (such as a shower head and toilet seat), if now absent, will be installed just prior to the date I/we move in.

I/We will sign and deliver to you a separate statement signifying my/our satisfaction with each item excepted above (if any), immediately upon completion of its repair, adjustment or correction.

I/We understand and agree that you shall not be obligated to make any repairs, adjustments or corrections to the Unit or any portion thereof or its fixtures, appliances and other facilities contained the Unit or its Limited Common Elements, from and after the date of Closing under the undersigned's Purchase and Sale Agreement for the Unit, except as to those items (if any) expressly excepted above (and your obligation regarding each such excepted item (if any) shall cease upon completion of its repair, adjustment or correction), and except further to the extent required under the Plan to correct any Latent

Construction Defects in the Unit and its Limited Common Elements (as provided in the Plan and undersigned's Purchase and Sale Agreement) as to which I/we give you timely written notice in accordance with the Plan and said Purchase and Sale Agreement.

I/We shall pay the full amount of the Purchase Price set forth in said Purchase and Sale Agreement (without reduction, set-off or credit and without escrowing any monies) and accept title to the Unit on the date of Closing, notwithstanding the existence of any Exceptions listed above.

I/We understand and agree that you will not be bound hereby unless you or your authorized representative sign and deliver this Final Inspection Statement to me/us.

The meanings given to the terms defined in the Purchase and Sale Agreement shall apply when such terms are used herein.

Very truly yours,

Purchaser:

Signature: _____

Name: _____

Signature: _____

Name: _____

Agreed To:
171 Calyer Street Project LLC

By:
Signature: _____

Name: _____

Title: _____

END OF EXHIBIT A
FINAL INSPECTION STATEMENT

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▶ **Go to *www.irs.gov/FormW9* for instructions and the latest information.**

Give Form to the requester. Do not send to the IRS.

Print or type. See **Specific Instructions** on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

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

Requester's name and address (optional)

6 City, state, and ZIP code

7 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 generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN,* later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* 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); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

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 for Part II, later.

Sign Here **Signature of U.S. person ▶** **Date ▶**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9.*

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

Form **W-8BEN**

(Rev. October 2021)

Department of the Treasury
Internal Revenue Service

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)

▶ **For use by individuals. Entities must use Form W-8BEN-E.**
▶ **Go to *www.irs.gov/FormW8BEN* for instructions and the latest information.**
▶ **Give this form to the withholding agent or payer. Do not send to the IRS.**

OMB No. 1545-1621

Do NOT use this form if:	**Instead, use Form:**
• You are NOT an individual	W-8BEN-E
• You are a U.S. citizen or other U.S. person, including a resident alien individual	W-9
• You are a beneficial owner claiming that income is effectively connected with the conduct of trade or business within the United States (other than personal services)	W-8ECI
• You are a beneficial owner who is receiving compensation for personal services performed in the United States	8233 or W-4
• You are a person acting as an intermediary	W-8IMY

Note: If you are resident in a FATCA partner jurisdiction (that is, a Model 1 IGA jurisdiction with reciprocity), certain tax account information may be provided to your jurisdiction of residence.

Part I Identification of Beneficial Owner (see instructions)

1	Name of individual who is the beneficial owner	2 Country of citizenship
3	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
4	Mailing address (if different from above)	
	City or town, state or province. Include postal code where appropriate.	Country
5	U.S. taxpayer identification number (SSN or ITIN), if required (see instructions)	
6a	Foreign tax identifying number (see instructions)	6b Check if FTIN not legally required ☐
7	Reference number(s) (see instructions)	8 Date of birth (MM-DD-YYYY) (see instructions)

Part II Claim of Tax Treaty Benefits (for chapter 3 purposes only) (see instructions)

9 I certify that the beneficial owner is a resident of _____ within the meaning of the income tax treaty between the United States and that country.

10 **Special rates and conditions** (if applicable—see instructions): The beneficial owner is claiming the provisions of Article and paragraph _____ of the treaty identified on line 9 above to claim a _____ % rate of withholding on (specify type of income):

_____.

Explain the additional conditions in the Article and paragraph the beneficial owner meets to be eligible for the rate of withholding: _____

Part III 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:

- I am the individual that is the beneficial owner (or am authorized to sign for the individual that is the beneficial owner) of all the income or proceeds to which this form relates or am using this form to document myself for chapter 4 purposes;
- The person named on line 1 of this form is not a U.S. person;
- This form relates to:
  - (a) income not effectively connected with the conduct of a trade or business in the United States;
  - (b) income effectively connected with the conduct of a trade or business in the United States but is not subject to tax under an applicable income tax treaty;
  - (c) the partner's share of a partnership's effectively connected taxable income; or
  - (d) the partner's amount realized from the transfer of a partnership interest subject to withholding under section 1446(f);
- The person named on line 1 of this form is a resident of the treaty country listed on line 9 of the form (if any) within the meaning of the income tax treaty between the United States and that country; and
- 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. **I agree that I will submit a new form within 30 days if any certification made on this form becomes incorrect.**

Sign Here ▶ ☐ I certify that I have the capacity to sign for the person identified on line 1 of this form.

_____ _____
Signature of beneficial owner (or individual authorized to sign for beneficial owner) Date (MM-DD-YYYY)

_____
Print name of signer

DOCUMENT 3

CONDOMINIUM UNIT DEED

THIS INDENTURE, made the ___day of _____, 202_, between:

171 Calyer Street Project LLC, a Delaware limited liability company, having an office at 463 Seventh Avenue 4th Floor, New York, New York 10018 (**"Grantor"**);

and

_____

_____

having an address at _____
(**"Grantee"**)

WITNESSETH:

That the Grantor, in consideration of Ten and 00/100 Dollars ($10.00) and other good and valuable consideration paid by the Grantee, the receipt and sufficiency of which are hereby acknowledged, does hereby grant and release unto the Grantee, the heirs or successors and assigns of the Grantee, forever:

The condominium unit ("**Unit**") in the premises known as The Calyer House ("**Condominium**"), said Unit being designated and described as [Residential] [Parking] [Storage] Unit No. _____ in that certain declaration of condominium ("**Declaration**") establishing a plan for condominium ownership of the premises known as and by the street number 171 Calyer Street Brooklyn, New York ("**Building**") and the land upon which the Building is situated ("**Land**", as described in EXHIBIT A annexed hereto and made a part hereof) pursuant to Article 9-B of the Real Property Law of the State of New York ("**Condominium Act**"), recorded in the Kings County Office of the City Register of The City of New York ("**City Register's Office**") on _____, 202__, in CRFN # _____; and said Unit also designated as Tax Lot _____ in Block 2573 of the borough of Brooklyn and on the Tax Map of the Real Property Assessment Department of The City of New York and on the "**Floor Plans**" of said Building certified by Robert Bianco, Architect on _____ and filed with the Real Property Assessment Department of The City of New York on _____ as Condominium Plan No. _____ and filed in the City Register's Office for Kings County, State of New York, on _____ __202__ as Map No._____;

together with an undivided _____% interest in the Common Elements;

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

together with all right, title and interest, if any, of Grantor in and to the land lying in the streets in front and adjoining said premises;

together with all right, title and interest, if any, of Grantor in and to all strips and gores adjacent to the Land described in EXHIBIT A hereto, and easements, if any, appurtenant thereto; and

subject also to all exceptions to title and to such other liens, agreements, covenants, easements, restrictions, declarations, consents and other matters of record or set forth in the Offering Plan of the Condominium as pertain to the Unit, to the Land and/or to the Building (the Land and Building are hereinafter collectively called the "**Property**").

This Unit is subject to the powers, duties, easements, requirements, burdens, encroachments, limitations and restrictions contained in the Declaration, the By Laws and the Rules and Regulations of the Condominium establishing The Calyer House, as each may be duly amended from time to time, 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. By accepting this deed, Grantee: (a) accepts, ratifies and assumes the terms of the Declaration, the By-Laws and the Rules and Regulations, as each may be duly amended from time to time; (b) agrees to comply with all the terms thereof; (c) irrevocably designates and appoints Sponsor, the Condominium Board and the Development Rights Owner, separately, as Grantee's agent; and (d) grants each such agent with all authority and power to do or perform as agent of Grantee all subjects and matters applicable to such agent set forth in Article 12 of the Declaration.

The words and terms defined in the Declaration or the By-Laws of the Condominium that are used herein without express definition shall have the same meanings given to them in said instruments.

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

If any provision of the Declaration or the By-Laws is invalid under, or would cause the Declaration or the By-Laws to be insufficient to submit the Property to, the provisions of the Condominium Act, or otherwise fails to comply with the Condominium Act, or if any provision that is necessary to cause the Declaration and the By-Laws to be sufficient to submit the Property to the provisions of the Condominium Act is missing from the Declaration or the By-Laws, the applicable provisions of Section 21.2 of the Declaration shall control.

Except as otherwise expressly permitted by the Condominium Board or provided in the Declaration or the By-Laws, the Unit is intended for use only as a [dwelling and incidental home occupation allowed by Law] [for parking a motor vehicle whose dimensions (i.e., width, length and height) shall fit entirely within the dimensions of the Unit] [storage of personal belongings and effects], all as more particularly provided in the Declaration.

The Grantor covenants that the Grantor has not done or suffered anything whereby the Unit has been encumbered in any manner whatever, except as aforesaid. This covenant is for the personal benefit of Grantee only and cannot be assigned to, or enforced or exercised by, and shall not inure to the benefit of, anyone else, including (but not limited to) any insurer of Grantee's title or any successor of Grantee's interest. In the event of any breach of this covenant, Grantee shall first seek recovery against Grantee's title insurance company (if any) and Grantor's liability hereunder shall be limited to the extent only that Grantee's loss or damage is not insured by Grantee's title insurer. In the event that Grantee shall elect not to purchase title insurance, then the liability of Grantor shall be limited to the extent only that any loss or damage would not have been covered by the title insurance that was available to Grantee as of the date of this conveyance. The terms of any marked-up title binder issued by any title insurer that is a member of the New York Board of Title Underwriters in connection with any unit in the Building shall be conclusive evidence against Grantee of the title insurance coverage that was available to Grantee as of the date of this conveyance.

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

This conveyance is made in the regular course of business of the Grantor.

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

SIGNATURE PAGE FOLLOWS

END OF TEXT ON THIS PAGE

SIGNATURE PAGE OF UNIT DEED

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

GRANTOR:

171 CALYER STREET PROJECT LLC
By:

Signature: _____

Name: _____

Title: _____

GRANTEE:

Signature: _____

Name: _____

Signature: _____

Name: _____

ACKNOWLEDGMENTS

STATE OF NEW YORK)
): ss.:
COUNTY OF _____)

On the ___ day of _____, 202_, 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/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Signature and Office of
Individual taking Acknowledgment
(Affix Seal or Stamp)

SIGNATURE PAGE OF UNIT DEED

ACKNOWLEDGMENTS

(*Continued*)

STATE OF NEW YORK)
): ss.:
COUNTY OF_____)

On the ____ day of _____, 202_, 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/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Signature and Office of
Individual taking Acknowledgment
(Affix Seal or Stamp)

STATE OF NEW YORK)
): ss.:
COUNTY OF_____)

On the ____ day of _____, 202_, 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/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Signature and Office of
Individual taking Acknowledgment
(Affix Seal or Stamp)

EXHIBIT A

TO

CONDOMINIUM UNIT DEED

DESCRIPTION OF LAND

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND SITUATE, LYING AND BEING IN THE BOROUGH OF BROOKLYN, COUNTY OF KINGS, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING at a point on the northerly side of Calyer Street, distant 25 feet westerly from the corner formed by the intersection of the northerly side of Calyer Street with the westerly side of Manhattan Avenue;

RUNNING THENCE northerly parallel with Manhattan Avenue, 100 feet;

THENCE easterly parallel with Calyer Street, 25 feet to the westerly side of Manhattan Avenue;

THENCE northerly along the westerly side of Manhattan Avenue, 25 feet;

THENCE westerly parallel with Calyer Street, 100 feet;

THENCE southerly parallel with Manhattan Avenue, 25 feet;

THENCE westerly parallel with Calyer Street, 100 feet to the easterly side of Lorimer Street;

Thence southerly along the easterly side of Lorimer Street 100 feet to the corner formed by the intersection of the northerly side of Calyer Street with the easterly side of Lorimer Street;

Thence easterly along the northerly side of Calyer Street, 175 feet to the point or place of BEGINNING.

EXCEPTING THEREFROM All that certain plot or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of Calyer Street, distant 25 feet westerly from the corner formed by the intersection of the northerly side of Calyer Street with the westerly side of Manhattan Avenue;

Running thence northerly parallel with Manhattan Avenue, 100 feet;

Thence easterly parallel with Calyer Street, 25 feet to the westerly side of Manhattan Avenue;

Thence northerly along the westerly side of Manhattan Avenue, 25 feet;

Thence westerly parallel with Calyer Street, 100 feet;

Thence southerly parallel with Manhattan Avenue, 25 feet;

Thence westerly parallel with Calyer Street, 4 feet;

Thence southerly parallel with the westerly side of Manhattan Avenue, 100 feet to the northerly side of Calyer Street;

Thence easterly along the northerly side of Calyer Street, 79 feet to the point or place of BEGINNING.

Said premises being known as 171 Calyer Street, Brooklyn, New York.

END OF EXHIBIT A

CONDOMINIUM UNIT DEED

GRANTOR**:** **171 CALYER STREET PROJECT LLC**

TO

GRANTEE: _____

_____

CONDOMINIUM: **THE CALYER HOUSE**

BUILDING**:** **171 Calyer Street**
Brooklyn, New York 11222

PREMISES**:** **[Residential] [Parking] [Storage] Unit No. ___**

County: Kings
Block: 2573
Lot: _____

Record and Return to:

_____

_____

_____

_____

DOCUMENT 4

Condominium Offering Plan Report for

The Calyer Greenpoint

171 Calyer Street

Brooklyn, New York 11222

Sponsor

171 Calyer Street Project, LLC
463 7th Avenue, 4th Floor
New York, New York 10018

Architect

PKSB Architects, P.C.
630 Ninth Avenue, Suite 1200
New York, New York 10036

Mechanical Engineer

Sharon Engineering, P.C.
34-27 Steinway Street, Suite 201
Long Island City, NY 11101

Structural Engineer

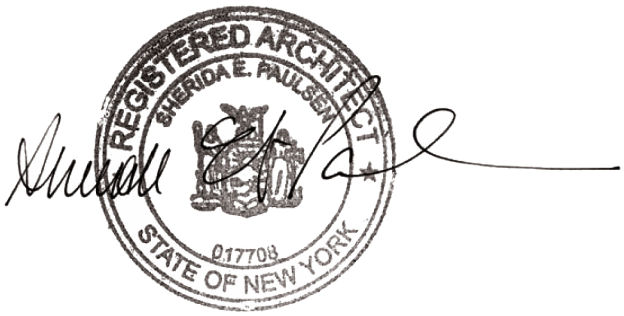
Titan Engineering
1331 Stuyvesant Avenue
Union, NJ 07083

Exterior Wall Consultant

CANY
104 West 29th Street, 5th Floor
New York, New York 10001

Geotechnical Report Prepared by

Big Apple Testing
100-03 9th Avenue
Ozone Park, NY 11416



June 1, 2023

DESCRIPTION OF PROPERTY AND SPECIFICATIONS

20.7 (a)	**Location & Use of Property**	
(1)	**Location/Address:**	171 Calyer Street, Brooklyn, NY 11222
(2)	**Block & Lot number:**	Block 2573, Lot 1001-1050
(3)	**Zoning:**	Zoning Map 13-A; Zoning District: C4-3A / Residential District Equivalent; R6A The Project includes a Zoning Lot Development and Easement Agreement with Adjacent Tax Lot 17. The agreement transfers development rights from the adjacent lot and provides a light and air easement above the roof of the adjacent building. The proposed building is as-of-right for the combined Zoning Lot.
	Quality Housing: **ZR 28-10 BUILDING INTERIOR**	
	ZR 28-12 Refuse Storage and Disposal:	A refuse disposal room is provided on each residential story. The room provides access to a trash chute and space for the storage of recyclables. Recycling will be collected daily by building maintenance. A trash compactor and trash storage room is provided at the cellar level.
	ZR 28-13 Laundry Facilities	Washing machine and electric dryer provided in each unit. No shared facilities provided.
	ZR 28-14 Daylight in Corridors	Not required. No daylight provided in corridors.
	ZR 28-20 RECREATION SPACE AND PLANTING AREAS	
	ZR 28-21 Required Recreation Space	Recreation space required = 3.3% of the residential floor area (34,934 x 3.3% = 1,153 sf required) A 580 sf Exercise Room will be provided at the second floor and a 620 sf outdoor recreation space will be provided at the 6th floor roof for a total of 1,200 sf of recreation space.
	ZR 28-22 Standards for Recreation Space	All recreation space is accessible only from the residential portion of the building. The minimum dimension of any recreation space is 15 feet. Outdoor recreation space is open to the sky. Indoor recreation space has a skylight providing natural light that is greater than 9.5 percent of the total floor space of the room.
	ZR 28-23 Planting Areas	The street wall of the building is located at the street line and therefore no planting areas are required.
	ZR 28-30 SAFETY AND SECURITY	

	ZR 28-31 Density per Corridor	50 percent floor area deduction allowed when maximum number of dwelling units served by a vertical circulation core and corridor on each story does not exceed 11 (for R6 Districts) Maximum number of dwelling units provided on any floor = 7
	ZR 28-40 PARKING	Parking Provided per the underlying district (R6) regulations. Per ZR 25-23, accessory off-street parking spaces are provided for 50 percent of the total number of residences. 23 dwelling units provided = 12 parking spaces required. 12 parking spaces provided below grade.
	ZR 28-21 Screening	Subgrade parking provided. No screening required.
	ZR 28-42 Special Regulations for Off-site Accessory Parking	Not applicable – parking provided on site.
	ZR 28-43 Location of Accessory Parking	Parking provided below grade.
(4)	**Permissible Use:**	Use Groups 1-4 (residential and community facilities); Use Groups 5&6 (hotels, general retail, & offices); Use Groups 8-10 (large retail and amusement), Use Group 12 (entertainment facilities) The proposed used (Use Group 2 – Residential and Use Group 6 – Commercial) are allowed as-of-right.
20.7 (b)	**Status of Construction**	
(1)	Year Built:	New Building. Anticipated Completion: August, 2023
(2)	Class of Construction:	2014 NYC Building Code Construction Type I-A

CONSTRUCTION ELEMENT	**FIRE RATING**
Structural Frame (Concrete)	3 hour
Bearing Walls (Exterior)	None Provided
Bearing Walls (Interior)	3 hour (12” concrete shear walls)
Exterior Walls with a fire separation of 5’-0” or less	1 hour rated required (2 hour rated construction provided)
Exterior Walls with a fire separation distance of 5’-0” to less than 10’-0”	1 hour
Exterior Walls with a fire separation distance of 10’-0” to less than 30’-0”	1 hour
Exterior Walls with a fire separation distance greater than 30’-0”	0 hour
Floor Construction and Secondary Members	2 hour

	Roof Construction and Secondary Members	1-1/2 hour
	Applicable Building Codes:	The project is a new building and has been permitted based on conformance to 2014 NYC Building Code for Architectural and Egress, Structural Design, Accessibility, Mechanical, Plumbing, and Fire Protection; and the 2020 NYC Energy Code for Building Envelope, Lighting, Mechanical, and Plumbing. The proposed new building, if constructed in accordance with the plans and specifications, will be in compliance with all applicable building codes, zoning requirements, and other applicable governmental regulations, including the Americans with Disabilities Act (ADA).
(3)	Certificate of Occupancy:	A final Certificate of Occupancy will be issued upon completion of the work for parking at the cellar level, retail use at the first floor, two recreation rooms at the second floor, 21 residential units at the second through sixth floors, and occupiable roof terraces at the third, through sixth floors. A Temporary Certificate of Occupancy will be obtained prior to units closing.
(4)	Alteration Permit Numbers and Description of Work Done	The work involves demolition of an existing one story plus cellar building previously used as a supermarket and construction of a 6 story plus cellar mixed residential and commercial building. A New Building application has been filed and approved under NYC DOB Job Number: 321593806
20.7 (c)	**Site**	
(1)	Size:	Lot size: 9,600 sf (Street frontage at Calyer Street: 96’-0”, Street Frontage at Lorimer Street: 100’-0”) The project is located on a single Tax Lot and is part of a merged Zoning Lot with adjacent Tax Lot 17. The size of the merged Zoning Lot is 20,000 sf.
(2)	Number of buildings and use:	The project consists of one building for residential and commercial use.
(3)	Streets owned or maintained by the project:	No streets are owned or maintained as part of the property. The following streets that border the property are owned and maintained by the City of New York: South: Calyer Street; West: Lorimer Street
(4)	Drives, Sidewalks and Ramps	
(i)	Paving:	The sidewalks along the property are owned by the City of New York. Sidewalk paving will be replaced in accordance with Builder’s Pavement Plans filed with the Department of Buildings. The sidewalk providing access to the building shall be free of tripping hazards and

		ponding, and the condominium shall be responsible for maintaining the sidewalks per the requirements of NYC DOT. The sidewalks are sloped so as to drain water away from the building foundation.
(ii)	Curbing:	Granite curbs will be provided in accordance with the Builder's Pavement Plan filed with the Department of Buildings.
(iii)	Catch basins, drainage:	A catch basin exists at the southwest corner directly adjacent to the sidewalk curb between two pedestrian ramps. The catch basin is owned and maintained by the City of New York.
(iv)	Street lighting:	One standard DOT light post exists at Calyer Street near the corner of Lorimer Street. The light post is maintained by the City of New York.
(v)	Conformance to local codes:	All site access, entrances, egress elements, and sidewalk elements installed as part of this project will be in conformance with the ADA, the 2014 NYC Building Code and NYC Department of Transportation Standards.

20.7 (d) Utilities

Electricity:	Electric service will be provided by Consolidated Edison. Individual meters serving each Residential Unit shall be provided. A separate House Meter shall be provided to serve the building's common. Retail Units will be metered separately.
Gas:	New Gas Service from Calyer Street with three gas meters, One Meter for Cooking Equipment, One Meter for Roof Top Mechanical Makeup Air Unit and One Meter for Central Water Heater.
Water and Sewer:	One Combined 8" Sewer Service discharge to Lorimer Street, Storm flow controlled by Detention Tank located at Cellar Level. Sewer is not metered. One 3" Diameter Domestic Water Service from Lorimer Street with 3" Diameter RPZ Watts Model LF009 and One 6" Diameter Fire Protection Service from Lorimer Street with 6" Diameter Wilkins Model 350ASTDA. Both water services are metered individually.
Telephone:	"Local" telephone service will be available for all Residential Units & provided by Verizon, Spectrum and/or another service provider. Every Residential and Retail Unit Owner will be required to pay their individual telephone charges and initial charges for activating individual outlets in the Unit. The telephone charges with respect to the public areas of the building (such as the concierge's desk, maintenance offices, fire alarm and elevator, etc.) will be borne as a Residential

		Common Expense by all Residential, Parking, and Storage Unit Owners. In each Residential Unit a telephone outlet will be provided in locations as indicated on the plans.
	Cable Television and Internet:	i. Cable Television services will be available for all Residential Units provided by Spectrum or Verizon FIOS (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. In each Residential Unit, a Cable TV outlet will be provided as indicated on the plans. ii. High speed internet service will be available for all Residential Units provided by Spectrum or Verizon FIOS. It is the responsibility of the Unit Owner to obtain such service from an internet service provider servicing the Condominium, and the cost of such service shall be paid by the Unit Owner.
20.7 (e)	**Sub-Soil Conditions**	
(1)	Uneven or Settling Conditions:	Per the geotechnical report by Big Apple Group on January 11, 2021, borings indicate that the soil stratum classified as medium fine sand/clayey sand/clay (Class 3b & 4b) found at the proposed elevation of the footing/foundation system for the proposed development has a bearing capacity of 3 tons per square foot as per the NYC Building Code 2014. The soil stratum at this elevation is considered satisfactory bearing material by the NYC Building Code 2014 and is adequate to support a shallow foundation system. The above described geotechnical report finds no land subsidence, expansive soils, hazardous materials, or environmental restrictions present on the property.
(2)	Evidence of Moisture, Seepage:	Groundwater table was observed in borings at depths corresponding to elevations between 5.64’ – 6.96’ above NAVD88 datum. (Approximately 8'-10” – 10’-2” below the proposed cellar slab). No evidence of moisture or seepage or groundwater infiltration.
(3)	Danger from flooding:	
	FEMA Flood Zone:	Not in a flood zone; outside the 0.2% annual chance of flood, per FEMA designation
	Water Table:	Borings revealed groundwater between 8'-10” – 10’-2” below the proposed cellar slab.
20.7 (f)	**Landscaping and Enclosures**	
(1)	Grass Cover:	None

(2)	Plantings:	None
(3)	Trees:	There are 3 existing tree pits with deciduous trees on Lorimer Street and 3 existing tree pits with deciduous trees on Calyer Street. Existing trees are to be protected during construction and replaced, if damaged, according to NYC Department of Parks and Recreation guidelines.
(4)	Fencing:	None
(5)	Gates:	None
(6)	Garden Walls:	None
(7)	Retaining Walls:	None
(8)	Display Pools and Fountains:	None
20.7 (g)	**Building Size**	
(1)	Total Height:	67’-0”
(2)	Crawl Spaces:	None
(3)	Number of cellars and sub-cellars:	One below-grade level designated as Cellar.
(4)	Number of Floors Above Grade:	Six
(5)	Equipment Rooms:	Cellar: Water Service Room, Gas Room, Fire Pump Room, Electrical Service and Meter Room. Second Floor: Hot Water Heater Room, Elevator Machine Room.
(6)	Parapet Heights:	There will be a 3’-6“ high brick parapet at the 4th, 5th, and 6th floor setbacks. There will be a 3’-6” high metal screen at the 3rd floor setback. There will be a 5’-6” high mechanical screen at the north portion of the 6th floor setback. There will be a 3’-6” high metal pipe railing at the roof above the 6th floor.
20.7 (h)	**Structural System**	
	Foundation:	The building foundation consists of existing 12” thick concrete walls with additional 3” of concrete and reinforcement at the interior face of existing foundation. No underpinning is required. Foundation walls are partially existing. Waterproofing at outside face of existing foundation walls is assumed and no water infiltration observed. An additional 3” of concrete has been added to the inside face of existing foundation walls.

		No sub-soil drainage system is required since the observed ground water level is several feet below the building foundation. A vapor barrier is provided below new slab-on-grade.
	Sound Insulation:	Floors to be provided with acoustical pad, insulation board, or acoustic adhesive (for wood flooring) to provide an IIC rating of 50 or greater at all floor slabs.
	Structural System of Floors:	Structural concrete slabs 8” minimum thickness
(1)	Exterior of Building:	The building structure is structural concrete.
(i)	Exterior Walls:	Calyer Street and Lorimer Street Walls, 3rd Floor, 4th Floor, and 5th Floor Setback Walls: Non-load bearing exterior walls, constructed of light-gage metal stud framing with batt cavity insulation (R-19), exterior sheathing, exterior insulation (R-10), and new face brick. Walls are non-rated where fire separation distance is greater than 30’-0”. Walls are 1 hour rated where fire separation distance is 5’-0” to less than 30’-0” East and North Lot Line facing walls: Non-load bearing 6” Concrete Block walls with rigid insulation at the interior face (R-10). A 1” seismic gap will be provided between the exterior face of Concrete block and property line. Walls are 2 hour rated. 6th Floor Setback Walls: Non-load bearing exterior walls, constructed of light gage metal stud framing, exterior sheathing, and new Exterior Insulated Finishing System (EIFS) (R-15). Walls are non-rated where fire separation distance is greater than 30’-0”. Walls are 1 hour rated where fire separation distance is 5’-0” to less than 30’-0”
	Local Law 11:	Not applicable for buildings 6 stories or less in height.
	Type of Construction:	Fireproof Class 1
(ii)	Windows:	New double-paned thermally broken aluminum simulated double hung casement windows by Peerless Windows and Doors at Residential Units on floors 2-5. U-Factor: 0.377 New thermally broken aluminum window wall with casement vents and terrace doors by Peerless Windows and Doors at 6th floor penthouse. U-Factor: 0.377 Windows U-Factor: 0.386 Swinging Door New thermally broken aluminum storefront assembly by Kawneer at first floor Retail Units. U-Factor: 0.4
	Flashing:	Perma-barrier Membrane Flashing and Stainless Steel metal flashing

Caulking:	Master Seal NP1 by BASF acoustic/sound dampening polyurethane sealant
Glazing:	1” Insulated Glazing Unit
Lintels:	Hung Steel Lintels
Sills:	Cast Stone
Finish:	Factory applied painted finish
Hardware:	Lever handles, limit stops, and door handles provided by window manufacturer
Screens:	Not provided
Storm Windows:	Not provided
Warranty:	By window manufacturer. There is a 10 year warranty on material, 20 year warranty on finish, and 20 year warranty on glass and glazing.

Lot Line Windows:

The combined zoning lot and related light and air easement allows for the use of tax lot line-facing windows to be used for legal light and air. All windows facing onto the adjacent building on the same zoning lot are set back from the tax lot line by a minimum of 5’-0”. All windows used for legal light and air face onto a legal court measuring 79’-0” x 100’-0”.
Windows located at the tax lot line are limited to 10% of the area of the exterior wall and are not used to fulfill any legal light and air requirements.
There will be lot line windows in the following units:

Unit 3E: One 3’-4” wide x 6’-8” high window located at the east lot line. (Not used for legal light and air)

Unit 4C: One 3’-4” wide x 6’-8” high window located at the east lot line. (Not used for legal light and air)

All lot line windows will consist of thermally broken aluminum simulated double hung casement windows with insulated glass limited to the areas permitted by code. Sprinkler protection at each window will be provided.

If required, the Condominium Board will perform work necessary to close any lot line windows at the expense of all Residential, Parking, and Storage Unit Owners only.

Windows in the following Residential Units are located 5’-0” from the east property line and rely on a light and air easement above the adjacent property as described in the Zoning Lot Development Agreement.

Unit 3F: Five 3'-8" wide x 6'-8" high windows and one 3'-8" wide x 8'-8" high terrace door and transom.

Unit 3G: Three 3'-8" wide x 6'-8" high windows.

Unit 4A: Three 3'-4" wide x 6'-8" high windows.

Unit 4D: Six 3'-4" wide x 6'-8" high windows.

Windows in the following Residential Units are located 16'-2" from the east property line and rely on a light and air easement above the adjacent property as described in the Zoning Lot Development Agreement.

Unit PH: Three 7'-4" wide x 8'-0" window wall units with operable casements or doors, One 4'-8" x 8'-0" wide window wall unit with operable casement vent.

(iii) Landmarks Status: 171 Calyer Street is located within a New York City Historic District (the Greenpoint Historic District), and is listed on the State and National Registers of Historic Places.

Consequences: All work on the building and individual Units, both interior and exterior, other than routine maintenance (limited to window repair, repainting storefronts with the same color and finish, routine cleaning, and repair or replacement of door or window hardware), requires review and approval by the New York City Landmarks Preservation Commission under current regulations. These reviews and approvals must be obtained prior to issuance of permits for construction.

(2) Parapets and Copings: Parapets at the 4th, 5th, and 6th floor setbacks will be constructed of concrete with face brick at the exterior street facing wall and interior face of parapet wall. A stucco finish will be provided at interior face of parapet walls at the 6th floor mechanical roof area. Copings will be architectural cast stone.

Parapets at the 3rd floor setback will be constructed of concrete block with stucco finish at the interior face of parapet wall. Copings will be a painted aluminum assembly. A terrace screen will be provided and will be anchored to the inside face of parapet wall.

The roof above the 6th floor will have no parapets. Roofing will terminate at membrane flashing at the perimeter and a painted aluminum coping assembly will be provided. A protective pipe railing will be provided and will be anchored directly to the concrete slab below.

(3) Chimneys and Caps: 4"dia. CPVC flues from 2nd floor to the roof w/caps. There are no metal flues.

	Number of Flues:	2 flues and 2 combustion air
	Boilers:	Two Power Direct Vent Water Heater located at 2nd floor water heater room, A.O.Smith Model BTH-199Mxi
	Incinerators:	None
	Compactors:	Trash compactor provided at cellar level.
	Fireplaces:	None
(4)	Balconies and Terraces:	
(i)	Deck Finish:	2" thick concrete pavers on shims will be provided at the following locations: Unit 3F Terrace Unit 4A Terrace Unit 4B Terrace Unit 4C Terrace Unit 5C Terrace Unit 5D Terrace Unit PH Terrace Shared Recreation Terrace at 6th Floor The terrace pavers and shims are included in the outdoor area of the corresponding Residential Unit. The terrace pavers and shims comprising the Shared Recreation Roof Terrace are included in the Residential Common Elements. The roof below, and all parapets, copings, rails, fencing, and drainage systems enclosing, the Shared Recreation Roof Terrace are included in the General Common Elements.
(ii)	Balustrades:	None
(iii)	Railings:	Painted metal terrace divider screen will be provided. 6" metal slats with 1/2" gaps provided. No ladder effect created.
(iv)	Copings:	Cast Stone
(v)	Soffits:	None
(vi)	Doors to Terraces:	New thermally broken aluminum and glass terrace doors by Peerless Windows and Doors at 6th floor penthouse. U-Factor: 0.377 Transom U-Factor: 0.386 Swinging Door Doors are warrantied under window and door warranty described above.
(5)	Exterior Entrances:	

(i)	Exterior Doors & Frames:	Aluminum and glass entry doors by Kawneer (single pane of glass at each door) within thermally broken aluminum storefront system by Kawneer will be provided at the residential lobby entrance and at each retail entrance along Calyer Street. Doors U-Factor: 0.436 Storefront U-Factor: 0.364
(ii)	Vestibule Doors & Frames:	Aluminum and glass vestibule doors to be provided at the main residential lobby entrance. Access control provided by intercom security and virtual doorman system. See section 20.7 (p) for full description.
(iii)	Exterior Stairs:	None
(iv)	Railings:	None
(v)	Mailboxes:	New aluminum USPS approved mailboxes will be installed at the residential lobby vestibule.
(vi)	Lighting:	New exterior ceiling mounted fixtures will be provided at the underside of canopy at the main lobby entrance. New exterior wall sconces will be provided at brick piers along Calyer and Lorimer Street.
(6)	Service Entrances:	None
(i)	Doors and Frames:	Insulated aluminum egress door within thermally broken aluminum storefront system will be provided at the egress doors on Lorimer Street and Calyer Street. A surface mounted insulated overhead rolling steel door will be provided at the parking garage entrance on Lorimer Street.
(ii)	Gates:	None
(iii)	Exterior Stairs:	None
(iv)	Railings:	None
(7)	Roof & Roof Structures:	
(i)	Roof Types:	**Roof Assembly 1**: 3rd Floor Unit 3F terrace, 4th Floor Setback Roof, 5th Floor Setback Roof, and 6th Floor Setback Roof. **Roof Assembly 2:** 3rd Floor setback roof above recreation room, Roof above 6th Floor, Elevator bulkhead Roof.
(a)	Roof Material:	**Roof Assembly 1**: 2’’-0” x 2’-0” x 2 inch thick Concrete pavers by Hanover on shims above filter fabric, extruded polystyrene insulation (R-33), drainage mat,

		SBS modified bitumen roofing membrane, torch applied base sheet, and asphalt primer over new structural concrete slab. Roofing membrane by Firestone. Paver finish is compatible with roofing and will be warrantied Anticipated date of completed installation: July, 2023 **Roof Assembly 2:** SBS modified bitumen roofing membrane over tapered polyisocyanurate insulation (R-33), torch applied base sheet, and asphalt primer over new structural concrete slab. Roofing membrane by Firestone. Concrete ballast pavers are accepted by the manufacturer and are included in the Limited Warranty. Anticipated date of completed installation: July, 2023
(b)	Insulation:	**Roof Assembly 1**: Rigid closed-cell extruded polystyrene foam insulation **Roof Assembly 2:** Polyisocyanurate tapered insulation
(c)	Surface Finish:	**Roof Assembly 1**: Concrete pavers by Hanover **Roof Assembly 2:** SBS modified bitumen roofing membrane by Firestone
(d)	Bond or Guarantee:	There will be a 20 year limited warranty on the roofing system(s) or material(s) issued by the roofing manufacturer. Anticipated commencement date will be July, 2023.
(e)	Flashing Materials:	Copper sheet metal
(ii)	Drains:	
(a)	Location, Material, and Type:	Cast Iron roof drains provided at all Roofs and Terraces. Secondary roof drainage provided at every roof. Secondary roof drains raised 2 inches above primary roof drains are provided at setback roofs and terraces on the 3rd through 6th floors. A scupper raised 2” above primary roof drain is provided at the roof above the 6th floor.
(b)	Gutters and Leaders:	One leader provided at scupper from roof above 6th floor to 6th floor setback roof. A gutter to drain is provided at the marquee above the residential entrance.
(iii)	Skylights:	One new fixed thermally broken aluminum and glass skylight by Kawneer (1600 System) approximately 3’-9” x 20’-7” to be provided above second floor exercise room. Glazing: Double-Paned Insulated glazing unit. Fully tempered glass. U-Factor: 0.470 One new metal and glass skylight approximately

		3'-0"x8'-0" with ridge ventilator to be provided at the top of each egress stair. Warranty: 5 years
(iv)	Bulkheads:	
(a)	Stairs:	None. Egress Stairs A & B extend to the 6th floor penthouse level and provide access to the 6th floor setback roof through door openings to the setback roof level in compliance with NYC Building Code Section 1009.13.1 and with NYC Fire Code Chapter 10. Access to the roof above the 6th floor will be provided via exterior stair/ship's ladder at the north portion of the roof.
(b)	Elevator:	A 5'-6" high bulkhead will be provided for elevator overrun. Wall construction consists of 12" concrete shear walls or 8" concrete block wall and Exterior Insulated Finishing System (EIFS).
(c)	Other:	
(v)	Metal Work at Roof Levels:	
(a)	Exterior, Metal Stairs:	One exterior painted steel ship's ladder for access to roof above 6th floor will be provided at the north portion of the 6th floor setback roof.
(b)	Vertical Ladders:	None
(c)	Railings:	A painted steel pipe railing will be provided at the roof above the 6th floor penthouse level.
(d)	Hatches:	None
(e)	Other:	
(vi)	Rooftop Facilities:	
	Mechanical Areas:	Rooftop condensing units for Residential and Retail Units and residential common areas will be located at the north portion of the 6th floor setback roof. A makeup air unit for residential corridors will be located at the north portion of the 6th floor setback roof. Exhaust fans and gooseneck ducts for toilet and kitchen ventilation will be located at the north portion of the 6th floor setback roof and at the roof above the 6th floor. An exhaust fan serving the below grade parking garage will be located at the roof above the 6th floor.
	Mechanical Rooms:	None

	Other:	Photovoltaic solar panels will be provided at the roof above the 6th floor.
(8)	Fire Escapes:	None
(9)	Yards and Courts:	An outer court 79'-0" wide x 100'-0" deep beginning at a level above the existing adjacent one-story building provides legal light and air to Units 3F, 3G, 4A, 4D, and PH.
(i)	Paving Material:	Concrete Pavers on shims at Unit 3F
(ii)	Drainage:	A primary and secondary drain are provided at Unit 3F terrace. There are existing roof drains at the adjacent building roof. Every roof area is drained by a minimum of two drains. See section 20.7 (7)(ii)(a) above for description of secondary drainage system.
(iii)	Railings:	None
(iv)	Stairs:	None
(v)	Fencing:	A painted metal screen will be provided at Unit 3F terrace.
(vi)	Walls:	None
(10)	Interior Stairs:	
(i)	Number of Stairs of Each Type:	There will be two interior egress stairs serving all residential floors. Stair A will egress through a 2 hour rated corridor at the cellar level to Stair C leading to the sidewalk level at Lorimer Street. Stair B will egress through the residential lobby at the first floor to Calyer Street. There will be one egress/access stair (Stair D) from the cellar parking level to the sidewalk at Calyer Street. All interior egress stairs will comply with NYC Building Code Section 1009. There will be one interior non-fire rated convenience stair serving both levels of duplex unit 4B. Riser and tread dimensions will comply with NYC Building Code Section 1009.
(ii)	Enclosure:	12" thick concrete shear wall and 2 hour rated gypsum wall board on metal studs at Stair A 2 hour rated gypsum wall board on metal stud at Stairs B,C, and D.

(iii)	Stair Construction:	Stairs A-D: Concrete Unit 4B Stair: Wood
(iv)	Stringers:	Stairs A-D: Concrete Unit 4B Stair: Wood
(v)	Treads:	Stairs A-D: Concrete Unit 4B Stair: Wood
(vi)	Risers:	Stairs A-D: Concrete Unit 4B Stair: Wood
(vii)	Hand and Guard Rails:	Stairs A-D: Painted Steel Unit 4B Stair: Wood
(viii)	Balustrades:	None
(11)	Interior Doors and Frames:	
(i)	Unit Entrance and Interior Doors and Frames:	90 minute rated hollow metal single panel shaker style doors with rated steel door frames. Doors will be self-closing.
(ii)	Unit Interior Doors and Frames:	Wood single panel shaker style doors with wood frames.
(iii)	Stair Hall Doors and Frames:	90 minute rated hollow metal single panel shaker style doors with rated steel door frames. Doors will be self-closing.
(iv)	Roof Doors:	90 minute rated hollow metal doors with rated steel door frames. Doors will be self-closing.
	Cellar Doors:	90 minute rated hollow metal doors with rated steel door frames. Doors will be self-closing.
(12)	Elevators:	
(i)	Number of Elevators:	One new elevator will be provided.
(ii)	Manufacturer:	Schindler Elevator Corp.
	Capacity:	3,500 lbs.
(iii)	Type of Operation:	Passenger
(iv)	Type of Controls:	Automatic
(v)	Floors Served:	Cellar, 1-6
(vi)	Type:	Traction
(vii)	Doors:	Two-Speed Side Open
(viii)	Location of Machine Room:	Second Floor
(ix)	DC Motor:	N/A

(x)	AC Motor Generator Set:	AC Variable Voltage Variable Frequency
(xi)	Other:	
(13)	Elevator Cabs	
(i)	Manufacturer:	Schindler Elevator Corp.
(ii)	Floor:	Luxury Vinyl Tile
(iii)	Walls:	Stainless Steel, Applied Laminate
(iv)	Ceiling:	Stainless Steel
(v)	Lighting:	LED Downlight
(vi)	Alarm/Safety System:	Stop switch and Fire Service will be provided.
20.7 (i)	**Auxiliary Facilities**	
(1)	Laundry Rooms	
(i)	Location:	Washer and dryer provided in each Residential Unit. See appendix for make and model.
(ii)	Clothes Washer:	24” compact front load washer
(iii)	Clothes Dryer:	24” compact front load electric (ventless) dryer
(iv)	Room Ventilation:	Louvered doors provided at each laundry closet.
(v)	Dryer Ventilation:	N/A – Electric dryer provided.
(2)	Refuse Disposal	
(i)	Incinerators:	None
(ii)	Compactors:	Compactor provided at cellar level. Model MC-4500-M METRO PAK by Metropolitan Compactor Service Corporation. Capacity is 2,500 lbs. per hour.
(iii)	Approvals:	N/A
(iv)	Initial Storage Location:	A garbage chute is provided with access at each floor to convey trash to the storage room at the cellar level. Recycling bins will be provided at each level.
	Ultimate Storage Location:	A garbage and recycling storage room will be provided at the cellar level.
(v)	Pick-up Schedule and Provider:	NYC Department of Sanitation will pick up residential garbage and recycling.
(3)	Bike Storage:	A 121 sf bike storage room will be provided at the first floor. The bike storage room will be accessible from the main residential lobby. Door will be locked and accessible only to residents having a key. Bike rack

		system: Bike File by Dero. Space for 11 bikes will be provided. Individual bikes will be secured (locked) to the rack system by the Residential Unit Owner.
(4)	Residential Storage:	A storage room with 15 individual Storage Units will be provided at the second floor. The storage room will be accessible from the public corridor by stair or elevator. Door will be locked and accessible only to residents having a key. Storage Units will be made of chain link metal partitions and will be provided with a door with locking capability. Locks will be provided by the Residential Unit Owner.
(5)	Mail/Package:	USPS approved horizontal mailboxes will be provided at the entry vestibule for each Residential Unit. There will be a package room adjacent to the entry vestibule. The package room will be accessible from the residential lobby. The room shall be locked and will be accessible only to residents having a key.
20.7 (i)	**Plumbing and Drainage:**	
(1)	Water Supply	One 3”Diameter Domestic Water Supply from Lorimer St connected to Domestic Booster Pump Located at Cellar Level. Domestic and fire protection water services are ductile iron pipe and is approved by NYC DEP. Supply pipes are uninsulated. Federal Domestic Booster Pump Model VSPV-08060-2-D with 80Gallons Hydropneumatics Tank. Domestic Water System protected by 3”Dia RPZ Watts Model LF009 . Main shut off valve is located in the water room in cellar. Piping insulation is fiberglass with conductivity in the range of 0.22 to 0.28 BTU*in./hr.*ft. sq. *deg. F. thickness of insulation is 1.0” for pipes up to 1.5” dia and 1.5” for larger pipe.
(2)	Fire Protection System	One 6” Diameter Fire Protection Water Supply in an approved ductile iron pipe from Lorimer St connected to Fire Pump Located at Cellar Level. Fire Pump Model ITT/A-C Fire Pump Series 1580 Model H4x4x7 (500GPM,162TDH) with Jockey Pump Grundfos Model CR(E)3-7. Fire Protection System protected by 6”Dia DCDA Wilkins Model 350ASTDA. Main shut off valve is located in the water room in cellar.
(i)	Standpipes:	Two 4” Diameter Standpipe (Steel Schedule-40) Located at Staircase
(ii)	Hose racks, Hoses, and Nozzles	2½”Fire Hose Valve located at each floor Stair landing Area. Locked Fire Hose cabinet Located Ground Floor within 15’(ft) of Staircase
(iii)	Sprinkler Heads:	Cellar Floor: Dry System with Dry Valve Victaulic Model 768 with Quick Response Sprinkler 1st Floor: Wet Pipe System with Quick Response Sprinkler

		2nd to Roof: Wet Pipe System with Residential Sprinkler within Residential Units Dwelling area and outside of Residential Units Dwelling area is Quick Response Sprinkler
(iv)	Fire Department Connection:	One Combined (Sprinkler/Standpipe) 6”x3”x3” Fire Department Connection at Grade level facing toward Lorimer St and with 15’(ft) from corner of Calyer Street
(3)	Water Storage Tanks and Enclosures:	
(i)	Number, Type, and Location	One detention tank provided at the cellar level adjacent to the water service room.
(ii)	Material:	Concrete Detention Tank
(iii)	Access to Tank:	Via Manhole in parking ramp surface.
(iv)	Capacity:	N/A, Tank is used for to controlled storm water
(v)	Capacity:	N/A, Tank is used for to controlled storm water
(4)	Water Pressure:	Water Pressure of incoming service is 60PSI. Pumps are used to boost pressure: A domestic duplex booster pump for domestic piping system as listed above and a fire pump for sprinklers system listed above. A 5 year warranty is provided by the manufacturer for material and workmanship.
(5)	Sanitary Sewage System:	
(i)	Sewage Piping:	Cast Iron (No Hub Coupling)
(ii)	Sewage Pumps:	Duplex Sewage Pump Liberty Model LE-70
(iii)	Sewage Disposal:	To Lorimer Street Public Sewer
(6)	Permits required:	DEP Approved Site Connection ID is SCP-18764 DEP Permit Issued 02/03/2023 Plumbing work – NY Department of Buildings Work Permit Issued 07/06/2022
(7)	Storm Drainage System:	
(i)	Catch Basins:	None
(ii)	Yard and Roof Drains:	Roof Drains are located from 3rd floor terrace to Roof Level
(iii)	Piping:	Cast Iron (No Hub Coupling)
(iv)	Eject or Sump Pumps:	None.

20.7 (k) Heating

(1)	Heating and Hot Water:	Cellar mechanical rooms will be heated by Electric fan force heater Berko model FRC4020F 2000W 208V/1PH, Entrances and staircase to be heated by Berko model FRC4020F 2000W and 4000W. Lobby is heated with a heat pump unit that also provide cooling. Please refer to air conditioning section.
(2)	Number of Boilers:	-2 domestic hot water boilers, storage tank type.
(3)	Manufacturer and age of boilers:	A.O. Smith New BTH-199Mxi 199,000 BTU/hr., 235 GPH, thermal efficiency 97%
(4)	Manufacturer and age of burners:	N/A
(5)	Type of Controls:	Thermostat
(6)	Radiators: Piping: Insulation: Valves: Pumps:	N/A Type L hard drawn copper tubing Fiberglass with conductivity in the range of 0.22 to 0.28 BTU*in./hr.*ft. sq. *deg. F Gate valves, bronze, inside screw B&G model PL-36B in line
(7)	Fuel:	Gas
(8)	Location of oil tank: Material: Enclosure:	None provided. N/A N/A
(9)	Capacity of Oil Tank:	N/A
20.7 (l)	**Gas Supply:**	
(1)	Type:	Natural Gas Service from Calyer Street
(2)	Meters:	Three Meter, One for Cooking, One for Central Water Heater and One for Roof Top Units
(3)	Piping:	Steel Pipe (Schedule-40)
20.7 (m)	**Air Conditioning:**	The residential section of the building will be provided with individual, split system air-cooled units with 3, 4 and 5-ton capacities, and capable of maintaining inside temperatures of 78 deg. F. and 60% relative humidity when outside temperatures are 92 deg. F. D.B. and 74 deg. F. W.B., and 72 deg. F. inside when outside temperature is 11 deg. F. Cooling loads assume that residents will use internal blinds, shades or similar window treatment during the cooling season.
(1)	Type of System:	Split, VRV heat pump
(2)	Central System	N/A

(3)	Cooling Towers:	N/A
	Condensers:	Daikin, models: RXTQ36TAVJU 34,200 Btuh cooling capacity, 37,000 Btuh heating capacity, RXTQ48TAVJU 45,500 Btuh cooling capacity, 49,500 Btuh, heating capacity, RXTQ60 57,500 Btuh cooling capacity, 57,500 Btuh heating capacity SEER system performance rating is 18.0. Noise Emission ratings: units up to 50,000 BTU cooling capacity: 58 dB. Units above 50,000 BTU cooling capacity: 57 dB. Exterior metals including fasteners are corrosion resistant. The outdoors equipment is located on the roof and is positioned on top of vibration isolators. Rooftop piping is insulated with heavy density one piece fiberglass insulation with 1" thickness and covered with aluminum jacket and steel bank.
(4)	Individual Units Covered by the Offer:	Ducted Air handlers by Daikin models: FXMQ-09PBVJU, FXMQ-12PBVJU, FXMQ-15PBVJU, FXMQ-18PBVJU, FXMQ-24PBVJU, FXMQ-30PBVJU, FXMQ-36PBVJU. Each unit will be provided with a wall-mounted programmable thermostat. The units are hung from the ceiling at each apartment
20.7 (n)	**Ventilation:**	Cellar will be ventilated via 2 systems. The garage will be ventilated by a garage exhaust fan (specifications below) GX-1. The fan will be interlocked with CO sensors that will activate the fan once CO level exceed set level. the common areas in the cellar are ventilated by air circulation. Fresh air is brought in via ductwork from the make up air unit and is exhausted back up through the roof by trash room exhaust fan. Ventilation exhaust ducts will run vertically through the building serving the bathroom, kitchens, compactor rooms, garage, and corridors. Toilet Exhaust Units TX-1,2,3,4,5,6 will have roof mounted exhaust fans serving each system, TX-7 bathroom mounted fan. Toilet exhaust fans are Greenheck models G-080-GV through G-097-GV 50 to 385 cfm all terminating at the roof. Kitchen Exhaust units. KX-1 will have roof mounted fan, Greenheck model G-097-GV 140 cfm and KX model SP-A390-GV 100 cfm terminating at roof level. Compactor room and 6th Fl trash room exhaust fans CRX-1 (6th Floor) and CRX-2 (roof mounted) Greenheck model G-099-VG and G-060-VG with 850 cfm and 50

cfm. Garage Exhaust GX-1 model USF-24-81 with 5000 cfm will be mounted
on roof. Corridor ventilation system will be provided make-up air to all building public corridors
By Trane model: OABD108F3, 208V/3PH, 1600 CFM
103,000 BTU in cooling and 200,000 BTU heating input.
Cooling efficiency= 13 EER, heating = 80%
Entire unit and parts warrantee= 5 years

Noise Emissions Ratings for Mechanical Venitlation:

Unit (by Greenheck)	service type	sones (noise emissions)
G-090-VG	bathrooms	5.6
G-080-VG	bathrooms	7.3
G-095-VG	bathrooms	10.9
G-097-VG	kitchenette	1.7
SP-80-VG	bathrooms	2.5
SP-A390	kitchenette	5.5
G-099-VG	trash room	9.9
G-060-VG	6th Fl trash rm.	3.7
USF-24-8	garage exh.	75.0

20.7 (o) Electrical System:

(1) Service from Main Switchgear: 2000 Amp, 120/208 3ph, 2 sets of 4- #500MCM conductors in 4" conduit

(2) Service to Individual Units: 3 #1/0 + #6G in 1.5" Conduit.

(3) Compartment Switch Gear: Meters are located in the cellar electrical room and are fed from power distribution panel TDP located in same room

(4) Unit Service: Residential Unit panels have room for 36 circuit breakers. Main breaker is set for 225A
: Panels are sized to handle modern usage and appliances such as air conditioners, dishwashers and dryers.

(5) Adequacy:
(i) Service: Panels have an average number of 26 circuits of per Residential Unit and capacity to handle modern appliances, specifically air conditioners, dishwashers and electric dryers

(ii) Lighting and Fixtures: Lighting is adequate for the Residential Unit, per design. See attached appendix for lighting fixture descriptions on a room-by-room basis.

(iii) Convenience Outlets: Outlets are adequate and meet code. Outlets are provided at all walls in living rooms and bedrooms at regular spacing as required by NYC Electrical Code. GFI outlets are provided at required locations in Kitchens and Bathrooms.

Appliance Outlets: Appliance outlets are adequate. Appliance outlets are located at mounting heights coordinated with the appliance being served and in conformance with NYC Electrical Code.

Emergency Generator: None.

20.7 (p) Intercommunication and/or Door Signal Systems, Security Closed Circuit TV

	Intercom:	A Virtual Doorman® System will be provided. The system will be comprised of a Virtual Doorman Server and Interface module, card access control, digital video surveillance, and the Akuvox owners' intercom System. Virtual Doorman® enables package reception, including dry cleaning, as well as guest access and Resident Lock Out Protection. The system is capable of time management of all vendors. Access logs can be emailed to management for record. The Akuvox intercom system consists of one color video open microphone handsets within each Residential Unit (21 Residential Units total), which are actuated when a guest or visitor press their individual Unit button at the lobby call panel station at the exterior of the building. Alternatively, residents can use the Virtual Doorman smartphone app to grant access to the building. The resident can not only see their visitor at the front entrance before allowing access, but also can call up the elevator camera and view them from their Unit station or smartphone (iOS or Android) while the Virtual Doorman app is open on their phone.
	Security cameras:	The networked video surveillance system is comprised of an enterprise-level digital video recorder that will record video of the building's commercial grade day/night vandal resistant cameras for a minimum of 30 days. The NVR has investigative tools, video enhancement and watermarking technology.
	Access Controls:	The access control system will be managed remotely by the vendor. The system is manufactured by Hartmann Controls. Eight doors will be controlled by a card access system: the main lobby entrance doors, the package closet door, the child's exercise room, storage room (2nd floor), residents' exercise room (2nd floor), door between parking garage and cellar level elevator corridor, inner lobby vestibule and bike storage doors (1st floor). This system manages access to these proximity readers. All residents and any of their guests can be granted full or limited access. A key fob may also be provided to a service company (ie: elevator vendor) which only has limited access during the hours specified by the management company. Access can be blocked by deleting a specified key fob from the list of authorized parties.
20.7 (q)	**Public Area Lighting:**	Recessed downlighting is provided at the underside of marquee at the residential entrance. Wall mounted exterior sconces are provided at commercial entrances and residential egress doors and at exterior recreation terrace. Recessed downlighting and pendant lighting is

		provided at the ground floor residential lobby. Surface mounted ceiling and wall light fixtures are provided at public corridors. Surface mounted wall light fixtures are provided at interior egress stairs. Emergency battery backup lighting is provided for all public areas. Lighting levels comply with NYC Electrical Code and NYC Housing Maintenance Code. See finish and fixture appendix for lighting specifications.
20.7 (r)	**Garages and Parking Areas:**	
(1)	Location of Garage:	Parking garage provided at cellar level.
(2)	Location of Parking Areas:	12 parking spaces accessory to the Residential use will be provided at cellar level as required per the NYC Zoning resolution. Sizes of parking spaces vary. See unit descriptions below and attached drawings for dimensions. An accessible parking space will be provided at the cellar level. Accessible parking unit is noted in the attached drawings. All parking spaces will comply with the NYC Zoning Resolution ZR36-52 for size and location of spaces. No parking spaces provided for the Commercial Unit. Per NYC Zoning Resolution, parking requirement for Commercial uses where less than 25 spaces are required. Required spaces per zoning calculations = 17, therefore parking requirement for Commercial use is waived.
(3)	Surfaces:	Concrete slab on grade, exposed concrete foundation walls and CMU walls.
	Lighting:	Surface mounted light fixtures provided at perimeter walls and columns.
	Parking:	Unattended. Parking Unit spaces will be accessory to the main residential use. Parking Unit spaces are reserved for use by the building occupants and are not for public use. Parking is not required or provided for the building's commercial uses.
	Garage Ventilation:	Ducted ventilation provided by garage exhaust fan provided at roof level.
	Garage Fire Protection:	Sprinklers provided throughout.
	Drainage:	Trench drains provided at top and bottom of parking ramp. Floor drains provided at garage level (cellar)
20.7 (s)	**Swimming Pools:**	None Provided
20.7 (t)	**Tennis Courts, Playgrounds, and Recreation Facilities:**	

(1)	Tennis Courts:	None Provided
(2)	Playgrounds:	None Provided
(3)	Other Recreational Facilities:	A 580 sf residential exercise room will be provided at the second floor. The maximum occupant load per CofO will be 13 persons. A skylight will be provided. Exercise equipment will be provided. See attached finish and fixture appendix. A 240 sf residential children's exercise room will be provided at the second floor. The maximum occupant load per CofO will be 6 persons. Built-in cubbies for storage of toys and play equipment will be provided. See attached finish and fixture appendix. A 620 sf outdoor residential recreation terrace will be provided at the 6th floor setback roof. The maximum occupant load per CofO will be 41. A gas barbeque grill will be provided. An outdoor dining table and chairs, two lounge sofas and three lounge chairs will be provided. Three free-standing planters with low plantings will be provided See attached finish and fixture appendix. A pet grooming station will be provided in the cellar parking garage. A hose bib and floor drain will be provided.
20.7 (u)	**Permits and Certificates:**	Full list of permits available on public record. Periodic inspections required after the building is in operation include but are not limited to the following: Elevator, Sprinkler and Fire Alarm systems, Backflow preventer. Periodic façade inspections are not required for buildings 6 stories or less in height.
20.7 (v)	**Violations:**	
		OATH/ECB Violation Number: 39022264Y The above violation is related to collection of rain water on the roof of existing building and will be resolved by the demolition of the existing building. OATH/ECB Violation Number: 34841467L OATH/ECB Violation Number: 34841500Y OATH/ECB Violation Number: 34841149X OATH/ECB Violation Number: 34450221N OATH/ECB Violation Number: 34451751P The above listed violations are related to the use of the previously existing building and will be resolved by the demolition of the building and construction of a new building with a new Certificate of Occupancy for the approved uses. Sponsor will cure any outstanding violations prior to the closing.

20.7 (w) Unit Information: There are 2 Retail Units, 21 Residential Units, 12 Parking Units, and 15 Storage Units.

Retail 1	First floor Retail Unit – 4,820 sf
Retail 2	First floor Retail Unit – 1,994 sf
Residential Unit 2A	2 bedroom, 3 bathroom
Residential Unit 2B	1 bedroom, 2 bathroom
Residential Unit 2C	3 bedroom, 2.5 bathroom
Residential Unit 2D	1 bedroom, 1.5 bathroom
Residential Unit 2E	2 bedroom, 3 bathroom
Residential Unit 3A	2 bedroom, 3 bathroom
Residential Unit 3B	1 bedroom, 2 bathroom
Residential Unit 3C	3 bedroom, 2.5 bathroom
Residential Unit 3D	1 bedroom, 1.5 bathroom
Residential Unit 3E	2 bedroom, 2.5 bathroom
Residential Unit 3F	3 bedroom, 2.5 bathroom
Residential Unit 3G	1 bedroom, 1.5 bathroom
Residential Unit 4A	3 bedroom, 3.5 bathroom
Residential Unit 4B	4 bedroom, 3 bathroom
Residential Unit 4C	4 bedroom, 3.5 bathroom
Residential Unit 4D	3 bedroom, 3 bathroom
Residential Unit 5A	3 bedroom, 3.5 bathroom
Residential Unit 5C	2 bedroom, 2 bathroom
Residential Unit 5D	2 bedroom, 2.5 bathroom
Residential Unit 5E	2 bedroom, 2 bathroom
Residential Unit PH	3 bedroom, 2.5 bathroom
Parking Unit 1	153 sf
Parking Unit 2	153 sf
Parking Unit 3	153 sf
Parking Unit 4	153 sf
Parking Unit 5	153 sf
Parking Unit 6	153 sf
Parking Unit 7	153 sf
Parking Unit 8	153 sf
Parking Unit 9	153 sf
Parking Unit 10	153 sf
Parking Unit 11	201 sf
Parking Unit 12	173 sf
Storage Unit 1	35 sf
Storage Unit 2	35 sf
Storage Unit 3	35 sf
Storage Unit 4	35 sf
Storage Unit 5	35 sf
Storage Unit 6	35 sf
Storage Unit 7	35 sf
Storage Unit 8	40 sf
Storage Unit 9	35 sf
Storage Unit 10	35 sf
Storage Unit 11	35 sf
Storage Unit 12	35 sf
Storage Unit 13	35 sf
Storage Unit 14	35 sf
Storage Unit 15	34 sf

	Square Footage Calculation:	The indoor area of each Residential, Retail and Storage Unit has been measured horizontally from the prevailing exterior side of an enclosing boundary wall or façade or exterior building wall (but not beyond the property line), or from the midpoint of a party wall separating two Units. Ceiling heights in residential units vary. See attached drawings for dimensions per unit. Each terrace has been measured horizontally from the prevailing exterior side of an enclosing parapet (but not beyond the property line) or from the exposed prevailing surface of an enclosing façade or exterior building wall, or from the midpoint of a fence or barrier separating two terraces. The common elements bordering or within the interior of a Unit or terrace have been included in the computation of the floor area of the Unit and terrace, but such common elements are not part thereof. Each 90 degree Parking Unit is 18 feet in length and 8 feet 6 inches in width. Each accessible van Parking Unit is 18 feet in length and 11 feet 2 inches in width. Each parallel Parking Unit is 20 feet 4 inches in length and 8 feet 6 inches in width.
(1)	Unit Finishes:	See attached Appendix for full specifications Wood flooring is manufactured by The Abadi Group, see Appendix for full description. Wood Flooring Warranty: 3 year warranty for workmanship 25 year product warranty Walls and ceilings with painted finishes shall receive one coat Interior Latex Primer (Benjamin Moore Ultra Spec 500 or equal) and Two coats Interior Latex Paint (Benjamin Moore Ultra Spec 500 or equal). See finish and fixture appendix for color and finish by room.
(2)	Bathroom Fixtures:	See attached Appendix for full specifications
(3)	Kitchen and Laundry Equipment:	See attached Appendix for full specifications
20.7 (x)	**Finish Schedule of Spaces Other Than Units:**	See attached Appendix for full specifications
20.7 (y)	**Safety and Warning Devices:**	The building is fully sprinklered. Smoke detection and sprinkler fire alarm system is provided as required in accordance with NYC code.

Smoke detectors have been provided at each mechanical and utility room, elevator machine room, elevator lobby, top of stair, top of elevator shaft.

Each residential unit contains combined smoke/carbon monoxide detectors located in each bedroom and within 15 feet of any bedroom door.

20.7 (z)	**Additional Information Required:**	
(1)	Site Plan:	See attached plans
(2)	Area Map:	See attached plans
(3)	Unit Floor Plans:	See attached plans
(4)	Floor to Ceiling Heights:	See attached plans
(5)	Area of Each Unit	See attached plans
(6)	Master Floor Plan:	See attached plans
20.7 (aa)	**Building Conditions:**	The building is new construction and will be subject to building code and safety inspections prior to Certificate of Occupancy issuance.
20.7 (ab)	**Further Development:**	No further development planned.
20.7 (ac)	**Asbestos**	No asbestos containing material present.
(1)	Qualifications:	New York State Department of Labor Certified Asbestos Inspectors performed asbestos inspections on the property.
(2)	Inventory:	The entire building was declared free of asbestos containing materials prior to demolition of the existing one-story building. No asbestos containing materials will be used in the construction of the new building.
20.7 (ad)	**Lead-based Paint:**	The previous one-story building has been demolished prior to construction. All interiors will be newly constructed, and all painted finishes will be new with no lead-based paints used.

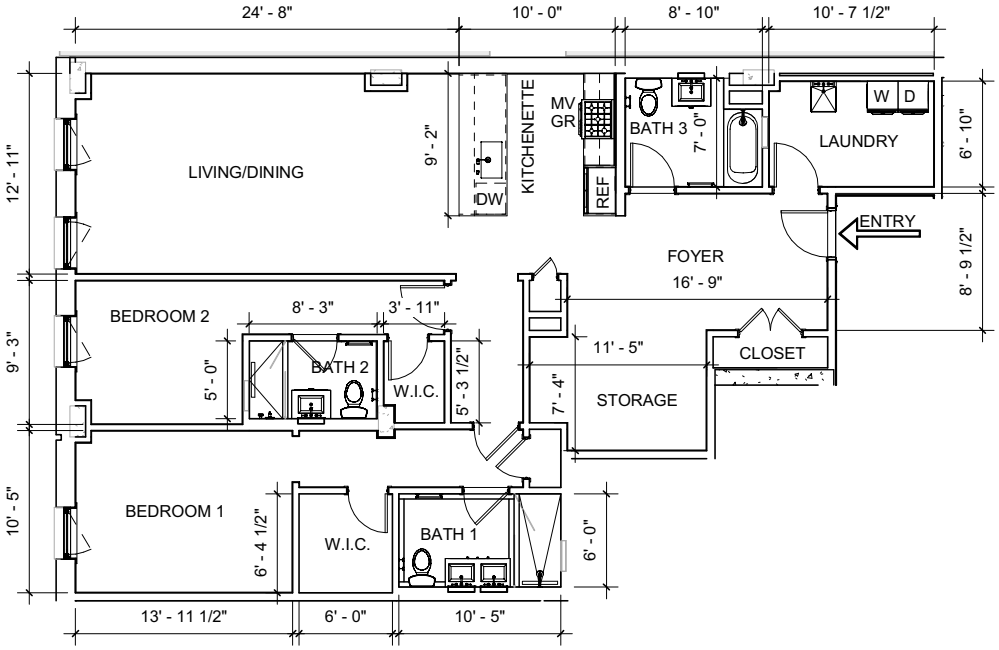
Documents to be Provided to Condominium Board:

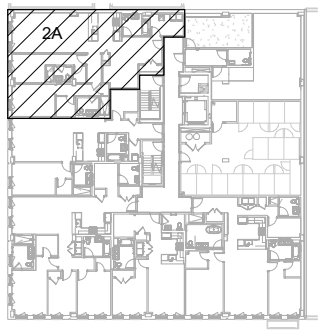
- **i.** Final Approved Construction Drawings
- **ii.** Operation and Maintenance Manuals
- **iii.** Electronic System Manuals
- **iv.** Equipment Warranties
- **v.** Manufacturer’s Roof Warranty
- **vi.** Major Equipment Start-Up Sheets

DOCUMENT 5

LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE	DW = DISHWASHER
MV = MICROWAVE	W = ELECTRIC WASHING MACHINE
REF = REFRIGERATOR	D = ELECTRIC DRYER





KEY PLAN - SECOND FLOOR

UNIT NUMBER:	R-2A
UNIT SQUARE FOOTAGE:	1,593 SF
NO. OF BEDROOMS:	2
NO. OF BATHROOMS:	3
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	10'-2"
KITCHENETTE:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

PKSB Architects, PC
PKSB ARCHITECTS, PC
630 NINTH AVENUE, SUITE 1200
NEW YORK, NY 10036
212 594 2010
www.pksb.com

171 CALYER STREET
BROOKLYN, NY 11222

5' 10' 15' 20'

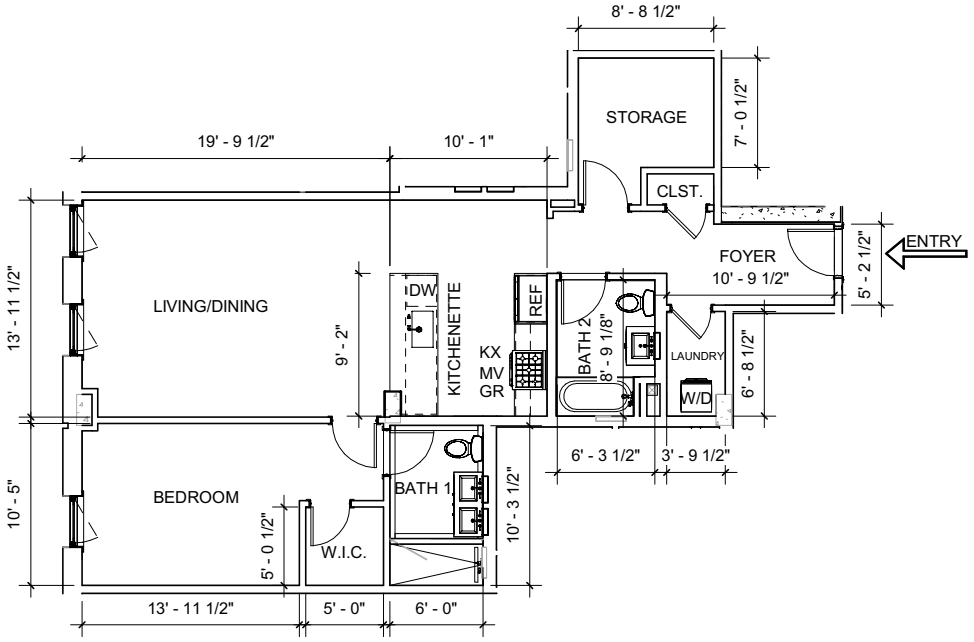
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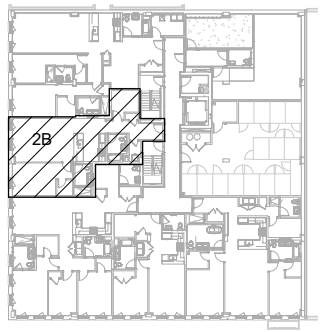
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UNIT R-2A FLOOR PLAN

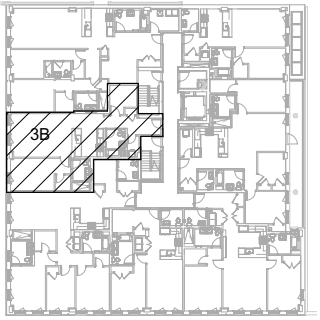
LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE	DW = DISHWASHER	KX = RECIRCULATING RANGE HOOD
MV = MICROWAVE	W = ELECTRIC WASHING MACHINE	
REF = REFRIGERATOR	D = ELECTRIC DRYER	





KEY PLAN - SECOND FLOOR



KEY PLAN - THIRD FLOOR

UNIT NUMBER:	R-2B/R-3B
UNIT SQUARE FOOTAGE:	1,047 SF
NO. OF BEDROOMS:	1
NO. OF BATHROOMS:	2
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	2B: 10'-2" 3B: 9'-0"
KITCHENETTE:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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5' 10' 15' 20'

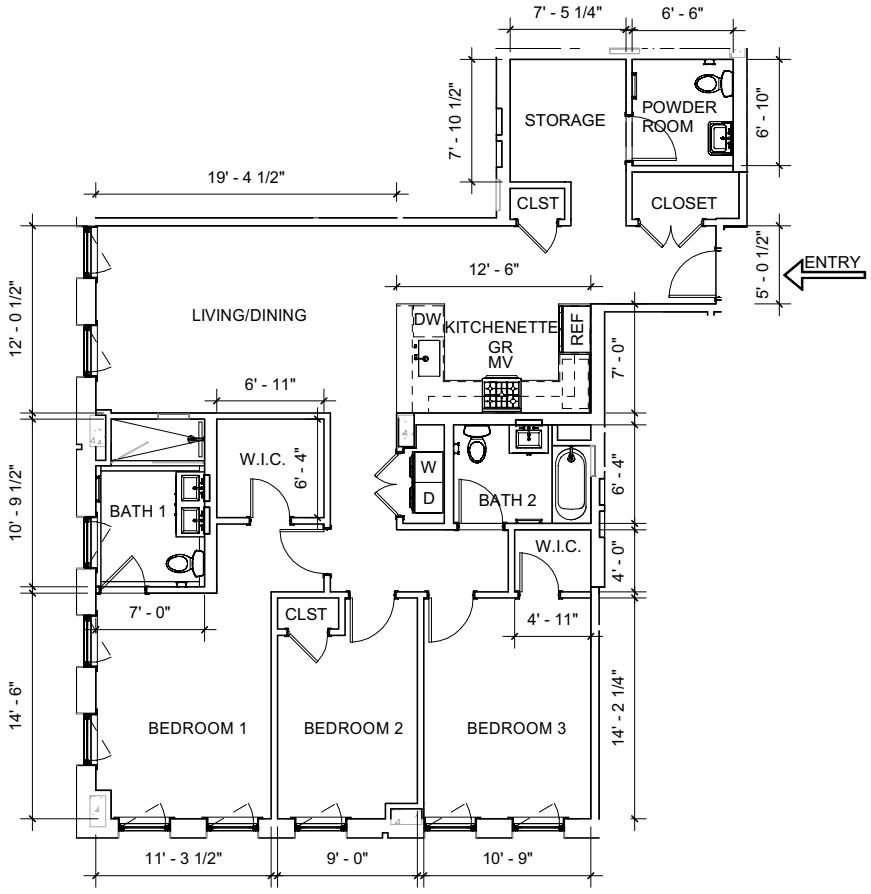
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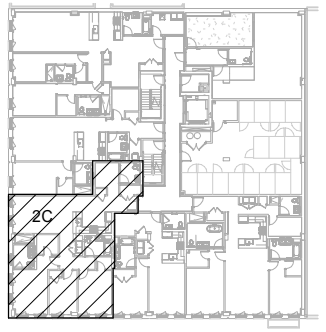
03/08/2023

UNIT R-2B & R-3B PLAN

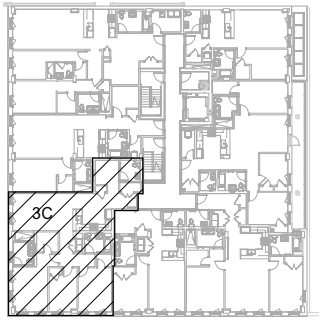
LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE	DW = DISHWASHER
MV = MICROWAVE	W = ELECTRIC WASHING MACHINE
REF = REFRIGERATOR	D = ELECTRIC DRYER





KEY PLAN - SECOND FLOOR



KEY PLAN - THIRD FLOOR

UNIT NUMBER:	R-2C/3C
UNIT SQUARE FOOTAGE:	1,531 SF
NO. OF BEDROOMS:	3
NO. OF BATHROOMS:	2.5
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	2B: 10'-2" 3B: 9'-0"
KITCHENETTE:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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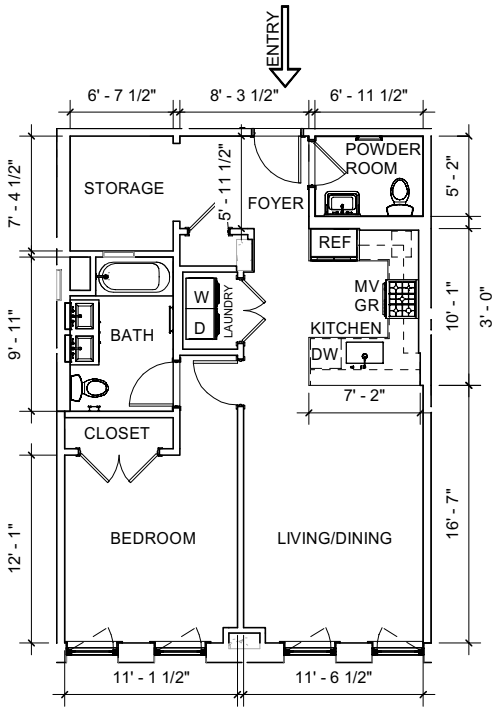
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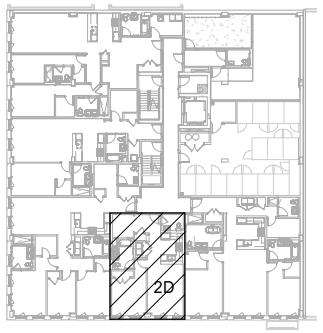
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UNIT R-2C & R-3C PLAN

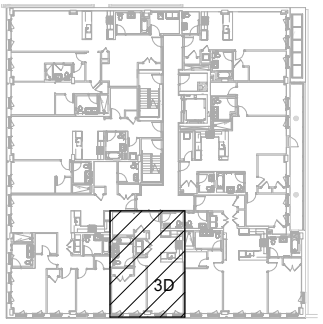
LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE	DW = DISHWASHER
MV = MICROWAVE	W = ELECTRIC WASHING MACHINE
REF = REFRIGERATOR	D = ELECTRIC DRYER





KEY PLAN - SECOND FLOOR



KEY PLAN - THIRD FLOOR

UNIT NUMBER:	R-2D/3D
UNIT SQUARE FOOTAGE:	803 SF
NO. OF BEDROOMS:	1
NO. OF BATHROOMS:	1.5
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	2B: 10'-2" 3B: 9'-0"
KITCHEN:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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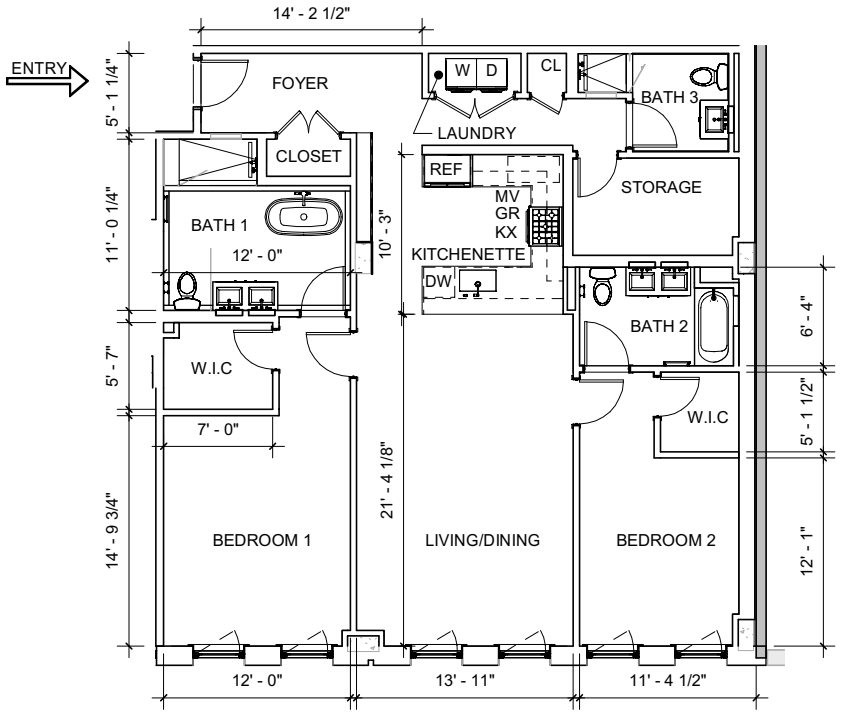
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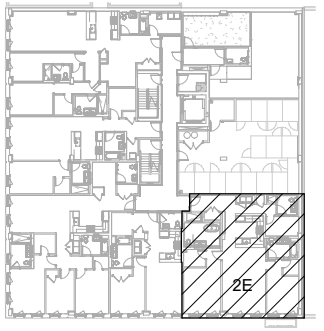
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UNIT R-2D & R-3D PLAN

LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE	DW = DISHWASHER	KX = RECIRCULATING RANGE HOOD
MV = MICROWAVE	W = ELECTRIC WASHING MACHINE	
REF = REFRIGERATOR	D = ELECTRIC DRYER	





KEY PLAN - SECOND FLOOR

UNIT NUMBER:	R-2E
UNIT SQUARE FOOTAGE:	1,531 SF
NO. OF BEDROOMS:	2
NO. OF BATHROOMS:	3
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	10'-2"
KITCHENETTE:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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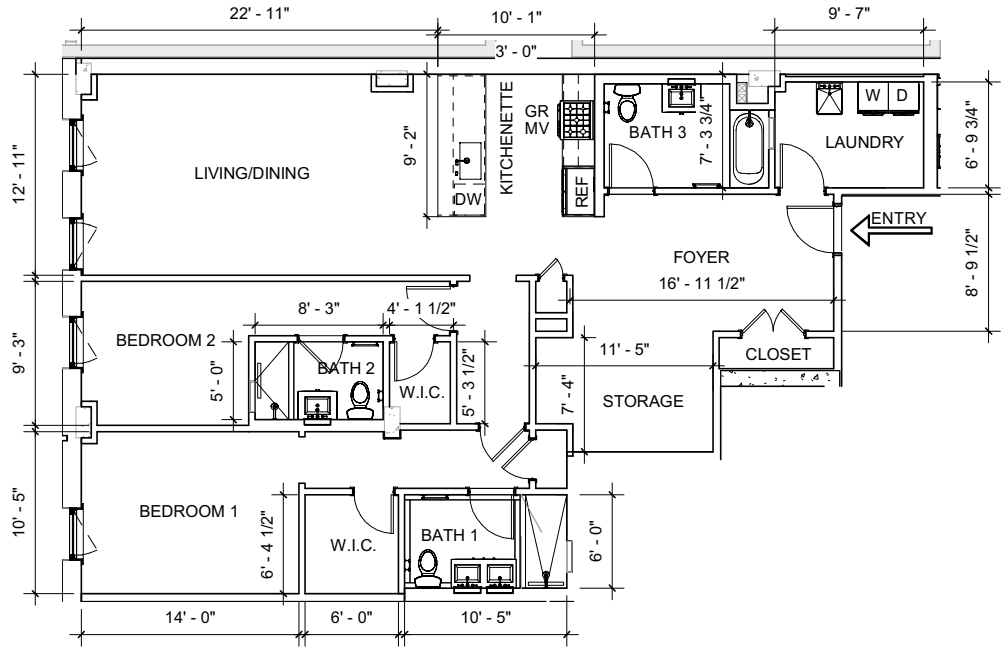
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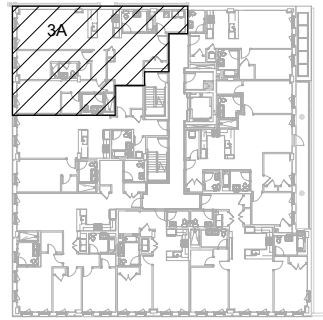
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UNIT R-2E PLAN

LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE	DW = DISHWASHER
MV = MICROWAVE	W = ELECTRIC WASHING MACHINE
REF = REFRIGERATOR	D = ELECTRIC DRYER





KEY PLAN - THIRD FLOOR

UNIT NUMBER:	R-3A
UNIT SQUARE FOOTAGE:	1,585 SF
NO. OF BEDROOMS:	2
NO. OF BATHROOMS:	3
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	9'-0"
KITCHENETTE:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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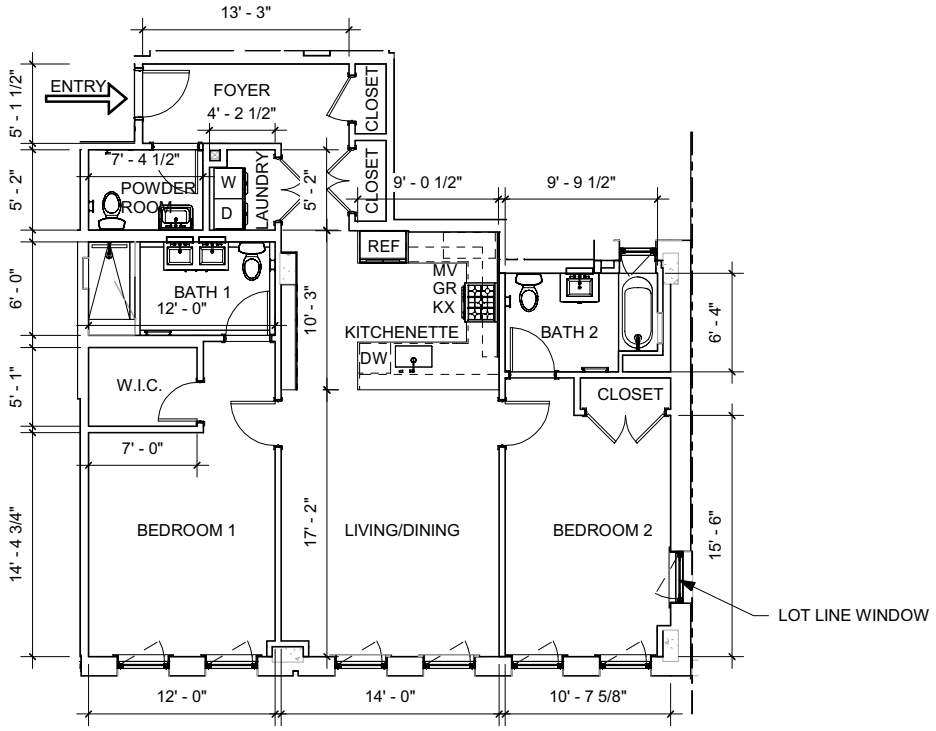
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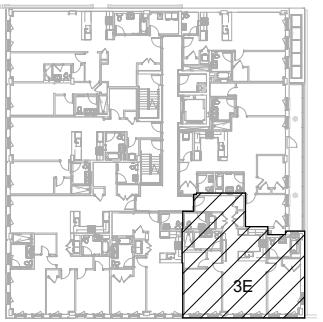
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UNIT R-3A PLAN

LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE	DW = DISHWASHER	KX = RECIRCULATING RANGE HOOD
MV = MICROWAVE	W = ELECTRIC WASHING MACHINE	
REF = REFRIGERATOR	D = ELECTRIC DRYER	





KEY PLAN - THIRD FLOOR

UNIT NUMBER:	R-3E
UNIT SQUARE FOOTAGE:	1,297 SF
NO. OF BEDROOMS:	2
NO. OF BATHROOMS:	2.5
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	9'-10"
KITCHENETTE:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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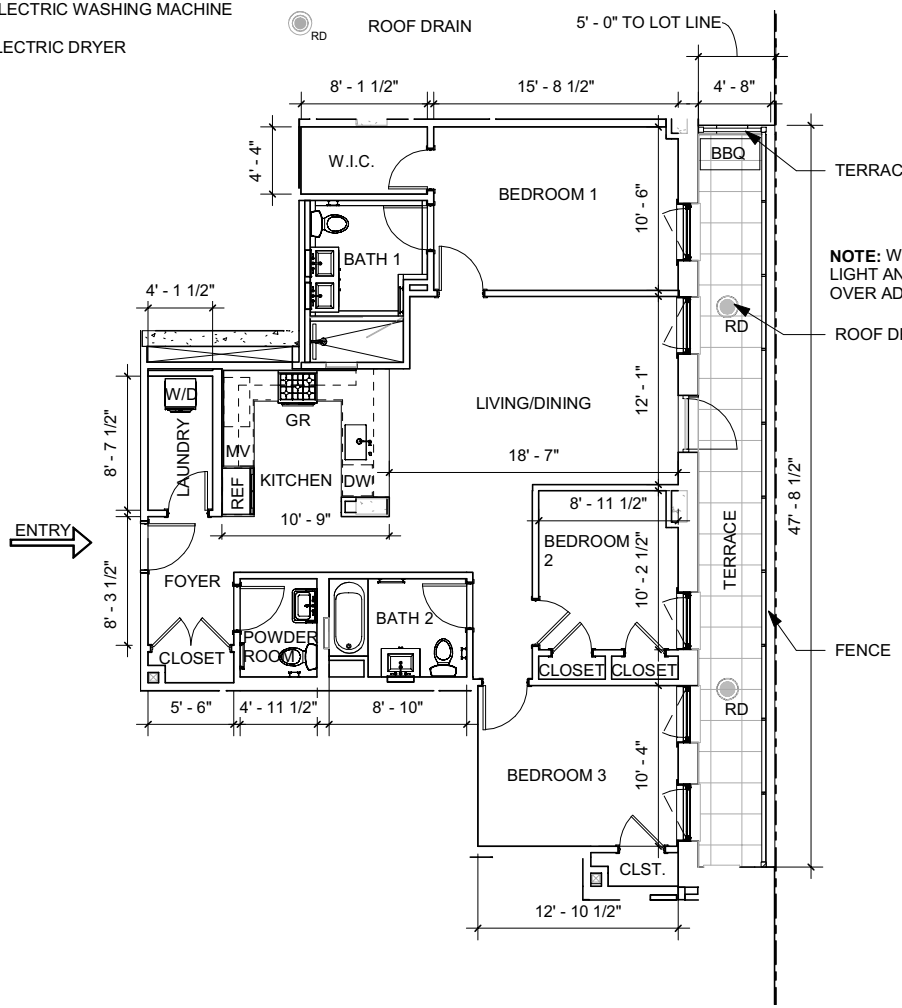
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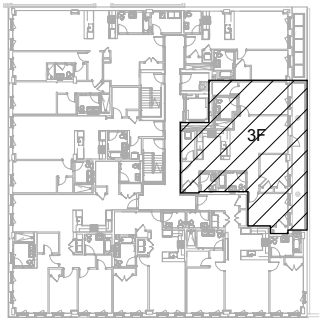
UNIT R-3E PLAN

LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE
MV = MICROWAVE
REF = REFRIGERATOR
DW = DISHWASHER
W = ELECTRIC WASHING MACHINE
D = ELECTRIC DRYER
BBQ GAS GRILLE
RD ROOF DRAIN



NOTE: WINDOWS RELY ON LIGHT AND AIR EASEMENT OVER ADJACENT PROPERTY.



KEY PLAN - THIRD FLOOR

UNIT NUMBER:	R-3F
UNIT SQUARE FOOTAGE:	1,313 SF
OUTDOOR TERRACE AREA:	235 SF
NO. OF BEDROOMS:	3
NO. OF BATHROOMS:	2.5
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	9'-10"
KITCHEN:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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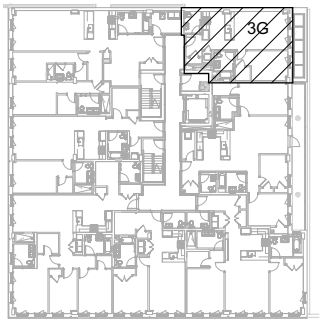
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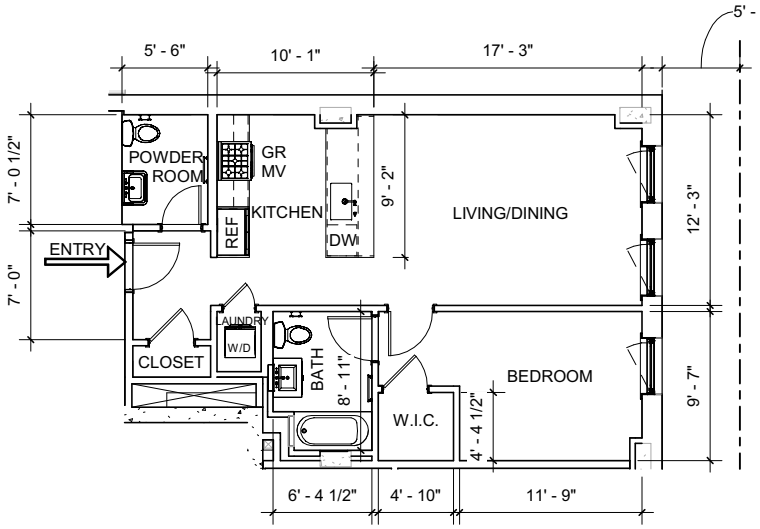
UNIT R-3F PLAN

LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE	DW = DISHWASHER
MV = MICROWAVE	W = ELECTRIC WASHING MACHINE
REF = REFRIGERATOR	D = ELECTRIC DRYER



KEY PLAN - THIRD FLOOR



NOTE: WINDOWS RELY ON LIGHT AND AIR EASEMENT OVER ADJACENT PROPERTY.

UNIT NUMBER:	R-3G
UNIT SQUARE FOOTAGE:	778 SF
NO. OF BEDROOMS:	1
NO. OF BATHROOMS:	1.5
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	9'-10"
KITCHEN:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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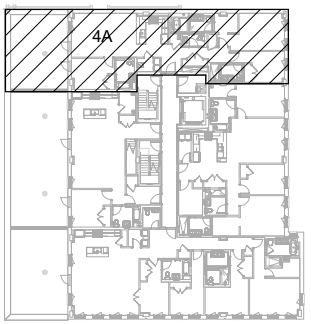
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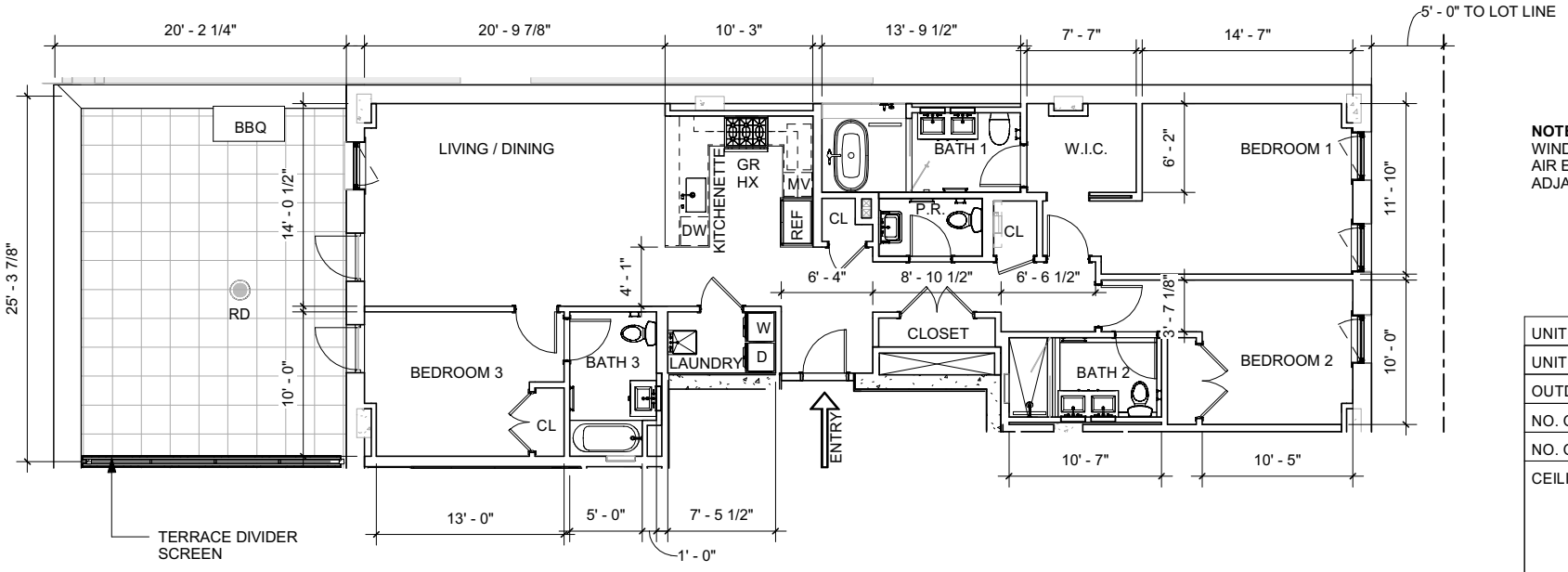
UNIT R-3G PLAN

LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE	DW = DISHWASHER	BBQ	GAS GRILLE
MV = MICROWAVE	W = ELECTRIC WASHING MACHINE	RD	ROOF DRAIN
REF = REFRIGERATOR	D = ELECTRIC DRYER		
HX = VENTED RANGE HOOD			



KEY PLAN -FOURTH FLOOR



NOTE: BEDROOM 1 AND 2 WINDOWS RELY ON LIGHT AND AIR EASEMENT OVER ADJACENT PROPERTY.

UNIT NUMBER:	R-4A
UNIT SQUARE FOOTAGE:	1,645 SF
OUTDOOR TERRACE AREA:	522 SF
NO. OF BEDROOMS:	3
NO. OF BATHROOMS:	3.5
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	9'-10"
KITCHENETTE:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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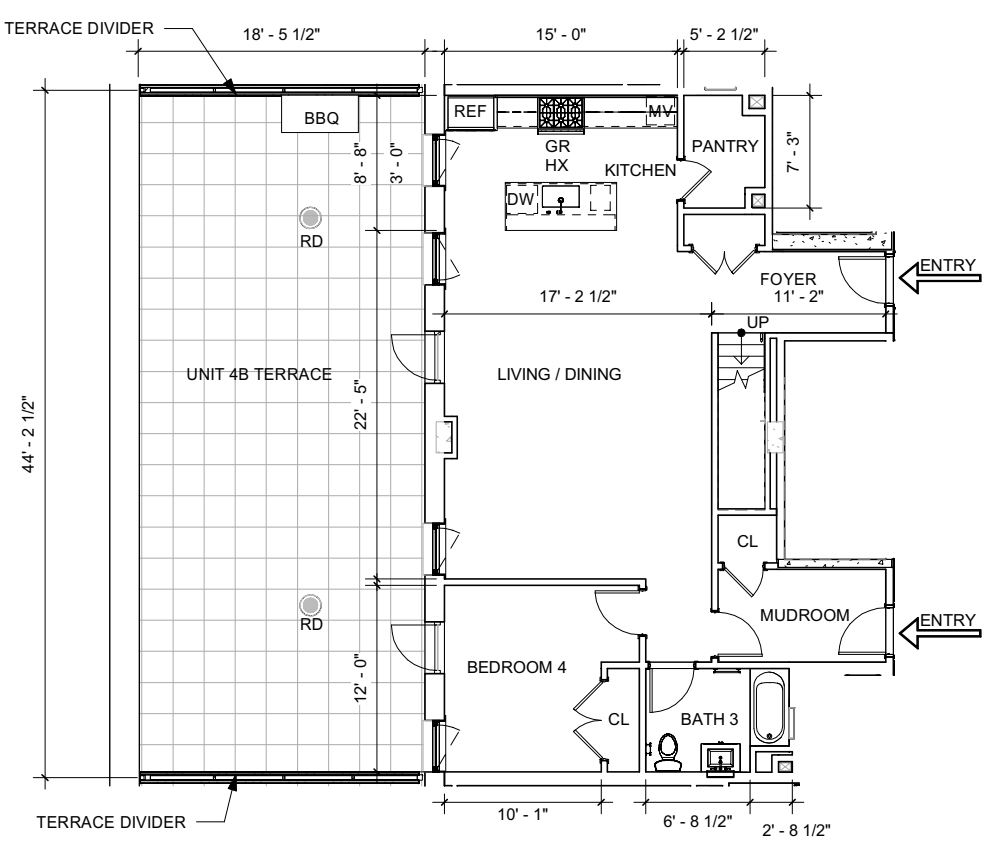
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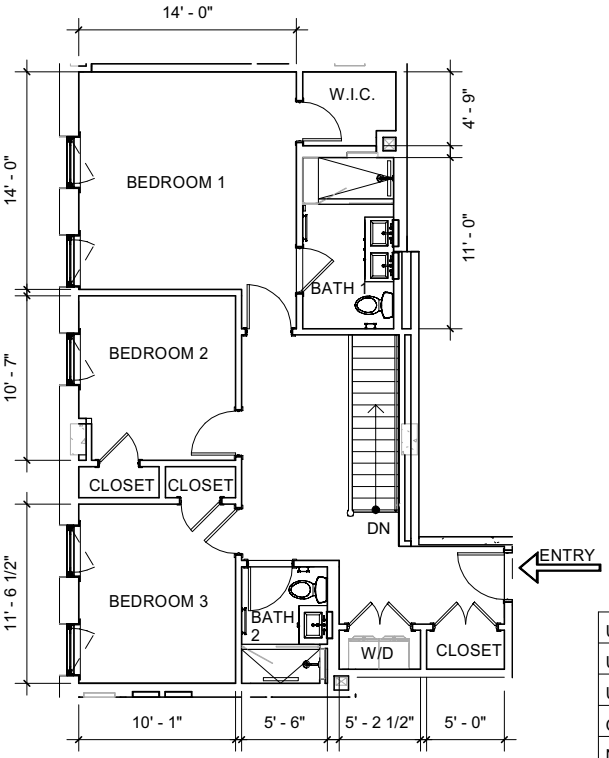
UNIT R-4A PLAN

LEGEND:(SEE APPENDIX FOR SPECIFICATION)

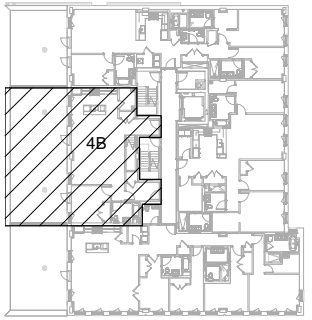
GR = GAS RANGE
DW = DISHWASHER
BBQ GAS GRILLE
MV = MICROWAVE
W = ELECTRIC WASHING MACHINE
RD ROOF DRAIN
REF = REFRIGERATOR
D = ELECTRIC DRYER
HX = VENTED RANGE HOOD



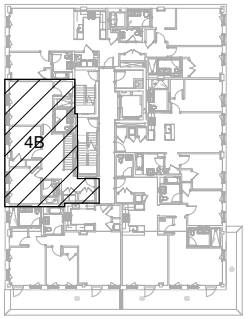
1 UNIT 4B LOWER FLOOR PLAN
1/8" = 1'-0"



2 UNIT 4B UPPER FLOOR PLAN
1/8" = 1'-0"



KEY PLAN -FOURTH FLOOR



KEY PLAN -FIFTH FLOOR

UNIT NUMBER:	R-4B
UNIT SQUARE FOOTAGE LOWER FLOOR:	1,099 SF
UNIT SQUARE FOOTAGE UPPER FLOOR:	952 SF
OUTDOOR TERRACE AREA:	527 SF
NO. OF BEDROOMS:	4
NO. OF BATHROOMS:	3
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	9'-10"
KITCHEN:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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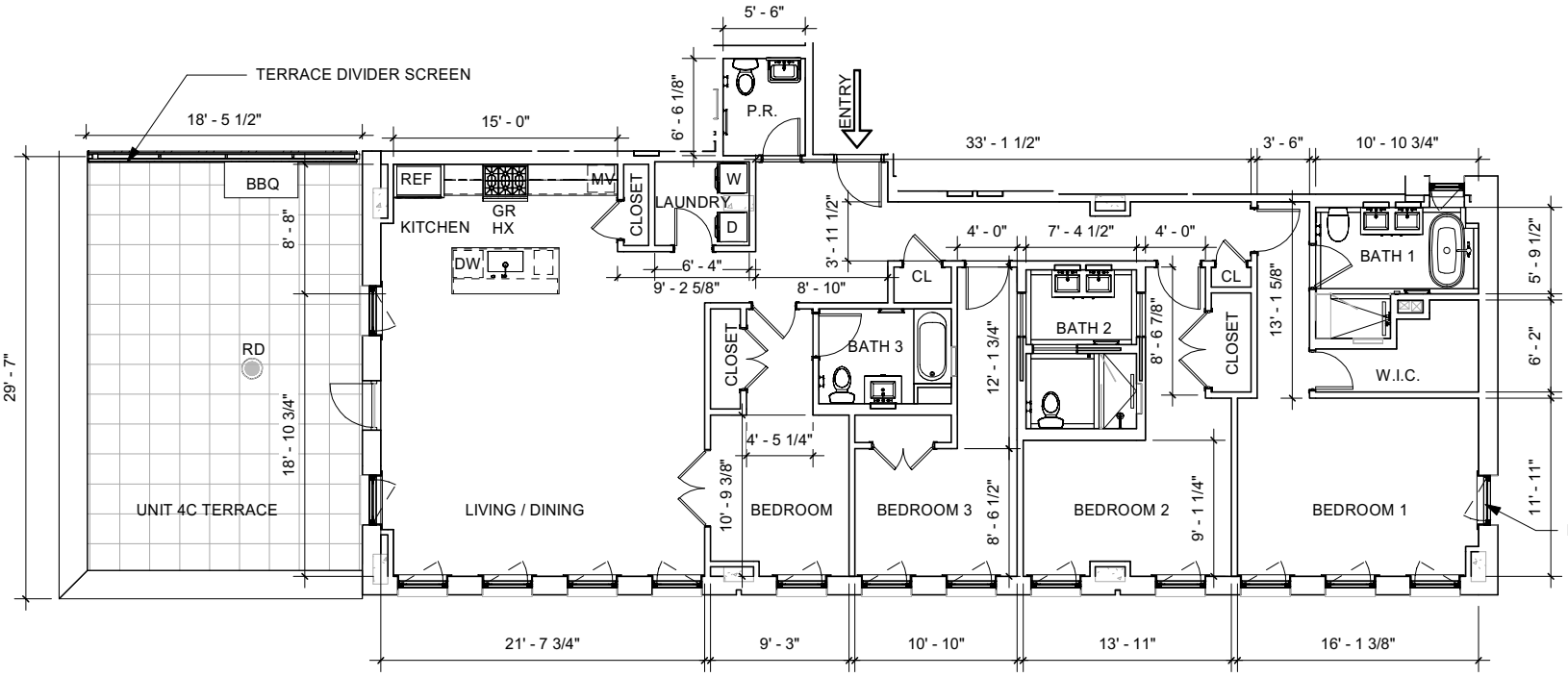
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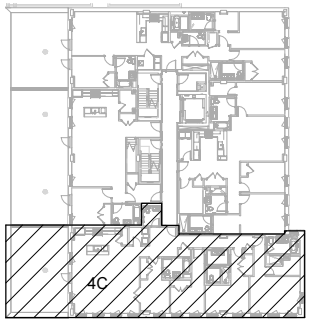
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UNIT R-4B PLAN

LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE
DW = DISHWASHER
BBQ GAS GRILLE
MV = MICROWAVE
W = ELECTRIC WASHING MACHINE
RD ROOF DRAIN
REF = REFRIGERATOR
D = ELECTRIC DRYER
HX = VENTED RANGE HOOD





KEY PLAN -FOURTH FLOOR

UNIT NUMBER:	R-4C
UNIT SQUARE FOOTAGE:	2,160 SF
OUTDOOR TERRACE AREA:	586 SF
NO. OF BEDROOMS:	4
NO. OF BATHROOMS:	3.5
CEILING HEIGHT:	
LIVING ROOM:	9'-8"
BEDROOMS:	8'-10"
KITCHENETTE:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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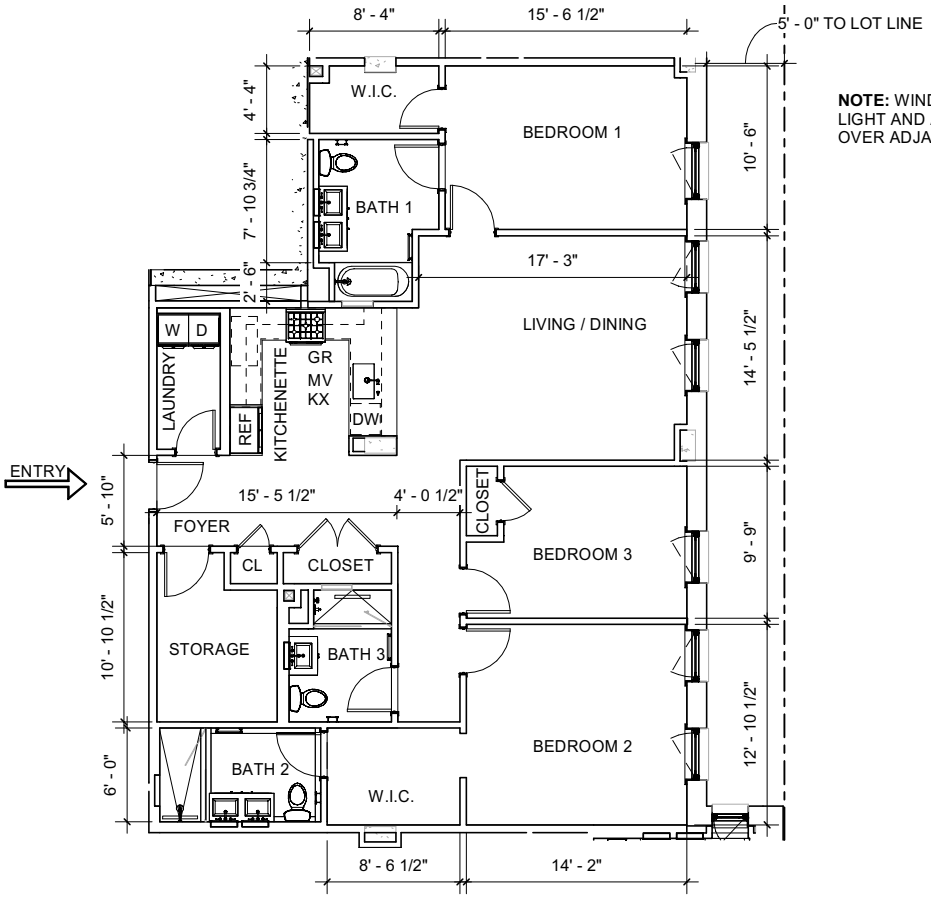
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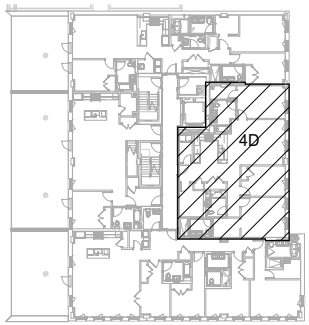
UNIT R-4C PLAN

LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE	DW = DISHWASHER	KX = RECIRCULATING RANGE HOOD
MV = MICROWAVE	W = ELECTRIC WASHING MACHINE	
REF = REFRIGERATOR	D = ELECTRIC DRYER	



NOTE: WINDOWS RELY ON LIGHT AND AIR EASEMENT OVER ADJACENT PROPERTY.



KEY PLAN -FOURTH FLOOR

UNIT NUMBER:	R-4D
UNIT SQUARE FOOTAGE:	1,608 SF
NO. OF BEDROOMS:	3
NO. OF BATHROOMS:	3
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	9'-10"
KITCHENETTE:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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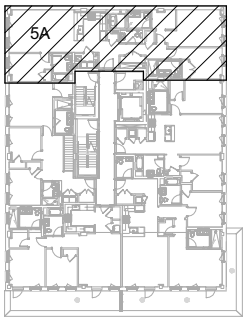
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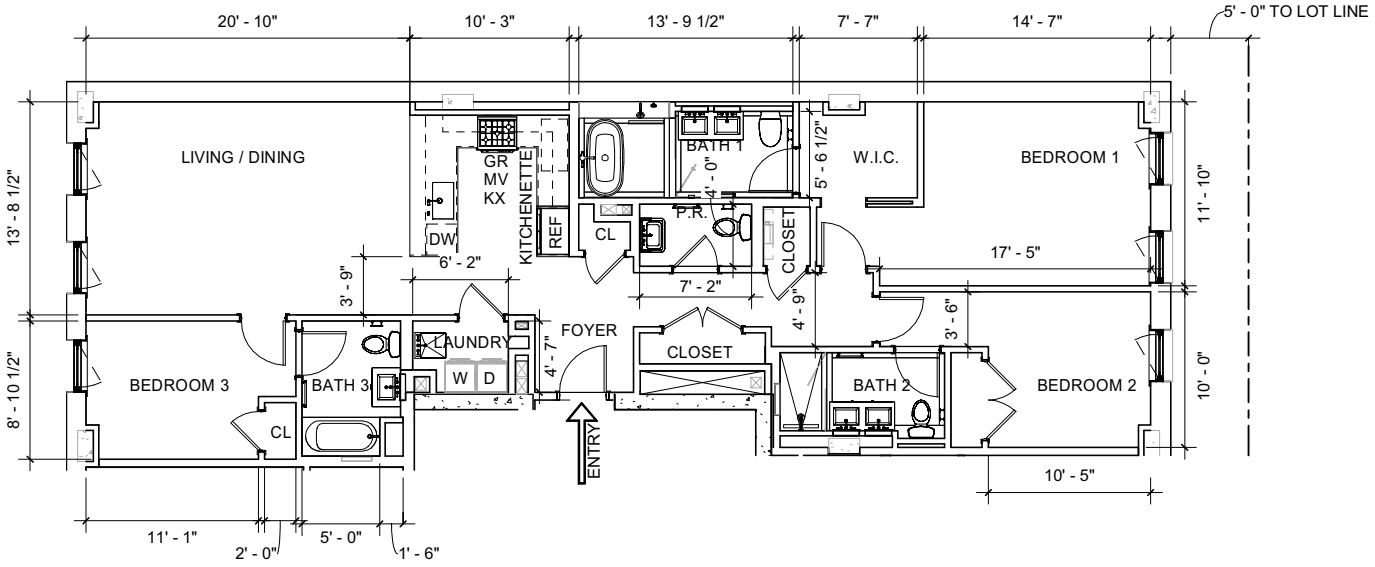
UNIT R-4D PLAN

LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE	DW = DISHWASHER	KX = RECIRCULATING RANGE HOOD
MV = MICROWAVE	W = ELECTRIC WASHING MACHINE	
REF = REFRIGERATOR	D = ELECTRIC DRYER	



KEY PLAN -FIFTH FLOOR



NOTE: BEDROOM 1 AND 2 WINDOWS RELY ON LIGHT AND AIR EASEMENT OVER ADJACENT PROPERTY.

UNIT NUMBER:	R-5A
UNIT SQUARE FOOTAGE:	1,611 SF
NO. OF BEDROOMS:	3
NO. OF BATHROOMS:	3.5
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	9'-10"
KITCHENETTE:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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5' 10' 15' 20'

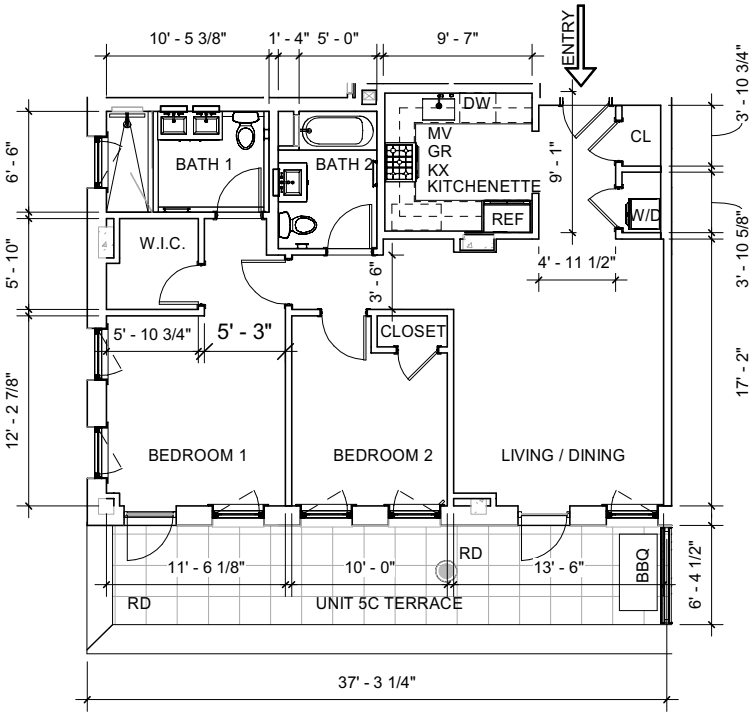
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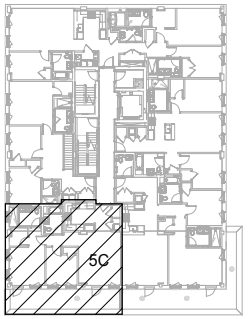
UNIT R-5A PLAN

DOCUMENT 5

LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE	DW = DISHWASHER
MV = MICROWAVE	W = ELECTRIC WASHING MACHINE
REF = REFRIGERATOR	D = ELECTRIC DRYER





KEY PLAN -FIFTH FLOOR

UNIT NUMBER:	R-5C
UNIT SQUARE FOOTAGE:	1,021 SF
OUTDOOR TERRACE AREA:	298 SF
NO. OF BEDROOMS:	2
NO. OF BATHROOMS:	2
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	9'-10"
KITCHENETTE:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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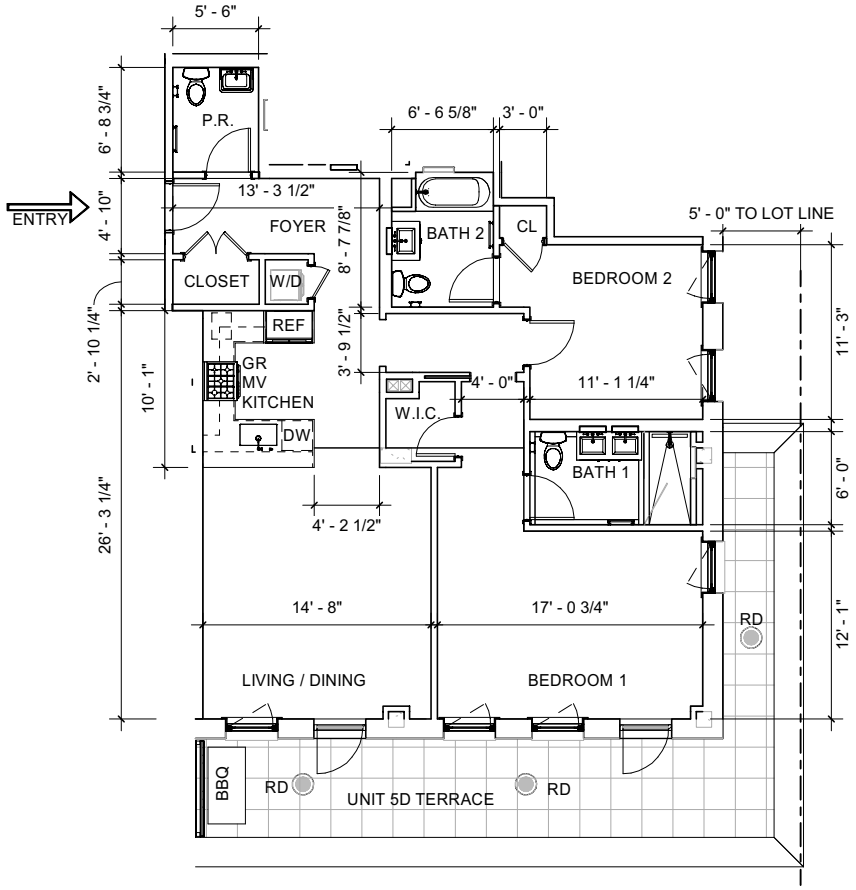
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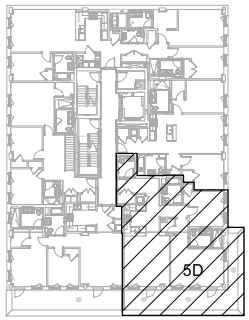
UNIT R-5C PLAN

LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE	DW = DISHWASHER	BBQ	GAS GRILLE
MV = MICROWAVE	W = ELECTRIC WASHING MACHINE	RD	ROOF DRAIN
REF = REFRIGERATOR	D = ELECTRIC DRYER		



NOTE: BEDROOM 2 WINDOWS RELY ON LIGHT AND AIR EASEMENT OVER ADJACENT PROPERTY.



KEY PLAN -FIFTH FLOOR

UNIT NUMBER:	R-5D
UNIT SQUARE FOOTAGE:	1,238 SF
OUTDOOR TERRACE AREA:	407 SF
NO. OF BEDROOMS:	2
NO. OF BATHROOMS:	2.5
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	9'-0"
KITCHEN:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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5' 10' 15' 20'

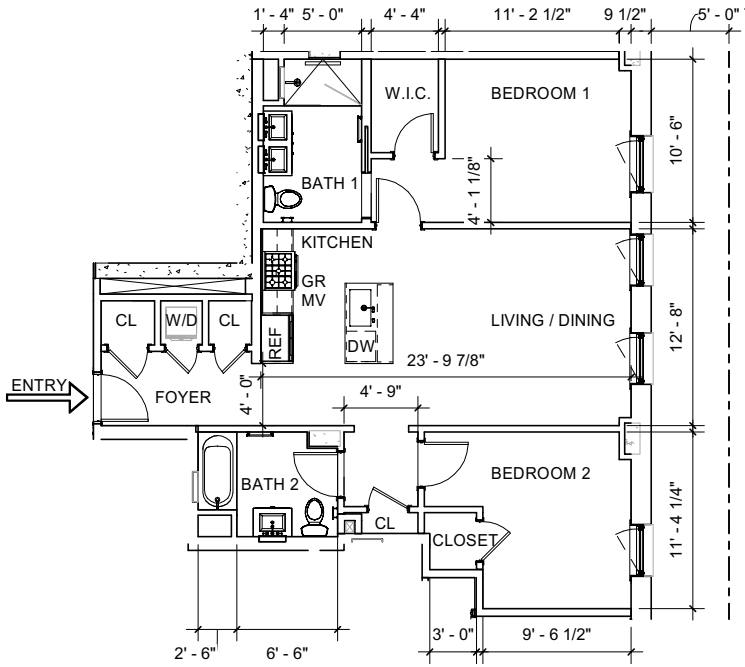
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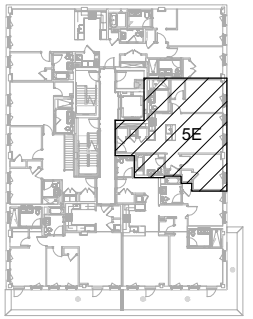
UNIT R-5D PLAN

LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE	DW = DISHWASHER
MV = MICROWAVE	W = ELECTRIC WASHING MACHINE
REF = REFRIGERATOR	D = ELECTRIC DRYER



NOTE: WINDOWS RELY ON LIGHT AND AIR EASEMENT OVER ADJACENT PROPERTY.



KEY PLAN -FIFTH FLOOR

UNIT NUMBER:	R-5E
UNIT SQUARE FOOTAGE:	981 SF
NO. OF BEDROOMS:	2
NO. OF BATHROOMS:	2
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	9'-0"
KITCHEN:	9'-0"
BATHROOMS & CLOSETS:	8'-0"

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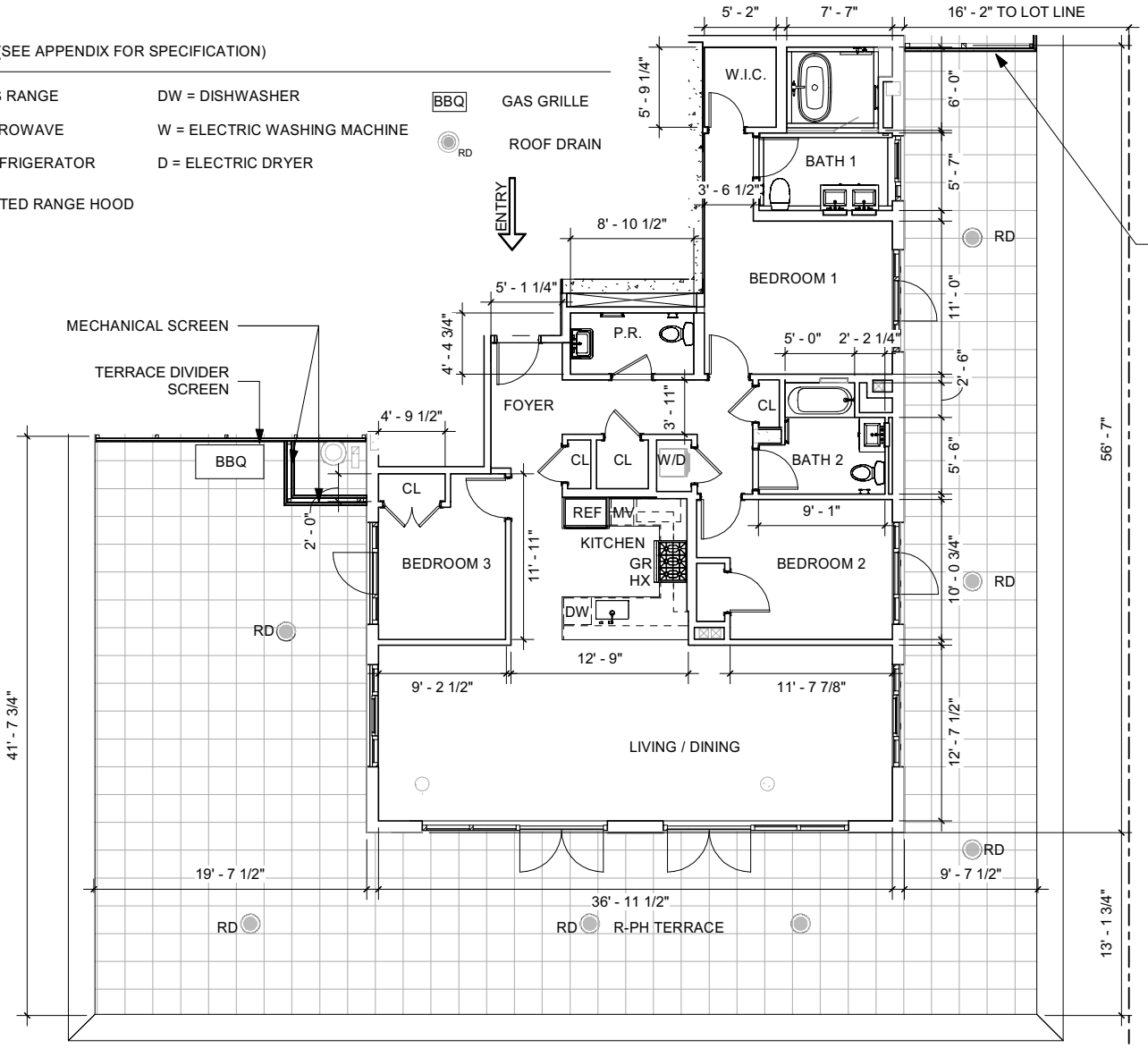
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UNIT R-5E PLAN

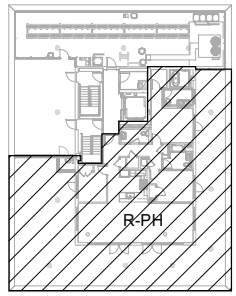
LEGEND:(SEE APPENDIX FOR SPECIFICATION)

GR = GAS RANGE
MV = MICROWAVE
REF = REFRIGERATOR
HX = VENTED RANGE HOOD
DW = DISHWASHER
W = ELECTRIC WASHING MACHINE
D = ELECTRIC DRYER
BBQ GAS GRILLE
RD ROOF DRAIN



NOTE: BEDROOM 1 AND 2 WINDOWS RELY ON LIGHT AND AIR EASEMENT OVER ADJACENT PROPERTY.

TERRACE DIVIDER SCREEN



KEY PLAN - SIXTH FLOOR

UNIT NUMBER:	PH
UNIT SQUARE FOOTAGE:	1,637 SF
OUTDOOR TERRACE AREA:	2,252 SF
NO. OF BEDROOMS:	3
NO. OF BATHROOMS:	2.5
CEILING HEIGHT:	
LIVING ROOMS & BEDROOMS:	9'-0"
KITCHEN:	8'-0"
BATHROOMS & CLOSETS:	8'-0"

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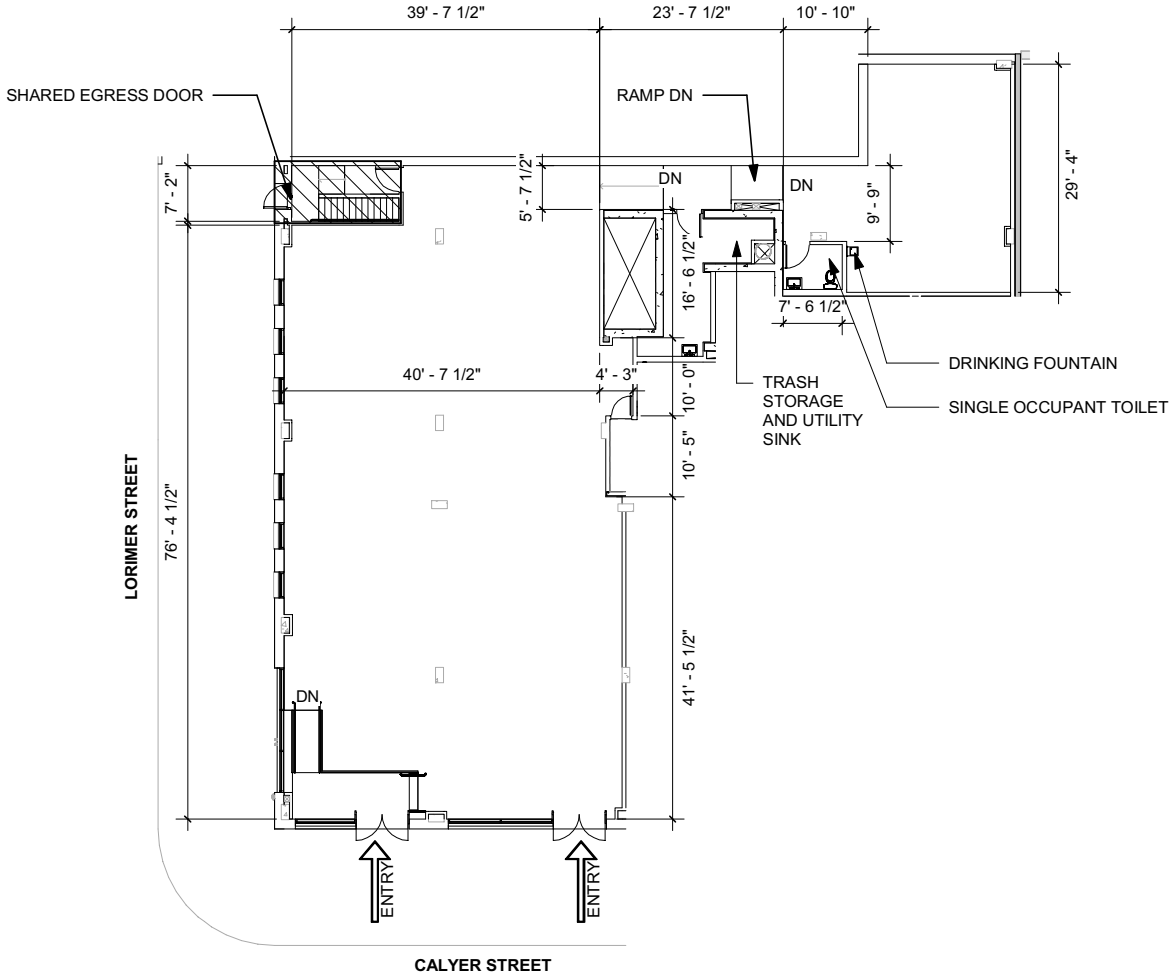
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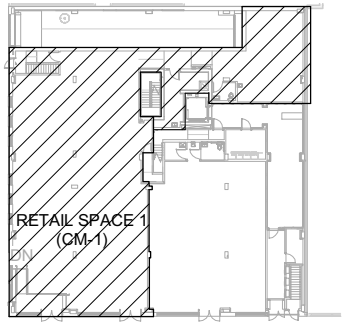
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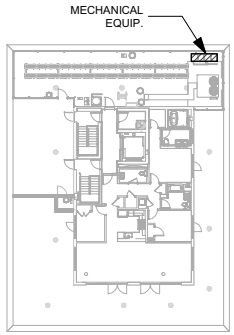
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UNIT R-PH PLAN





KEY PLAN - FIRST FLOOR



KEY PLAN - SIXTH FLOOR

UNIT NUMBER:	RET-1
UNIT SQUARE FOOTAGE:	4,820 SF
ROOF MECHANICAL EQUIPMENT SQUARE FOOTAGE:	20 SF
CEILING HEIGHT:	
COMMON AREA :	12'-10"
BATHROOMS & CLOSETS:	8'-0"

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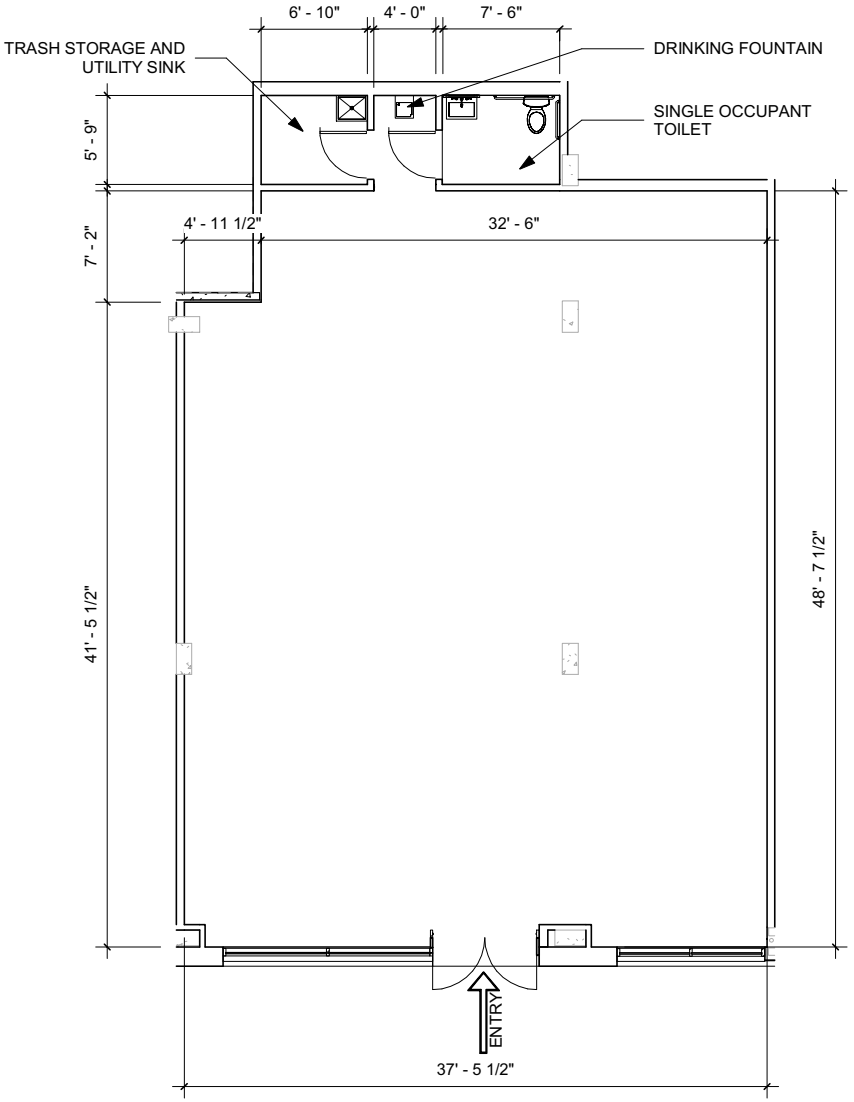
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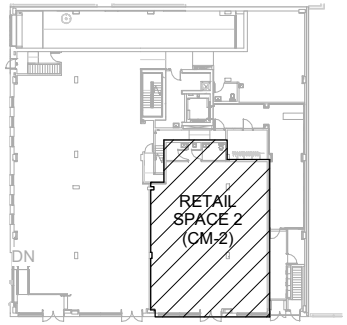
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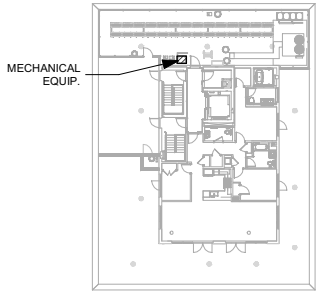
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RETAIL UNT 1 PLAN





KEY PLAN - FIRST FLOOR



KEY PLAN - SIXTH FLOOR

UNIT NUMBER:	RET-2
UNIT SQUARE FOOTAGE:	1,994 SF
ROOF MECHANICAL EQUIPMENT SQUARE FOOTAGE:	7 SF
CEILING HEIGHT:	
COMMON AREA :	12'-2"
BATHROOMS & CLOSETS:	8'-0"

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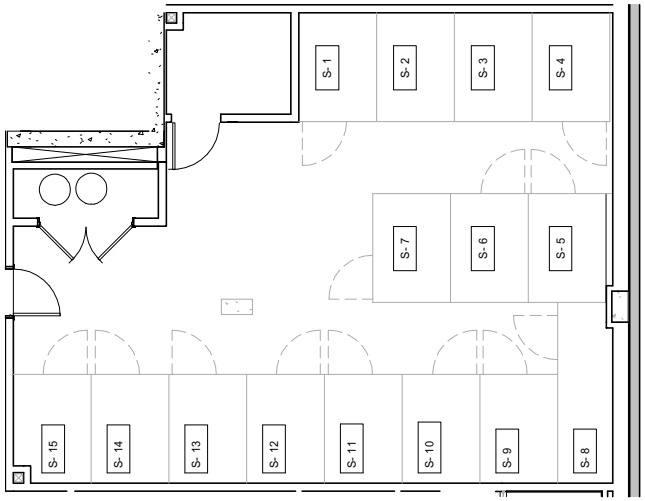
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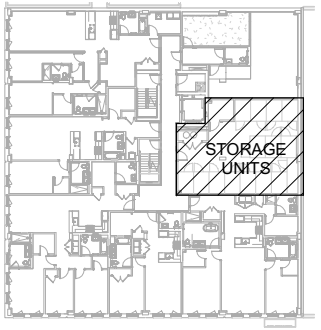
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RETAIL UNIT 2 PLAN

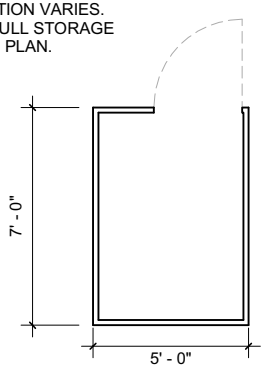


5 STORAGE UNITS PLAN
1/8" = 1'-0"



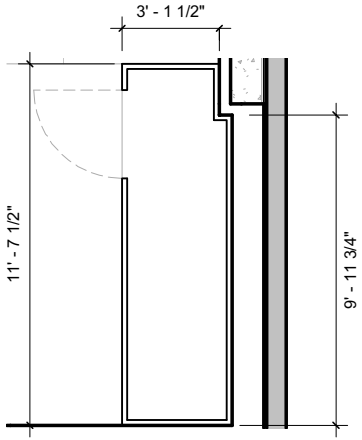
KEY PLAN - SECOND FLOOR

NOTE: DOOR LOCATION VARIES. SEE FULL STORAGE UNITS PLAN.



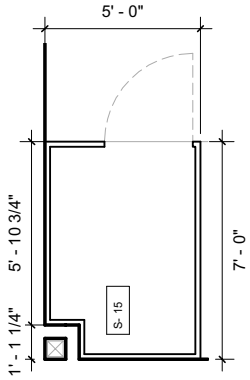
UNIT NUMBER:	S-(1-7) & S-(9-14)
UNIT SQUARE FOOTAGE:	35 SF (EACH)
CEILING HEIGHT:	10'-2"

1 STORAGE UNIT 1-7 & 9-14
1/4" = 1'-0"



UNIT NUMBER:	S-8
UNIT SQUARE FOOTAGE:	40 SF
CEILING HEIGHT:	10'-2"

2 STORAGE UNIT 8
1/4" = 1'-0"



UNIT NUMBER:	RET-1
UNIT SQUARE FOOTAGE:	34 SF
CEILING HEIGHT:	10'-2"

4 STORAGE UNIT 15
1/4" = 1'-0"

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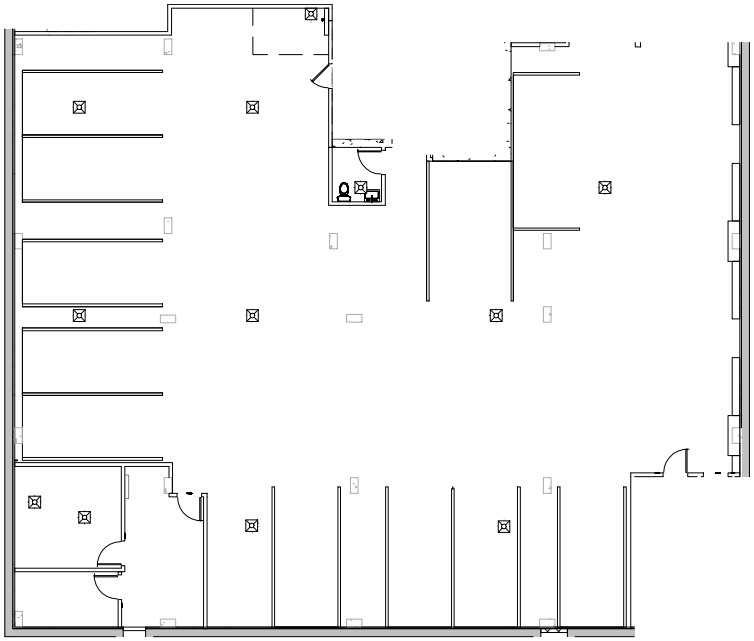
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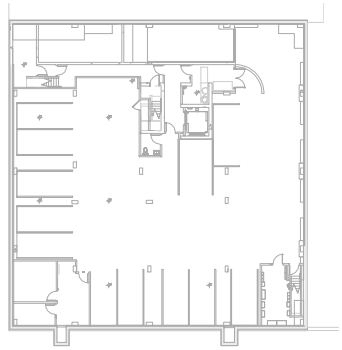
5' 10' 15' 20'

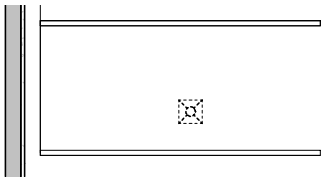
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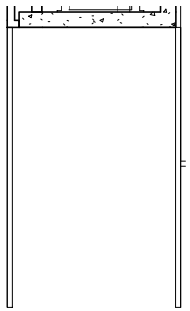
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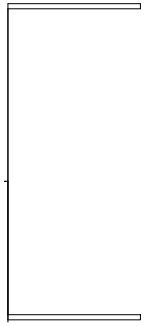
STORAGE UNITS PLAN















DOCUMENT 6

DECLARATION OF CONDOMINIUM

Establishing a Plan for Condominium Ownership
of the Premises known as and by the street number

171 Calyer Street
Brooklyn, New York 11222

Pursuant to Article 9-B of the Real Property
Law of the State of New York

Name of Condominium:	**The Calyer Greenpoint**
Declarant:	**171 Calyer Street Project LLC**
Declarant's Address:	**463 Seventh Avenue 4th Floor** **New York, New York 10018**
Date of Declaration:	**_____ __, 202__**
Location of Land:	The Land affected by the within instrument lies in Block 2573, on the Block Map of the Tax Map Unit in the Borough of Brooklyn, Kings County, City and State of New York, in Lots F/K/A Lot 23, N/K/A Lots 1001 to 1050.

RECORD AND RETURN TO:

Seyfarth Shaw LLP
620 Eighth Avenue
New York, New York 10018
Attention: Alan L. Kazlow, Esq.

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Seyfarth Shaw LLP
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DECLARATION
OF
CONDOMINIUM

(Pursuant to Article 9-B of the Real
Property Law of the State of New York)

This Declaration of Condominium ("**Declaration**"), dated as of _____ __, 202_, is made by 171 Calyer Street Project LLC ("**Declarant**" and "**Sponsor**"), having a business address (and for notices) at 463 Seventh Avenue 4th Floor, New York, New York 10018, does hereby declare, reserve and grant as follows:

ARTICLE 1
INTRODUCTION

Section 1.1 **Glossary**.

Section 1.1.1 Capitalized Terms. The meanings given to the capitalized terms defined in the condominium offering to convert the subject premises to condominium ownership ("**Plan**") shall apply when such terms are used in this Declaration and the EXHIBITS hereto. The meanings of the capitalized terms set forth below are contained in the following provisions of this Declaration or the Condominium by-laws ("**By-Laws**"), as indicated, and shall apply to derivations or variations thereof.

"D": Denotes Declaration.
"B": Denotes By-Laws

"R": Denotes Rules and Regulations.

Access Party:	Section 3.8.10 (B)	Award:	Section 3.11.2 (B)
Access Notice:	Section 3.8.10 (B)	Baseball Arbitration:	Section 6.1 (B)
Acceptance Notice:	Section 3.13.12 (B)	BCL:	Section 2.2.34 (B)
Additional Common Charges:	Section 1.2.7(d) (D)	Best Offer:	Section 6.4.1 (a) (B)
Adjusted for Inflation:	Section 3.9.9 (B)	Board:	Section 1.2.5(D)
Administrative Expenses:	Section 1.3.6(e) (D)	Board's Governance Rights:	Section 1.2.5(D)
Appointing Authority:	Section 6.1 (B)	Building:	Section 2.1 (D)
Association's Assets:	Section 1.2.4 (D)	Building Services:	Section 1.2.6 (D)
Assurances:	Section 16.2 (D)	Building Standard:	Section 1.2.6 (D)
		Building Systems:	Section 7.1(j) (D)

Business Judgment Rule:	Section 2.2.31 (B)
By-Laws:	Section 1.1.1 (D)
Certificate of Waiver or Exemption:	Section 3.13.12.8 (B)
City Register's Office:	Section 2.1 (D)
Combined Unit:	Section 3.7.1 (b) (B)
C of O:	Section 9.1(a-2) (D)
Common Charges:	Section 1.2.7 (D)
Common Elements:	Section 1.2.3 (D)
Common Expenses:	Section 1.2.6 (D)
Common Interest:	Section 1.2.3 (D)
Condominium:	Section 1.2.1 (D)
Condominium Act:	Section 1.1.5 (D)
Condominium Association:	Section 1.2.4 (D)
Condominium Board:	Section 1.2.5(D)
Condominium Documents:	Section 1.1.5 (D)
Construction Parties:	Section 1.2.11 (D)
Consumer Price Index:	Section 3.9.9 (B)
Controlling Interest:	Section 17.2(e) (D)
Cooperating Party:	Section 16.1.1 (D)
Declarant:	Preamble (D)
Declaration:	Preamble (D)
Designated Occupant:	Section 9.6 (D)
Designee:	Section 1.2.2 (D)
Development Rights Owner:	Section 2.1 (D)
Diplomat:	Section 14.1 (D)
DOB:	Section 1.2.6 (D)
E-Smoking:	Paragraph 28 (R)
Estoppel Certificate:	Section 3.13.12.12 (B)
Excess Development Rights:	Section 2.1 (D)
FCO:	Section 9.1(a-11) (D)
First Unit Closing:	Section 2.2.4 (r-3.1) (B)
First Year's Budget	Section 2.2.4(a) (B)
Foreign Government:	Section 14.1 (D)
Foreign Person:	Section 15.1 (D)
FSIA:	Section 14.1(a) (D)
General and Residential Common Elements:	Section 1.2.3 (D)
General, Residential and Retail Common Elements:	Section 1.2.3 (D)
General Common Charges:	Section 1.2.7(a) (D)
General Common Elements:	Section 1.2.3(a) (D)
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Residential, Parking and Storage Units:	Section 1.2.2 (D)
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Sale Agreement:	Section 3.13.8 (B)
Sale or Lease Agreement:	Section 3.13.8 (B)
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Smoking:	Paragraph 28 (R)
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SNDA:	Section 3.14.2 (B)
Sold Parking Unit:	Section 1.2.2 (D)
Sold Residential Owner:	Section 1.2.2 (D)
Sold Residential, Parking and Storage Units:	Section 1.2.2 (D)
Sold Residential Unit:	Section 1.2.2 (D)
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Sold Storage Unit:	Section 1.2.2 (D)
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TCO:	Section 9.2(b) (D)	Unsold Residential, Parking and Storage Units:	Section 1.2.2 (D)
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TRIA:	Section 3.9.2 (f) (B)	Unsold Parking Unit:	Section 1.2.2 (D)
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Unsold Residential Owner:	Section 1.2.2 (D)		

Section 1.1.2 Rules of Interpretation. The lowercase words used in this Declaration, the By-Laws and the Rules and Regulations, or derivations or variations thereof, shall be interpreted as indicated below. All other lowercase words shall have their ordinary meanings.

"accessible" is a facility or other item in question that is accessible from within the interior of a Unit without damage or destruction to boundary walls, boundary floors, boundary ceilings, Building façade or exterior walls, or similar Common Elements within or bordering a Unit.

"acts or omissions" are actions or oversights, whether due to abuse, neglect or negligence or otherwise, and whether inadvertent or intentional.

"affiliate" is an entity whose legal, equity or beneficial interest are totally owned or controlled by a party or over which a party has voting control.

"alter" is to improve, modify, add to, adjust, vary, change, amend, revise, rework, correct, demolish, remove or replace, whether structural or non-structural, or extraordinary or ordinary.

"amend" is to modify, revise, correct, rewrite, supplement, add, eliminate, delete, repeal, replace, substitute, or otherwise change.

"and/or" means one or the other or both, as may be applicable or to best implement the intent of the parties as gathered from the entire instrument.

"arising from" is the same as and interchangeable with "attributable to", "caused by", "due to", and "in connection with" so that the use of one shall include the others.

"attributable to" is the same as and interchangeable with "arising from", "caused by", "due to", and "in connection with" so that the use of one shall include the others.

"business day" is any calendar day other than Saturday, Sunday or a legal holiday of the State of New York or United States government.

"caused by" is the same as and interchangeable with "arising from", "attributable to", "due to", and "in connection with" so that the use of one shall include the others.

"claim" is any manner of contention, dispute, controversy or disagreement.

"consent" shall mean the required permission to be obtained must be in writing and given in advance of the action or transaction in question, and can be conditioned, delayed, withheld or denied, without cause or explanation, at the absolute discretion of the party whose consent is required, without liability or recourse of any kind against such party or (if an entity or fiduciary) its managers, members, partners, shareholders, officers, directors, trustees or principals.

"cost" is any price, charge or fee.

"damages" is actual or compensatory damages, but not consequential, indirect, incidental, special or punitive damage; or costs or expenses

"day" is any day of the year, unless expressly stated to be a business day.

"decorate" is to outfit with art works, ornaments, furnishings, furniture, fixtures and embellishments of any kind, including: all manner of: flooring (e.g., wood, tiles of any composition, carpeting, rugs and other floor coverings); wall finishes and coverings (e.g., paint, wallpaper and fabric, wood paneling, baseboards and moldings; ceiling finishes and coverings (e.g., paint and plaster)); lighting fixtures and chandeliers and related switch plates and electrical outlets; doorknobs, hinges, faucets, spouts and other hardware; and plants, flowers and other vegetation.

"disposition" is to assign, transfer, convey, lease, license, mortgage, securitize, pledge, grant easements or concessions, and to otherwise alienate.

"due to" is the same as and interchangeable with "arising from", "attributable to", "caused by", and "in connection with" so that the use of one shall include the others.

"duty" is a responsibility, obligation, burden, or requirement.

"easement" is a right and interest in the Land that shall be irrevocable, perpetual and permanent, and not subject to forfeiture or reversion.

"entity" is a person, other than an individual, legally competent to own real property in the State of New York, including: a general or limited partnership; a limited liability company; a corporation; an unincorporated association; a syndicate; a joint venture, a government or a government instrumentality, or other body.

"equipment" is all manner of machinery, tools, apparatus, devices and implements comprising part of a Common Element or Unit (as applicable), now or hereafter,

whether mechanical, electrical, electronic, plumbing, heating, ventilation, cooling or otherwise.

"expense" is any pecuniary expenditure, outlay, imposition, penalty or fine.

"facilities" are all manner of equipment, structures, fixtures and the components of the Building's mechanical, power, lighting, electronic, plumbing, communications, security, fire protection, utility (electric and gas), heating, ventilation, air conditioning, hot and cold water, refuse, drainage, sanitary waste, sewer, elevator and other systems serving or benefiting, at the time in question, one or more Units or the Common Elements, or necessary or desirable for the use and enjoyment of the Property or any portion thereof, including risers and distribution lines, main feeder lines, motors, fans, louvers, pumps, cameras, recorders, monitors and connections (wires, cables, lines and conduits).

"freely" is the same as unfettered.

"immediate family" means Owner's spouse or domestic partner, a child of Owner or Owner's spouse or domestic partner (whether by blood, marriage or adoption), a parent (including a step-parent or parent-in-law), grandparent or sibling of any of the foregoing.

"in accordance with" shall always be deemed to mean "in accordance and compliance with".

"in connection with" is the same as and interchangeable with "arising from", "attributable to", "caused by" and "due to" so that the use of one shall include the others.

"inaccessible" means the facility or other item in question is not accessible.

"include" shall always be deemed to mean "include (without limitation)" and is the same as and interchangeable with "such as" so that the use of one shall include the other.

"indemnify" shall always be deemed to mean "indemnify, defend and hold harmless".

"install" is to erect, construct, affix, mount, fasten, project or otherwise attach to, in, on, under, above or from, or to hang on, under or from.

"lease" is a contract or agreement creating a landlord and tenant or licensor and licensee relationship, or other form of use and occupancy or possessory interest in a Unit or a Common Element for rent, fee or other consideration.

"liable" is all manner of legal responsibility or accountability.

"litigation" is a court action or proceeding, and/or an arbitration, mediation or other dispute resolution forum, as applicable.

"loss" means to sustain or suffer (as applicable): bodily harm or death, or property damage or destruction.

"maintain" is to inspect, test, clean, wash, paint, preserve and keep in good and proper working order and first-class condition and appearance, free and clear of leaks, water accumulation, dirt and debris.

"notice" is any demand, notification, request or other communication.

"on behalf of" means with the authority or permission, or at the direction, or at the behest of, or for the benefit of a party.

"operate" means (as applicable) to govern, administer, manage or control; or to alter, maintain, repair and restore; or to conduct or transact business or affairs or other activities; or to run, work or function.

"party" is a person who is or becomes bound by the Condominium Documents.

"person" is an individual human being or an entity.

"power" is to have the authority and right of a party as set forth in the Condominium Documents or the Condominium Act.

"pro rata" means in the proportion that the Common Interest of a Unit bears to the total Common Interests of all Units or all applicable Units.

"promote" is all manner of offering, advertising, marketing, signage, displays and other activities in connection with the sale, rental or operation of, or the business conducted in, a Unit, or as otherwise indicated by the context.

"reasonable consent" means the required permission to be obtained must be in writing, given in advance of the action or transaction in question, and cannot be arbitrarily or unreasonably conditioned, withheld, denied or delayed, and instead shall be determined in accordance with reasonable criteria, and if the consent is not given, or if no response is given within a specified period (or if none) a commercially reasonable period, then the reason to condition, withhold, deny or delay, or to not respond, shall be explained in writing upon written request.

"reasonably acceptable" means the required acceptance to be obtained must be in writing, given in advance of the action or transaction in question, and cannot be arbitrarily or unreasonably conditioned, withheld, denied or delayed, and instead shall be determined in accordance with reasonable criteria, and if the acceptance is not given, or if no response is given within a specified period (or if none) a commercially reasonable period, then the reason to condition, withhold, deny or delay, or to not respond, shall be explained in writing upon written request.

"repair" is to fix, correct, refurbish, renovate, replace and substitute, whether structural or non-structural, or extraordinary or ordinary.

"restore" is to reinstate or rebuild.

"right of self-help" is the authority of a party, for the account and at the expense of another party, to pay or perform (as applicable) an obligation of such other party.

"roof" is the top weather protection of the Building or a Building setback, composed of (if and to the extent existing at the time in question) concrete slab and a roofing system (insulation, membrane flashing and counter-flashing), but excludes any terrace located thereon.

"roof structures" mean all parapets, copings and railings enclosing a roof, together with its drains, gutters, leaders and similar elements.

"shall" is the same as must and is mandatory.

"sidewalk" is the portion of the pavement immediately outside and fronting the

Property line, including its curb and tree pit(s) (if any).

"signage" is a graphic mark, figure, picture, inscription, banner, flag, awning, placard, sandwich board, or other object or item, composed of any material, and of any design, size, illumination, configuration, fabrication, quality, character, color, appearance or content, used to advertise, market, sell, lease, license or operate a Unit or to promote a business being conducted in a Unit or the sale of goods or merchandise being offered in a Unit, or to identity the Owner or tenant of a Unit, or for any other lawful purpose.

"sole cost and expense" mean the cost and expense shall be borne solely by the applicable party without reimbursement from, or any manner of recourse against, another party or (if an entity or fiduciary) its managers members, partners, shareholders, officers, directors, trustees or principals.

"storefront" is the non-load bearing glass front and/or entry of a Retail Unit, including its frames and components.

"structural" is an element that contributes to the physical support, stability, soundness, integrity and weather-tightness of the Building or a portion thereof, including (if and to the extent existing at the time in question) foundation, foundation walls, retaining walls, pilings, columns, beams, supports, girders, wood joists, load-bearing and shear walls, concrete ceiling and floor slabs, Building façade and exterior walls, the roof above the top floor and above the Building or at a Building setback, and all similar structural members of the Building and their respective components.

"subject to" is to be subordinate to.

"such as" shall always be deemed to mean "such as (without limitation)" and is the same as and interchangeable with "include" so that the use of one shall include the other.

"telecommunication equipment" consists of radio, telephone (mobile, wireless or cable), telegraph, telecopier, electronic mail, television, computer, laptop and other media means to communicate at a distance and their respective components, including antennae, satellite dishes, cables, monitors, lines, wires, fibers, filaments, conduits, receivers, transponders, relays and all other related devices and apparatus.

"terrace" is the flooring (composed of pavers or other construction material) and supporting pedestals or shims located above (but is not part of) a roof or setback roof.

"unfettered" is unrestrained, without and free of any consent, approval, fee, charge, imposition, payment, condition, restriction, limitation, prohibition or requirement, other than compliance with the General Requirements and any other expressly stated restriction, limitation, prohibition or requirement.

"use and enjoy" are all rights, privileges and benefits, either exclusively or in common (as applicable), with respect to a portion of the Property for its permitted purposes, under the terms and conditions contained in Condominium Documents.

"utilities" include electricity, gas, water and sewer, cable television, telephone and Internet.

"violate" is to default or breach, or to suffer a default or breach, or to fail to observe, fulfill, perform or comply with a duty, obligation, restriction, limitation, prohibition or other requirement (whether intentional or inadvertent).

"window" includes the pane, muntins, mullions, sashes, latches, mechanisms, frames and any other components comprising a window and its operation (if and to the extent applicable), whether a fixed or operable window, including the portion of a window in the Building's façade or exterior walls.

"work" is all manner of labor, actions and activities, whether structural or non-structural, extraordinary or ordinary.

Section 1.1.3 Exhibits and Schedules. Unless otherwise expressly provided, references to any document, instrument or agreement shall include all provisions thereof and all exhibits, schedules and other attachments thereto, together with their revisions.

Section 1.1.4 Grammar. Any number (plural or singular), or gender (masculine, feminine or neuter) or tense (past, present or future) used in this Declaration, the By-Laws and the Rules and Regulations shall be deemed to include any other number, any other gender and any other tense, as the context may require or to correct a grammatical error.

Section 1.1.5 Condominium Documents. This Declaration establishes a plan for condominium ownership of the building having a street address of 171 Calyer Street, Brooklyn, New York 11222 and the land thereunder pursuant to Article 9-B of the Real Property Law of the State of New York ("**RPL**", a/k/a and herein called, "**Condominium Act**"). The documents establishing this Condominium ("**Condominium Documents**") are this Declaration, the legal description of the land (EXHIBIT A), the description of the Condominium Units (EXHIBIT B), the "**By-Laws**" (EXHIBIT C), the "**Rules and Regulations**" (EXHIBIT D), the Diagrams of Units and Common Elements (EXHIBIT E), and the "**Floor Plans**" showing the layout, locations, and approximate dimensions of the Units (defined below). The Condominium Documents are legally binding on all parties who are subject to this Declaration.

Section 1.2 **Features of Condominium Ownership**.

Section 1.2.1 Condominium Ownership. A condominium is a mixed form of private and common ownership of property created under the Condominium Act. The term "**Condominium**" means the form of condominium ownership of property pursuant to the provisions of the Condominium Act and on the terms contained in the Condominium Documents.

Section 1.2.2 Units and Owners. The part of the property owned privately is called a "**Unit**". The Condominium consists of: twenty-one (21) Units designated "**Residential Units**", located on floors 2 to 6; twelve (12) Units designated "**Parking Units**", located on the cellar level; fifteen (15) Units designated

"**Storage Units**", located on floor 2; and two Units designated "**Retail Units**", located on floor 1, for a total of fifty (50) Units. A terrace (if any) is the outdoor area, and part of the private ownership, of a Residential Unit. A Residential Unit, Parking Unit and Storage Unit are together, "**Residential, Parking and Storage Units**" or derivations or variations thereof.

A "**Sold Residential Unit**", "**Sold Parking Unit**" or "**Sold Storage Unit**" is a Residential Unit. Parking Unit or Storage Unit sold and conveyed by Sponsor to a bona fide purchaser under the Plan. A "**Sold Unit**" is a Sold Residential Unit, Sold Parking Unit and Sold Storage Unit are together, "**Sold Residential, Parking and Storage Units**" or derivations or variations thereof. Each Owner of a Sold Residential Unit or Sold Unit is a "**Sold Residential Owner**" or "**Sold Unit Owner**", respectively.

Each owner of a Unit ("**Owner**" or "**Unit Owner**") is entitled to exclusive ownership and possession of its Unit. The Owner of a Residential Unit or Retail Unit is called, respectively, a "**Residential Owner**" or a "**Retail Owner**". The Owners of a Residential Unit, Parking Unit and Storage Unit are together, "**Residential, Parking and Storage Owners**" or derivations or variations thereof.

The Parking Units and the Storage Units are accessory to the Residential Units and are restricted to Sponsor, as the initial Owner of all Units, and to Owners of Residential Units. In no event may the combined ownership of a Sold Residential Unit with a Sold Parking Unit or a Sold Residential Unit with a Sold Storage Unit be severed, unless owned by Sponsor after all Residential Units are sold and conveyed. Unless owned by Sponsor:

(a) a Sold Parking Unit and a Sold Storage Unit can only be owned by the Owner of a Sold Residential Unit and can only be leased or rented to a resident of the Building (defined in Section 2.1), but not an outsider (i.e., the general public) or for a term beyond the period such Owner owns its Residential Unit;

(b) the Owner of a Sold Residential Unit who also owns a Sold Parking Unit and/or a Sold Storage Unit:

(b-1) cannot convey title (whether by sale, gift, devise, intestacy, or otherwise) to, or mortgage, the Sold Residential Unit without simultaneously including in such conveyance or mortgage the Sold Parking Unit and/or the Sold Storage Unit;

(b-2) cannot separately mortgage the Sold Parking Unit or the Sold Storage Unit without including in such mortgage the Owner's Sold Residential Unit; and

(b-3) shall have the right to separately sell the Sold Parking Unit and/or the Sold Storage Unit to another Residential Owner only; and

(c) in a lien foreclosure sale of a Sold Residential Unit and a Sold Parking Unit and/or a Sold Storage Unit, or a deed given in lieu of foreclosure, the Sold Parking Unit and/or the Sold Storage Unit can only be conveyed to the purchaser at such lien foreclosure sale or to another Residential Owner, or to the named grantee in the deed of the Sold Residential Unit given in lieu of foreclosure.

Each Residential Unit, Parking Unit, Storage Unit or Unit, whether owned by Sponsor or a person who is designated by Sponsor as a "**Designee**" or a "**Sponsor Designee**" in an amendment to the Plan or a deed or other instrument executed and notarized by Sponsor, is an "**Unsold Residential Unit**", "**Unsold Parking Unit**", "**Unsold Storage Unit**" or "**Unsold Unit**", respectively. An Unsold Residential Unit, Unsold Parking Unit and Unsold Storage Unit are together, "**Unsold Residential, Parking and Storage Units**" or derivations or variations thereof. Each Owner of an Unsold Residential Unit or an Unsold Unit is an "**Unsold Residential Owner**" or "**Unsold Unit Owner**", respectively. An Unsold Unit shall retain its status and character as an Unsold Unit until it is conveyed to a Purchaser who is buying in good faith for personal occupancy or occupancy by a member of Purchaser's family, or for rental investment or resale (as provided more fully in the Plan).

Section 1.2.3 Common Elements. The part of the property owned in common by all Unit Owners is called the "**Common Elements**" and comprise all parts of the property, other than the Units, which includes all elements that are necessary or convenient to the existence, maintenance and safety of the Property, or are normally in common use.

The Common Elements consist of the following (see Section 7 for full details of all Common Elements):

(a) the "**General Common Elements**", which are owned and are for the use in common by all Owners on the terms contained in the Condominium Documents;

(b) the "**Residential Common Elements**", which are owned in common by all Owners, but are restricted and limited for the exclusive use in common by the Residential Owners only on the terms contained in the Condominium Documents;

(c) the "**Retail Common Element**", which is owned in common by all Owners, but is restricted and limited for the exclusive use in common by the Retail Owners only on the terms contained in the Condominium Documents; and

(d) the "**Limited Common Elements**", which are owned in common by all Owners, but are restricted and limited for the exclusive use of only a specified Owner on the terms contained in the Condominium Documents.

The General Common Elements and the Residential Common Elements are together the "**General and Residential Common Elements**" or derivations or variations thereof. The General Common Elements, the Residential Common Elements and the Retail Common Elements are together the "**General, Residential and Retail Common Elements**".

All areas comprising the Common Elements are permanent and cannot be divided or partitioned, except under limited circumstances expressly provided in the By-Laws. All facilities comprising the Common Elements, by their nature, are perishable and may be razed, replaced and/or relocated in accordance with the terms of this Declaration or the By-Laws.

Each Owner owns in common with all other Owners a proportionate undivided interest in fee simple absolute in the Common Elements ("**Common Interest**").

Section 1.2.4 Condominium Association. The "**Condominium Association**" is the unincorporated association of Unit Owners to the extent permitted pursuant to the provisions of the General Associations Law of the State of New York. The membership of the Condominium Association at all times shall consist exclusively of all Owners at the time in question.

The real property, personal property, chattel real, intangibles, monies, securities, licenses, belongings, Units and other assets, if and to the extent owned, leased or otherwise held from time to time by the Condominium Board or its affiliate on behalf of the Condominium Association comprise the "**Association's Assets**", which are owned in common by all Owners in proportion to their respective Common Interests, but cannot be divided or possessed by the Owners, who shall conclusively be deemed to have irrevocably and unconditionally waived all rights to partition, possess, use or occupy the Association's Assets.

Section 1.2.5 Condominium Board. The governing body of the Condominium Association is the board of managers ("**Condominium Board**" or "**Board**"). The members and officers of the Board are called, respectively, "**Managers**" and "**Officers**". The Managers elected or appointed by the Residential, Parking and Storage Owners are called the "**Residential Managers**". The Managers separately appointed by each Retail Owner are called the "**Retail Managers**". The Managers separately appointed by Sponsor are called the "**Sponsor Managers**".

The Owners, Units, the Common Elements and the Association's Assets are subject to the powers of the Condominium Board to:

(a) govern, control and conduct the affairs, business and transactions of the Property (including the Units, the Common Elements), the Condominium Association and the Association's Assets in accordance with the terms of the Condominium Documents and the Condominium Act, including to determine the use and enjoyment of the Common Elements and the Association's Assets, and to amend the Rules and Regulations from time to time governing their use and enjoyment, by Owners and tenants of Sold Units, but not governing their use and enjoyment by Sponsor or the tenants of Unsold Units;

(b) purchase, lease or otherwise acquire or hold real property, personal property and assets; and

(c) implement the powers, obligations and duties vested in the Board as set forth in the Condominium Documents.

All of the foregoing are called the "**Board's Governance Rights**". The Board's Governance Rights are, however, subject to all of the rights, powers, easements, remedies, indemnities, protections, exemptions, privileges and benefits of Sponsor under the Plan and the Condominium Documents (collectively, "**Sponsor's Rights**") and to the other prohibitions, limitations and restrictions contained in, the Condominium Documents. Whenever the Board and Sponsor have dual rights under this Declaration or the By-Laws, Sponsor shall have priority over the Board to implement such right.

All actions, activities and transactions conducted by the Condominium Board from time to time shall benefit and bind all future persons serving as Managers.

Section 1.2.6 Common Expenses. The "**Common Expenses**" consist of the following:

(a) the "**General Common Expenses**" assessed by the Board to all Units pro rata to their respective Common Interests to:

(a-1) operate in accordance with the Building Standard (defined below) the General Common Elements, the Association's Assets attributable to both the Retail and Residential Units, and the portions of the sidewalks not being used by a Retail Unit as permitted pursuant to this Declaration;

(a-2) purchase, acquire (including own and lease), mortgage, securitize, sell, convey, transfer, assign and make other dispositions of the Association's Assets;

(a-3) provide Building Services (defined below) to all Owners and tenants of all Units in accordance with this Declaration and the By-Laws; and

(a-4) generally, to prosecute the Board's Governance Rights over the affairs and business of the Condominium Association, the use and enjoyment of the General Common Elements, and the actions and activities of Owners in accordance with the terms of this Declaration, the By-Laws and the Rules and Regulations;

(b) the "**Residential Common Expenses**" assessed by the then Residential Managers, in the name and on behalf of the Board, to only all Residential, Parking and Storage Units pro rata to their respective Common Interests to:

(b-1) operate in accordance with the Building Standard the Residential Common Elements and the Association's Assets attributable to the Residential, Parking and/or Storage Units;

(b-2) purchase, acquire (including own and lease), mortgage, securitize, sell, convey, transfer, assign and make other dispositions of the Association's Assets attributable to only the Residential, Parking and/or Storage Units;

(b-3) provide Building Services to Owners and tenants of only the Residential, Parking and/or Storage Units; and

(b-4) generally, to exercise and prosecute the Board's Governance Rights over the affairs and business of only the Residential, Parking and/or Storage Units, the use and enjoyment of the Residential Common Elements and the Limited Common Elements appurtenant to the Residential Units only, and the actions and activities of Owners and tenants in, on and to their respective Residential, Parking and/or Storage Units, including a Residential Unit's terrace (if any);

(c) the "**Retail Common Expenses**" assessed by the then Retail Managers, in the name and on behalf of the Board, to only the Retail Units pro rata to their respective Common Interests to:

(c-1) maintain, repair, restore and alter the Retail Common Elements;

(c-2) provide Building Services to all Owners and tenants of only the Retail Units; and

(c-3) generally, exercise and prosecute the Board's Governance Rights over the affairs and business of only the Retail Units, the use and enjoyment of the Retail Common Elements, and the actions and activities of Owners and tenants in, on and to their respective Retail Units; and

(d) the **Specially Allocated Expenses** assessed by the Board to one or both Retail Units or to all Residential, Parking and Storage Units, in accordance with RPL §339-m and the First Year's Budget (Schedule B), to pay:

(d-1) for such Unit or group of Units:

(d-1.1) consumption of utilities based on sub-metering or if not sub-metered, at the exclusive option of the Board, in its sole business judgment, a utility consumption survey conducted by an electrical or mechanical engineer chosen by the Board;

(d-1.2) measurable disproportionately greater use of the General Common Elements or Building Services;

(d-2) the amount of increase in the premium for insurance maintained by the Board that is attributable to the Unit caused by a change in use, or the manner of use, or occupancy of such Unit;

(d-3) to repair and restore a General Common Element or Residential Common Element due to the acts or omissions of the Owner of such Unit or for whom such Owner is responsible and accountable pursuant to this Declaration or the By-Laws; or

(d-4) the amounts assessed by the Board to cooperate and give assurances under Article 16 or as otherwise expressly provided in this Declaration or the By-Laws; and

(e) the "**Administrative Expenses**" shall mean the amount assessed to only the applicable Sold Unit Owner for such Owner's late payment of Common Charges or other violation of this Declaration or the By-Laws by an Owner or for whom such Owner is responsible and accountable, which include reasonable legal fees and disbursements and (if applicable) related litigation expenses (collectively, "**Legal Expenses**"), together with daily interest thereon at the annual rate equal to the lower of nine per cent (9%) or the maximum legal rate ("**Per Diem Interest**").

"**Building Services**" means the services to be provided to all or certain Units by the Common Elements and all other services and amenities to be provided to all or certain Units and their Owners and tenants contemplated in this Declaration, the By-Laws or the Plan.

"**Building Standard**" means to maintain and perform all work affecting a Unit, a Common Element, an Association's Asset, or the sidewalk in a good, safe, clean, neat and sanitary first-class condition and appearance, in proper working order, free and clear of water leaks, water accumulations, snow, ice, debris, dirt and undue air penetration, in keeping with the high quality, character, standards and dignity of the building and with the quality of workmanship and materials that shall meet or exceed the standards of locally accepted building practices for high quality residential buildings with a retail component in the

locale of the Building and comparable to the construction and amenities of the Building, in accordance with Laws (defined below) and all other Work Requirements (defined in the By-Laws).

The term "**Laws**" means all applicable federal, state, city or other local laws and ordinances (including the New York City Landmarks Preservation Law), and all applicable regulations, codes, rules, orders, permits, directives and requirements of all governmental agencies, departments, assessors, boards, bodies, instrumentalities and authorities having jurisdiction over the Property or the Condominium Association, including the Landmarks Preservation Commission, the New York City Department of Buildings ("**DOB**"), the City Planning Commission, the Board of Standards and Appeals and the Board of Fire Underwriters (collectively, "**Governmental Authorities**"), as such Laws may be duly amended from time to time.

Section 1.2.7 Common Charges. The "**Common Charges**" are the amounts assessed by the Condominium Board to all or certain Unit Owners to pay the Common Expenses of the Condominium Association in accordance with the Condominium Act and RPL Section 339-(i) and Section 339-(m). The Common Charges consist of the following:

(a) the "**General Common Charges**" assessed by the Board to all Unit Owners pro rata to their respective Common Interests to pay the General Common Expenses;

(b) the "**Residential Common Charges**" assessed by the Residential Managers in the name and on behalf of the Board to all Residential, Parking and Storage Owners pro rata to their respective Common Interests to pay the Residential Common Expenses;

(c) the "**Retail Common Charges**" assessed by the Retail Managers in the name and on behalf of the Board to the Retail Owners pro rata to their respective Common Interests to pay the Retail Common Expenses; and

(d) the "**Additional Common Charges**" assessed by the Board to a Unit Owner to pay the Specially Allocated Expenses, the Administrative Expenses and all other amounts owed to the Board under this Declaration or the By-Laws.

The Condominium Board shall have all of the same rights and remedies to collect Additional Common Charges as are applicable to collect Common Charges.

Unless otherwise determined by the Condominium Board, the Owners shall be obligated to pay the Common Charges in equal monthly installments in advance on the first day of every month. The Condominium Board shall have the power to assess one or more Common Expense items in one or more installments, payable at one time or in installments over a period to be specified by the Board, with or without interest, all as shall be determined by the Board, in its sole business judgment. The installment payment or installment payments are called "**Special Assessments**" and constitute Common Charges. The Special Assessments may be used to pay for capital or major projects, or to build a capital reserve fund, or to cover a deficit in operations or otherwise, as shall be determined by the Board, in its sole judgment. The Condominium Board shall have all of the same rights and remedies to collect Special Assessments as are applicable to collect Common Charges.

The Condominium Board will have a lien on each Unit for unpaid Common Charges and unpaid Additional Common Charges owed by the Owner of such Unit.

Section 1.2.8 No Abatement or Reduction. A Unit Owner cannot abate or reduce its obligation to pay the Common Charges assessed to its Unit by waiving the use and enjoyment of the Common Elements or by abandoning such Owner's Unit, or by reason of an inconvenience or discomfort arising from:

(a) the failure, interruption or diminution of any utility or service being furnished by a Common Element;

(b) the construction, equipping, outfitting, repair, restoration or alteration of the Common Elements or any Unit pursuant to the terms of this Declaration or the By-Laws, except as otherwise expressly provided in the By-Laws in the case of a substantial damage or destruction or a taking in condemnation or eminent domain;

(c) any action taken or omitted by the Condominium Board or the Officers of the Condominium Association to comply with Laws; or

(d) any action taken by a Unit Owner pursuant to this Declaration or the By-Laws.

Section 1.2.9 Personal Liability. Each Owner shall be personally liable to pay the Common Charges assessed to such Owner's Unit and to perform, observe, fulfill and comply with all other obligations and requirements applicable to such Owner under this Declaration, the By-Laws and the Rules and Regulations until the date title to the Unit together with its appurtenant Common Interest is conveyed in accordance with the terms of the By-Laws.

Each Owner shall have the right to surrender and convey title to its Unit, together with its appurtenant Common Interest, to the Condominium Board or (at the exclusive option of the Board) to the Board's affiliate, without being compensated therefor, and be exempt from paying Common Charges thereafter accruing; provided, however, that:

(a) all Common Charges then due and payable with respect to such Unit have been paid in full and collected;

(b) the Unit is free and clear of all liens (other than the statutory lien of the Condominium Board for unpaid Common Charges as to which no monies are then owing), encumbrances, leases, occupancies and rights of others to possession,; and

(c) no violation of any provision of this Declaration, the By-Laws or the Rules and Regulations then exists with respect to such Unit or Owner.

The liability of an Owner, Sponsor or the Board under this Declaration, the By-Laws or the Rules and Regulation shall not extend to such party's Related Parties, each of whom shall be immune from liability for having acted in such capacity. The "**Related Parties**" are:

(x) in the case of a Unit owned by:

(x-1) an individual, such Owner's employees, agents and representatives; or

(x-2) a limited liability company, partnership, corporation or other entity, or a fiduciary, such Owner's members, managers, partners, shareholders, officers, directors, trustees, beneficiaries, principals, employees, agents and representatives;

(y) in the case of Sponsor, its managers, members, representatives, agents or employees; or

(z) in the case of the Condominium Board, the Board's Managers, Officers, employees, agents and representatives.

However, a Manager or Officer shall not be immune from liability, for claims or liabilities arising from his or her bad faith, breach of a fiduciary duty or obligation, self-dealing, dishonesty, fraud, theft, gross negligence, willful misconduct, illegality or similar misconduct.

Section 1.2.10 Authorized Tenant. Any permitted action or activity to be undertaken by an Owner under this Declaration or the By-Laws, and the benefits of an Owner under tis Declaration and the By-Laws, shall apply to such Owner's authorized tenant.

Section 1.2.11 Construction Parties. Any permitted action or activity to be undertaken by an Owner or its authorized tenant may be performed on its behalf, freely and without payment, restriction or limitation (except as otherwise expressly provided), and without the consent or approval of the Condominium Board or other Unit Owners, by such party's authorized architects, engineers, construction managers, contractors and subcontractors, consultants, expediters, experts, decorators, designers and other construction professionals, vendors of materials and supplies, and the respective agents and employees of each of the foregoing (collectively, "**Construction Parties**"). Likewise, any permitted action or activity to be undertaken by the Board may be performed on its behalf, freely and without payment, restriction or limitation (other than compliance with the General Requirements), and without the consent or approval of the Unit Owners, by its Construction Parties, agents and employees. This provision shall apply whenever an Owner or the Board is to undertake any permitted action or activity, even though not expressly stated.

The liability of an Owner or the Board under this Declaration, the By-Laws or the Rules and Regulation shall not extend to such party's Construction Parties, each of whom shall be immune from liability for acting in such capacity, except no Construction Party shall be excused from liability for its own negligence, gross negligence or intentional misconduct.

Section 1.2.12 Legally Responsible and Accountable. Each Owner shall be fully and directly legally responsible and accountable for all claims, litigations, liabilities, losses and damages arising from the acts or omissions of a tenant of its Unit, and the respective Construction Parties, agents and employees of said Owner or tenant, as well as the patrons, customers, guests, visitors and invitees of said Owner or its tenant or a permitted permanent occupant of a Unit (collectively, "**Unit Users**"). The Condominium Board shall be fully and directly responsible and accountable for all claims, litigations, liabilities, losses and damages arising from the acts or omissions of its Construction Parties, agents and employees.

Section 1.2.13 Owner and Unit Count. An Owner and a Unit shall be counted as follows:

(a) an Owner of more than one Unit shall be counted as a separate Owner for each such Unit for quorum and voting purposes;

(b) a Unit owned by two or more persons shall be counted as one Unit Owner for quorum and voting purposes;

(c) a Unit owned by the Condominium Board or its affiliate shall not be counted to determine the total number of Units, the number of Owners and the total percentage of Common Interests for quorum or voting purposes

(d) each Unit resulting from dividing an original Unit into two or more Units pursuant to a duly executed, acknowledged and recorded amendment to this Declaration and the Floor Plan of such original Unit shall be regarded as a separate Unit for quorum and voting purposes, and the total number of Units and Owners shall be increased accordingly; and

(e) when two or more original Units are combined into one Unit pursuant to a duly executed, acknowledged and recorded amendment to this Declaration and the Floor Plan of such original Units, such combined Unit shall be counted as one Unit for quorum and voting purposes and the total number of Units and Owners shall be reduced accordingly.

Section 1.3 **Sponsor's Rights**. Sponsor's Rights shall:

(a) apply to all Unsold Units owned by Sponsor at the time in question;

(b) be superior and paramount to the Board's Governance Rights;

(c) be superior and paramount to, and take preference and priority over, the rights and easement of the Condominium Board and other Unit Owners to use the Common Elements and the sidewalks; and

(d) shall be subject to the limitations, restrictions, prohibitions and requirements expressly contained in the Condominium Documents, the Plan or a duly filed amendment to the Plan.

All of Sponsor's Rights shall inure to the benefit of a Sponsor Designee without having to expressly so provide, shall automatically apply to each and every Unsold Unit owned by such Designee at the time in question, and shall be binding upon, and enforceable by a Designee against, the Condominium Board and all other Unit Owners with respect to each and every Unsold Unit owned by a Sponsor Designee, but subject to the same limitations, restrictions and requirements applicable to Sponsor's Rights as contained in the Plan and the Condominium Documents. Each Designee shall have the same right to designate a person as a Sponsor Designee in the same manner as Sponsor stated herein and shall have all of Sponsor's Rights with respect to each and every Unsold Unit owned by such newly designated Designee.

The Sponsor's Rights (including any consent or reasonable consent of Sponsor required to be obtained under the Condominium Documents) shall be superior and paramount to, and take preference and priority over, the Sponsor's Rights of a Designee.

Sponsor and an Unsold Unit Owner shall each continue to have, and may exercise and perform, its Sponsor's Rights for so long as it owns an Unsold Unit.

All provisions of the Condominium Documents containing Sponsor's Rights cannot be amended without obtaining the consent of each Owner of an Unsold Unit at the time in question (including Sponsor and each Designee, if any), duly executed, acknowledged and recorded in the City Register's Office together with such amendment. Any purported change thereto without such recorded consent shall be null and void *ab initio*.

Section 1.4 **Payment and Collection Terms**. A party shall reimburse all amounts it owes to another party under this Declaration or the By-Laws within a deadline of ten (10) days after a reasonably detailed and itemized written demand therefor is given to the indebted party, accompanied by copies of supporting bills or statements from attorneys, Construction Parties, or otherwise, failing which the indebted party shall reimburse the aggrieved party for the reasonable costs and expenses, including Legal Expenses and Per Diem Interest thereon (computed from the date paid by the aggrieved party to the date each amount owed to it is reimbursed), incurred or paid by the aggrieved party to pursue, enforce, uphold, protect and defend the provisions under which the liability arose and to collect the amounts owed thereunder (collectively, "**Payment and Collection Terms**"). If, however, the indebted party litigates its alleged liability or the amount allegedly owed, the aggrieved party shall be entitled to receive only the amount (if any) awarded in a final, non-appealable order or judgment of a court having competent jurisdiction (including a judgment entered on an arbitration award). The losing party in such litigation shall reimburse the prevailing party for all reasonable costs and expenses, including Legal Expenses and Per Diem Interest thereon, paid or incurred in connection therewith, if and as provided in said final, no-appealable court order or judgment. These Payment and Collection Terms shall apply whenever one party is indebted to the another party under this Declaration or the By-Laws, whether or not expressly provided.

The amounts owed hereunder by an Owner to the Board shall constitute Additional Common Charges, whether or not expressly provided. An offending Sold Unit Owner shall not have the right to submit any dispute or controversy arising under this Section 1.4 to arbitration.

The amount payable hereunder by the Board shall be included in the applicable, Common Expenses and assessed to the appropriate Owner or Owners for whom the Board acted or the transaction primarily benefits.

Section 1.5 **Litigation.** The costs and expenses paid or incurred by the Board in any litigation between the Board and Sponsor shall not be assessed to the Unsold Units unless and until awarded in a final, non-appealable judgment or order of the court or other forum having competent jurisdiction.

ARTICLE 2
SUBMISSION OF THE PROPERTY

Section 2.1 **Submission**. Sponsor hereby submits the land ("**Land**") described in EXHIBIT A hereto, together with the building and improvements thereon erected and to be erected (hereafter, "**Building**") owned by Sponsor in fee simple absolute (the Land and Building being hereinafter referred to collectively as the "**Property**"), to the provisions of said Article 9-B of the Real Property Law of the State of New York (i.e., the Condominium Act).

This submission includes all easements, rights and appurtenances belonging to the Land, all other property (real, personal or mixed) used or intended for use in connection with the Land or the Building, any land lying in the bed of any street, road or avenue open or proposed, public or private, in front of or adjoining the Land; any award made or to be made in lieu thereof, any unpaid award for damage to the Land or the Building by reason of change of grade of any street, and any strips and gores bisecting, adjoining or adjacent to the Land; but Sponsor excludes from this submission all unused floor area rights appurtenant to the Land now existing and subsequently acquired or becoming available by any means under the Zoning Resolution of The City of New York effective December 15, 1961, as amended or restated from time to time ("Zoning Resolution"), and are appurtenant to the zoning lot in which the Property is located, whether due to any so-called bonus redevelopment rights appurtenant to the Property after the date of this Declaration or upzoning or the provision of an amenity or public benefit, or a special permit or otherwise (collectively, "Development Rights"). The Development Rights shall initially be retained, exclusively owned and controlled by, and all benefits derived therefrom shall belong and inure solely to, Sponsor and to anyone to whom all or a portion of the Development Rights are transferred ("**Development Rights Owner**") and merged into a zoning lot pursuant to the terms of a zoning lot development, or a development and easement, agreement recorded or to be recorded in the City Register's Office.

Effective on the date this Declaration is recorded, and the Floor Plans of the Building are filed, in the Office of the City Register of The City of New York, borough of Brooklyn, Kings County, City and State of New York ("City Register's Office"), fee simple absolute title to all Units shall automatically vest in Sponsor without the need to execute specific and particular deeds or indentures for each and every Unit.

Section 2.2 **Filing**. Sponsor, at its sole cost and expense and with reasonable promptness following the recording hereof, shall file this Declaration with the Department of State of the State of New York in accordance with its rules, regulations and requirements, and RPL Section 339-s.

ARTICLE 3
NAME OF CONDOMINIUM

Section 3.1 **Name**. The Condominium shall be known as The Calyer Greenpoint and shall not be changed or modified without the consent of Sponsor. Sponsor shall exclusively own and control all rights, benefits and interests in and to the name of the Condominium, including the exclusive right to apply for any trademark and prosecute to registration any trademark applications, and to litigate against those whom Sponsor believes may be infringing its rights in and to the name of the Condominium. Only Sponsor shall have the right to assign the name of the Condominium and to maintain one or more plaques or other signage identifying Sponsor on the exterior side of the Building façade or exterior walls.

Section 3.2 **Use by Unit Owners and Others**. Sponsor hereby reserves for itself as to any Unit owned by Sponsor and grants to each Owner of a Unit (including an Unsold Unit) and (if permitted in a lease) to the tenant of each such Unit, the right to use the name of the Condominium in connection with the permitted use and enjoyment of a Unit by its Owner or tenant.

ARTICLE 4
THE LAND

Section 4.1 **Land Area**. The Land is owned by Sponsor in fee simple absolute and the parcel comprising the Land has an area of approximately 9,600 square feet.

ARTICLE 5
THE BUILDING

Section 5.1 **Location**. The Building is located on the Land, which lies in Block 2573, on the Block Map of the Tax Map Unit in the Borough of Brooklyn, Kings County, City and State of New York, in Lots F/K/A Lot 23, N/K/A Lots 1001 to 1050.

Section 5.2 **Building and Floors**. The Building is located on the Land and contains a cellar, six floors above grade and the roof above floor 6. The floors will be called and numbered in the Condominium Documents, unless the context otherwise requires, as cellar and floors 1 (ground) to 6.

Section 5.3 **Construction Materials**. The Building construction is classified as Fireproof Class 1. The principal construction materials of the Building are: foundation consists of existing 12" thick concrete walls with additional 3" of concrete and reinforcement at the interior face of existing foundation; non-load bearing exterior walls, constructed of light-gage metal stud framing with batt cavity insulation (R-19), exterior sheathing, exterior insulation (R-10), and new face brick at the Calyer Street and Lorimer Street walls at floors 3 and 4, and floor 5 setback walls; non-load bearing 6" concrete block walls with rigid insulation at the interior face (R-10). A 1" seismic gap between the exterior face of concrete block and Property line at the East and North lot line facing walls; non-load bearing exterior walls, constructed of light gage metal stud framing, exterior sheathing, and new Exterior Insulated Finishing System (EIFS) (R-15) at floor 5 setback walls; new double-paned thermally broken aluminum simulated double hung casement windows at Residential Units on floors 2-5; new thermally broken aluminum window wall with casement vents and terrace doors at floor 6 penthouse; new thermally broken aluminum storefront assembly at floor 1 Retail Units; terrace made of 2" thick concrete pavers on shims; roofs comprised of: filter fabric, extruded polystyrene insulation (R-33), drainage mat, SBS modified bitumen roofing membrane, torch applied base sheet, and asphalt primer over new structural concrete slab or SBS modified bitumen roofing membrane over tapered polyisoscyanurate insulation (R-33), torch applied base sheet, and asphalt primer over new structural concrete slab; cast iron roof drains provided at all roofs and terraces; cast iron sewerage piping; and steel piping.

ARTICLE 6
THE UNITS

Section 6.1 **Unit Information**. EXHIBIT B annexed hereto sets forth the following data with respect to each Unit necessary for its proper identification: (a) the designation number; (b) number of rooms and baths (Residential Units only); (c) the tax lot number; (d) the floor location in the Building; (e) the approximate interior and exterior floor areas; (f) the portions of the Common Elements to which the Unit has immediate access; and (g) the appurtenant Common Interest.

Section 6.2 **Floor Plans and Diagrams**. A more precise location of each Unit in the Building is shown on the Floor Plans of the Condominium certified by PKSB Architects, PC. The Diagrams of Units and Common Elements (EXHIBIT E hereto) also show the location of the Units on each floor of the Building.

Section 6.3 **Unit Dimensions**. The indoor area of each Residential, Retail and Storage Unit is measured: horizontally from the prevailing exterior side of an enclosing boundary wall or façade or exterior Building wall (but not beyond the Property line), or from the midpoint of a party wall separating two Units; and vertically from the Unit-side of the surface of the structural floor to the Unit-side of the surface of the structural ceiling. Each terrace is measured: horizontally from the prevailing exterior side of an enclosing parapet (but not beyond the Property line) or from the exposed prevailing surface of an enclosing façade or exterior Building wall, or from the midpoint of a fence or barrier separating two terraces; and vertically from the Unit-side of the surface of a roof or roof setback enclosing the terrace to a height of an imaginary horizontal plane that is directly opposite and coincident with the Unit-side of the surface of the Unit's structural ceiling. The Common Elements bordering or within the interior of a Unit or terrace are included in the computation of the floor area of the Unit and terrace, but such Common Elements are not part thereof. Each 90 degree Parking Unit is 18 feet in length and 8 feet 6 inches in width. Each Handicapped Parking Unit is 18 feet in length and 11 feet 2 inches in width. Each parallel Parking Unit is 20 feet 4 inches in length and 8 feet 6 inches in width. Each Parking Unit is measured vertically from the Unit-side of the surface of the structural floor to the Unit-side of the surface of the structural ceiling.

Section 6.4 **Items Included in Unit**.

Section 6.4.1 Unit Area. Each Unit consists of the area described in Section 6.3.

Section 6.4.2 Unit Facilities. The facilities included in and part of the private ownership of each Residential and Retail Unit are as follows (if and as applicable), whether now or hereafter existing and replacements thereof:

(a) Walls and Partitions: all interior non-load bearing walls and partitions;

(b) Window Sills: all interior window sills;

(c) Door Assemblies: all entrance doors of a Unit and all interior doors, together with their respective frames, saddles, hardware (e.g., hinges, levers, pulls, knobs and locks) and other components comprising a door;

(d) Terrace: the pavers or other construction material comprising a terrace and its supporting pedestals or shims;

(e) Supports: any pedestals supporting the flooring above a structural floor slab below a Unit;

(f) Finishes and Decorations: all finishes on the Unit-side of:

(f-1) boundary and interior walls (e.g., paint, paneling, wallpaper, fabric, baseboards and moldings);

(f-2) structural floor slabs immediately below a Unit (e.g., sound dampening, tiles (ceramic, marble, granite, stone, vinyl or otherwise), wood, carpets and rugs), but excludes the structural floor slabs and their surfaces (which are part of the General Common Elements);

(f-3) structural ceiling slabs immediate above a Unit (e.g., paint). but excludes the structural ceiling slabs and any plaster, gypsum board or other construction material on the underside of a structural ceiling slab (which are part of the General Common Elements); and

(f-4) windows (e.g., shades, blinds, drapes, curtains or other decorations);

(g) Kitchens and Bathrooms: all kitchen and bathroom appliances (including cooktop, oven, microwave oven, dishwasher, clothes washer and dryer and refrigerator), sinks, lavatories, showers, bathtubs, faucets, spouts, cabinets, countertops and built-ins located within a Unit;

(h) Lighting and Electrical Fixtures: all lighting fixtures, switches, switch plates, outlets, jacks, panels and circuit breakers and their respective components located within a Unit;

(i) Meter and Sub-meter: any separate individual meter or sub-meter (wherever located) that serves exclusively the Unit or its facilities;

(j) Sprinkler Heads: all sprinkler heads;

(k) Lines and Conduits: all accessible pipes, lines, wires, cables, fibers, filaments and conduits (collectively, "**Lines and Conduits**") that are connected to facilities that serve exclusively a Unit and any new facilities installed therein by an Owner or its tenant, excluding the Building's risers and its distribution and/or branch lines that connect to the Unit's cut-off valve or are concealed from view, which are part of the General Common Elements; and

(l) General: all accessible facilities located within the borders enclosing such Unit, all facilities located within the Unit's interior partitions or walls, and all accessible facilities located elsewhere in or on the Building that exclusively serve a Unit.

A Unit does not include the items comprising the Common Elements listed in Article 7 or otherwise serving a Common Element, including the roof and roof structures enclosing a terrace.

Section 6.5 **Attachment to Perimeters**. All Unit facilities may be attached to the Unit-side of the structural and non-structural boundary walls, and the structural floor and ceiling slabs enclosing the Unit, by nails, screws, bolts and other mounting devices; provided, however:

(a) the structural integrity, stability, soundness, weather tightness and acoustics (including the insulation or sound dampening component) of the Unit or the Common Elements shall not be impaired or compromised;

(b) any visible, rentable or useable space of another Unit or the Common Elements shall not be penetrated or affected without obtaining the consent of the affected Owner of such Unit or (in the case of the Common Elements) the Condominium Board; and

(c) the exterior appearance of the Building shall not be penetrated or affected without obtaining the discretionary consent of the Condominium Board.

ARTICLE 7
THE COMMON ELEMENTS AND ASSOCIATION'S PROPERTIES

Section 7.1 **General Common Elements**. The General Common Elements include the following rooms and unenclosed areas and the facilities inaccessible from within the interior of a Unit, unless otherwise expressly provided elsewhere in this Declaration:

(a) Land: the Land;

(b) Cellar: the water room, detention tank room, staff lavatory (including all facilities located therein), corridor serving these two rooms and adjacent stair, electrical room and stair, gas meter room, and fire pump room;

(c) Floor 1: the stair adjacent to Retail Unit 1;

(d) Floor 3: the 119 square foot area housing General Common Element equipment adjacent to Residential Unit 3G;

(e) Floor 6: the 1,739 square foot area housing equipment serving the Residential Units and serving separately Retail Units 1 and 2;

(f) Roofs: the roof/bulkhead above floor 6 and all Building setback roofs, including those below terraces;

(g) Roof Structures: all parapets, copings and railings enclosing a roof, together with its drains, gutters, leaders and similar elements;

(h) Structural Components: all elements that contribute to the physical support, stability, soundness, integrity and weather-tightness of the Building or a portion thereof, including (if and to the extent applicable):

(h-1) the Building's foundation, foundation walls, footings, pilings girders and structural columns, beams and supports;

(h-2) all concrete (or other construction material) comprising the Building's structural floor slabs and structural ceiling slabs, including any plaster, gypsum board or other construction material on the underside of a structural ceiling slab enclosing a Unit or a Common Element;

(h-3) all façade and exterior Building walls and their components, composed of masonry, concrete, brick walls and/or other construction material, together with fire retardant insulation and furring; all exterior window sills, ornaments, heads and jambs; and all load-bearing and shear walls;

(i) Main Feeder Lines: all main feeder lines for water, sewerage, sanitary waste, storm drainage, electricity, gas, power, telephone, cable television, Internet and other media, communications and utility equipment and related facilities for Building Services that serve or benefit both one or more Residential Units and Retail Units, or a General Common Element; and

(j) Building Systems: the rooms and unenclosed areas housing, and the portions of the facilities inaccessible from within the interior of a Unit comprising the: heating, ventilating, air-conditioning, hot and cold water, lighting, refuse disposal (including chutes and compactor), storm drainage, sanitary sewerage or waste, fire safety and protection (e.g., sprinkler, sprinkler alarm, pumps, hoses, nozzles, standpipe, siamese connection and related facilities), utilities (i.e., electricity, gas, water and sewer, cable television, telephone and Internet), intercom, security cameras, monitors and other devices, and their respective components, including risers and distribution or branch lines, motors, pumps, louvers and fans; all shafts, ducts, conduits, chases, chase walls, shelves, coves, dropped ceilings, soffits and other structures that house facilities comprising the foregoing elements; and all equipment, machinery, tools, devices and apparatus (all of the foregoing are collectively, "**Building Systems**") serving or benefiting:

(j-1) both one or more Residential Units and one or both Retail Units; or

(j-2) the General Common Elements; and

(k) Generally: all rooms and unenclosed areas and all facilities inaccessible from within the interior of a Unit, that are necessary or convenient for the use and enjoyment in common of both one or more Residential Units and one or both Retail Units, or the Property as a whole, and are not expressly stated to be part of the private ownership of a Unit, the Residential Common Elements, the Retail Common Elements or the Limited Common Elements.

Section 7.2 **Residential Common Elements**. The Residential Common Elements include the following rooms and unenclosed areas, and the facilities inaccessible from within the interior of a Unit, that serve all or portions of the Residential, Parking and/or Storage Units, unless otherwise expressly included in a Unit or a General Common Element or Retail Common Element:

(a) Cellar: the garage area serving the Parking Units; the pet grooming station; the trash room; the elevator and landing; and stair A;

(b) Floor 1: the 171 Calyer Street residential entrance, vestibule, lobby, the mail box area, bike storage room and bike racks, corridor leading to the elevator, elevator; stairs A and B and their respective landings, and parking ramp;

(c) Floor 2: the children's playroom (and its outfitting), exercise room (and its outfitting), lavatory (including all accessible facilities located therein); storage room housing the Storage Units, the trash room, elevator; corridor, and stairs A and B and their respective landings;

(d) Floors 3 through 5: the trash room, elevator, corridor, and stairs A and B and their respective landings;

(e) Floor 6: the recreation terrace and barbecue, trash room, elevator, corridor, stairs A and B and their respective landings, and mechanical equipment serving exclusively the Residential Units located on areas comprising the General Common Elements;

(f) Roof/Bulkhead: the solar panels serving exclusively the Residential Units located on areas comprising the General Common Elements;

(g) Boundary Walls and Fences. all nonstructural boundary walls enclosing a Residential or Storage Unit or separating two Residential Units or two Storage Units; and all fences or barriers separating two terraces;

(h) Interior Walls and Partitions, and Doors: all walls and partitions enclosing and within the rooms and other areas comprising the Residential Common Elements, all street entrance doors leading to the Residential Common Elements and all doors leading to or within the Residential Common Elements;

(i) Facilities:

(i-1) Stairs: the fire rated walls, hand rails, steps, landings other facilities comprising the fire-safety egress stairs serving exclusively the Residential Common Elements or the Residential, Parking and/or Storage Units;

(i-2) Elevator: the elevator cab, motor, shaft, pit, cables and all other facilities comprising its components;

(i-3) Outfitting: the water closet, sink, faucets mirror, cabinet of the floor 2 lavatory; the facilities, equipment, decorations, finishes and coverings in and on the rooms and areas comprising the Residential Common Elements; and

(i-4) Lighting and Ventilation: all lighting fixtures and related switches, plates, electrical panels, and Lines and Conduits, and all ducts, louvers fans and other components comprising the ventilation system that serve the Residential Common Elements or the Residential, Parking and/or Storage Units;

(i-5) Shafts, Ducts, Conduits, Chases etc.: the shafts, ducts, conduits, chases, chase walls, shelves, coves, dropped ceilings, soffits and other structures that house facilities comprising or serving exclusively the Residential Common Elements or one or more Residential, Parking or Storage Units; and

(j) Building Systems: the Building Systems that serve exclusively the Residential Common Elements or one or more Residential, Parking and/or Storage Units, and are inaccessible from within the interior of a Unit.; and

(k) General: generally, all rooms and unenclosed areas that serve exclusively the Residential Common Elements or one or more Residential, Parking and/or Storage Unit; all facilities serving exclusively the Residential Common Elements, and the inaccessible portions of facilities that serve exclusively all or portions of one or more Residential, Parking and/or Storage Units or are necessary or convenient for the use and enjoyment in common of two or more Residential, Parking and/or Storage Units only, and are not expressly stated to be part of the private ownership of a Unit or a General Common Element or Retail Common Element.

Section 7.3 **Retail Common Elements**. The Retail Common Elements consist of only the party wall separating the two Retail Units and any facilities inaccessible from within the interior of the Retail Units that serve exclusively both Retail Units.

Section 7.4 **Limited Common Elements**. The Limited Common Elements comprise all Unit windows and storefronts, including (if and to the extent applicable) their frames, panes, latches, hinges and other components. No area is part of a Limited Common Element.

Section 7.5 **Conflict Between Declaration and Floor Plans**. The description of the areas comprising Units set forth in Section 6.4 and areas comprising the General or Residential Common Elements set forth in Sections 7.1 and 7.2 are intended to complement and to be consistent with the Floor Plans and EXHIBIT E hereto, as well as the actual physical construction of the Building. In the event the description of these areas comprising a Unit or a General or Residential Common Element in this Declaration omits one or more areas designated as a Unit or a General or Residential Common Element shown on the Floor Plans or EXHIBIT E hereto, the Floor Plans and said EXHIBIT E shall govern and control. In the event of any conflict or inconsistency between an express description in this Declaration of an area comprising a Unit or a General or Residential Common Element and as shown on the Floor Plans or EXHIBIT E hereto, the Floor Plans or EXHIBIT E shall govern and control. In the case of any ambiguity or uncertainty between an express description of an area comprising a Unit or a General or Residential Common Element in this Declaration and as shown in the Floor Plans or EXHIBIT E, the actual physical construction of the Building and the other provisions of this Declaration and the By-Laws shall be used to determine the intent of Sponsor. The Floor Plans and EXHIBIT E hereto are intended to show only the areas comprising a Unit and the General Common Elements and the Residential Common Elements. The Floor Plans and EXHIBIT E do not, and are not intended to, show the facilities comprising a Unit or a General or Residential Common Element.

ARTICLE 8
COMMON INTERESTS

Section 8.1 **Statutory Method Chosen**. The Common Interest of each Unit is based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use, and the overall dimensions of the particular Unit, in accordance with Section 339-i.1(iv) of the Condominium Act.

Section 8.2 **Common Interests**. The Common Interest of each Unit is set forth in EXHIBIT B hereto and constitutes the proportionate undivided interest of the Owner of such Unit in the Common Elements and the Association's Assets. The Common Interest appurtenant to each Unit cannot be separated from the Unit. Accordingly, the conveyance, mortgage or similar disposition of the fee title interest in a Unit shall include and (in the absence thereof) shall conclusively be deemed to include, the Unit's Common Interest.

ARTICLE 9
USES OF PROPERTY AND SIDEWALKS

Section 9.1 **General Requirements**. The following requirements shall apply to use and enjoy the Property and the adjacent sidewalks (collectively, "**General Requirements**"):

(a) the requirement to use and enjoy the Common Elements, the Units and the sidewalks for the purposes permitted or stated in this Declaration, the By-Laws or the Rules and Regulations, but the following uses shall not be permitted or suffered, whether knowingly or unknowingly (collectively, "**Prohibited Uses**"):

(a-1) any use of a Unit that impacts or, in the business judgment of the Board, would threaten to impact, the structural integrity, stability, soundness, weather tightness and acoustics of the Building, or damage the Common Elements or another Unit, or the life, health, safety, protection or security of Owners or tenants of Units;

(a-2) any use that violates applicable Laws in effect at the time in question or the Building's certificate of occupancy ("**C of O**");

(a-3) any use of, or matter kept in or on, a Unit, whether permitted or suffered, that increases the rate of insurance of the Property in effect at the date of recording this Declaration, unless the Unit's Owner responsible for such increase pays the additional premium therefor;

(a-4) any use of a Unit that results in, or in the business judgment of the Board would result in, the cancellation or notice of cancellation of insurance maintained by the Board;

(a-5) any use inconsistent with or in violation of its permitted use;

(a-6) any unusual use of, or practice permitted or suffered in, on or to a Unit that, in the business judgment of the Board, is an unreasonable and substantial annoyance or nuisance to an Owner or a tenant of another Unit or an unreasonable, substantial and repeated interference with the peaceful possession or proper use and enjoyment of another Unit or the Common Elements for their intended or permitted purposes as stated in this Declaration or the By-Laws; provided, however, the use of a Retail Unit as a restaurant or other permitted use shall not be a violation of this clause (a-6);

(a-7) any use of a Common Element or a Unit causing or comprising waste;

(a-8) any use involving the storage, purchase, sale, disposal or release or other disposition of any hazardous, explosive, toxic or radioactive material, matter, substance or waste that is or becomes regulated under applicable Laws, including: asbestos; polychlorinated biphenyls (i.e., PCBs); radioactive substances; petroleum, petroleum-based derivatives and hydrocarbons; urea formaldehyde; and any "hazardous substance" or "hazardous waste", as defined in and regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq., or the Resource Conservation and Recovery Act, 42 U.S.C. §§6901, 6903, 6921, et seq., as each statute may hereafter be amended from time to time, or any other existing or hereafter enacted or promulgated new applicable federal, state or local Laws, but excluding from the foregoing:

(a-8.1) petroleum products for mechanical equipment of a Unit or a Common Element that are properly used and stored in accordance with applicable Laws or this Declaration or the By-Laws; and

(a-8.2) cleaning, heating and lubricating products in general use in first-class, high quality mixed-use residential and retail buildings located in the vicinity of the Building and similar to the Building's size and amenities; provided, however, such products are properly used and stored in accordance with applicable Laws;

(a-9) any use of a Unit or any portion thereof by any Foreign Government, unless such Foreign Government waives its sovereign or diplomatic immunity in conformity with the terms contained in Article 14;

(a-10) any use of a Unit or any portion thereof by a Foreign Government, unless such Foreign Government (if an entity) designates the New York Secretary of State or a New York agent for service of process or (if an individual) designates an agent for service of process, pursuant to the terms provided in Article 15;

(a-11) any change in use of a Unit that would require a new or amended C of O of the Building that would affect the permitted use of another Unit or require an alteration to the Common Elements, or delay extending a temporary C of O of the Building or obtaining a final C of O of the Building ("**FCO**"), without obtaining the discretionary consent of the following:

(a-11.1) until issuance of the Building's FCO, the Sponsor;

(a-11.2) the Condominium Board; and

(a-11.3) the impacted Owner of another Unit (if any); and

(a-12) any use of a Common Elements or Unit that impairs, infringes, abridges, diminishes or otherwise affects the Excess Development Rights;

(b) the requirement of each Owner and Unit User to use and enjoy the Common Elements in a manner that shall not prevent or unreasonably impair, infringe or interfere with the rightful use and enjoyment thereof by another Owner or Unit User, or the easements granted to certain Owners or the Sponsor;

(c) the requirement of a Unit Owner to obtain the consent of:

(c-1) (until issuance of the FCO) Sponsor; or

(c-2) (after the FCO is issued) the Board,

to alter or otherwise change the aesthetics, architectural integrity or appearance of an exterior or façade Building wall, including a storefront and windows, and a Unit's street entrance doors;

(d) the requirement of each Unit Owner to not discharge, nor permit or suffer (whether knowingly or unknowingly) such Owner's tenant to, discharge, any materials or items into, or to emanate from, such Owner's Unit into, waste lines, vents or flues that causes or, in the business judgment of the Board would cause, damage thereto;

(e) the requirement of each Unit Owner, at its sole expense, to, or to cause a tenant of such Owner's Unit to, install and maintain in its Unit such insulation or buffers or other material or apparatus as

may be necessary to prevent the transmission from such Owner's Unit to another Unit, or to a Common Element, of commercially unreasonable disturbing noise, vibration, odor, vapor or fume, or any interference with another Unit's electrical, Internet, television or other telecommunication facility, or otherwise unreasonably disturb or interfere with the permitted use and enjoyment of an Owner or a tenant of another Unit;

(f) the requirement to comply with all applicable Work Requirements when an Owner or its tenant undertakes work; and

(g) until issuance of the FCO, the requirement to obtain the consent of Sponsor for any work to be undertaken by or behalf of the Condominium Board or a Unit Owner or its tenant that requires the issuance of a license, authorization, certificate or permit for the work in question from a Governmental Authority ("**Governmental Work Permit**").

The Condominium Board and all Owners and Unit Users shall comply with the General Requirements, which are paramount and shall control. Any inconsistency or ambiguity between the General Requirements and any other provision of this Declaration, the By-Laws or the Rules and Regulations shall be resolved in favor of the General Requirements.

The provisions of this Section 9.1 cannot be amended without the unanimous consent of all Owners and (until issuance of the FCO) the Sponsor, duly executed, acknowledged and recorded in the Register's Office together with such amendment.

Section 9.2 **Violations and Remedies**. In the event of a violation of a General Requirement, the following party shall exclusively have all rights and remedies available at law and in equity against the offending party, including the right of self-help (to the extent applicable) and the right to enjoin, abate or otherwise remediate the continuance or repetition of such violation by appropriate litigation:

(a) in the case of a violation of a General Requirement affecting the Sponsor's Rights, only the aggrieved Unsold Unit Owner (i.e., Sponsor or a Designee, as applicable);

(b) in the case of a violation of a General Requirement affecting the extension of a temporary C of O ("**TCO**") or the issuance of a FCO of the Building, only Sponsor;

(c) in the case of a violation of Section 9.1(c), only Sponsor or (after issuance of the FCO)) the Condominium Board,;

(d) in the case of a violation of Section 9.1(g), only Sponsor;

(e) in all other cases, only the Condominium Board.

If the Condominium Board or the Sponsor is an aggrieved party, then it shall have the exclusive and preferential power to pursue said rights and remedies against the offending party. If both the Condominium Board and the Sponsor are the aggrieved parties, then the Sponsor shall have the exclusive priority and preferential right to pursue said rights and remedies against the offending party.

In the event of a violation of a General Requirement and the aggrieved party is an Unsold Unit Owner and the offending party is the Condominium Board, all costs and expenses incurred by the Condominium Board in connection with such violation shall be charged to all Sold Unit Owners only, pro rata to their respective Common Interests.

Section 9.3 **Use of Common Elements**.

Section 9.3.1 Use by Unit Owners. Subject to compliance with the General Requirements, the Board's Governance Rights and all easements and rights set forth elsewhere in this Declaration or the By-Laws, and permitted Unit Changes (as defined in the By-Laws):

(a) the General Common Elements are for the use and enjoyment in common by all Unit Owners in accordance with the purposes for which they are reasonably suited, capable, designed and intended, without excluding, preventing, interfering with, hindering or infringing upon the permitted use and enjoyment thereof by the other Owners or their respective tenants;

(b) Residential Common Element are for the exclusive use and enjoyment in common by all Residential Owners in accordance with the purposes for which they are reasonably suited, capable, designed and intended, without excluding, preventing, interfering with, hindering or infringing upon the permitted use and enjoyment thereof by the other Residential Owners or their respective tenants; and

(c) the Limited Common Elements are for the exclusive use and enjoyment by only the Owner of the Unit to which such Limited Common Elements are appurtenant in accordance with the purposes for which they are reasonably suited, capable, designed and intended,.

If a Unit is divided into two or more Units, the Limited Common Elements appurtenant to the original Unit, or the applicable portions thereof, shall become Limited Common Elements for the exclusive use and enjoyment by only the applicable Unit resulting from such division to which such Limited Common Elements are appurtenant.

Section 9.3.2 Use by Condominium Board. The Condominium Board shall have the right to install in or on and along, or within, the General Common Elements and/or Residential Common Elements new, different and/or substitute facilities and related Lines and Conduits for the use, service and/or benefit of the Units or the Owners or tenants of Units.

Section 9.3.3 Sponsor's Rights. Sponsor shall have the unfettered right to use the Common Elements, including the 171 Calyer Street residential entrance, lobby and elevator and the Building façade or exterior walls, and the sidewalks for all purposes related to the use and enjoyment (including sales, rental, promotion and operation) of its Unsold Units, as more particularly set forth in Section 9.5.

Section 9.3.4 Move-In and Move-Out Uses. Owners and tenants of Residential Units, and their respective movers, shall have the right to use the Residential Common Elements for the purpose of moving furniture, furnishings, belongings and other personal property into or out of their Residential Units. The time and date of the move, the requirements to protect the Residential Common Elements from damage and all other details with respect to the move shall be determined by Sponsor (with respect to only the Unsold

Residential Units) or the Board (with respect to only the Sold Residential Units). The Board may adopt rules and regulations with regard to moving into and out of the Building to assure reasonable access to, and use of, other portions of the Residential Common Elements by other Residential Owners and their Unit Users; provided, however, Residential Owners and their respective tenants moving into and out of Residential Units shall be given preference over said other Residential Owners and their respective Unit Users and allowed reasonably prompt access to, and priority use of, the elevator and the other public areas of the Residential Common Elements to be used in connection with the move.

The Condominium Board shall not impose or collect any fee, charge or other imposition in connection with a move into or out of the Building, or such use of the Residential Common Elements, other than a reasonable fee of the Board's managing agent or property manager and a security deposit from Owners and tenants of Sold Residential Units only (but not Unsold Residential Units). The Board shall have the right to apply the security deposit to pay the costs and expenses to repair damage to the Residential Common Elements attributable to such move. The unapplied amount of such security deposit shall be refunded to the applicable Owner or tenant of a Sold Residential Unit with commercially reasonable diligence after completion of the move. The amount of the security deposit shall be determined by the Board, in its business judgment.

Section 9.4 Sidewalks.

Section 9.4.1 Use. Subject to compliance with Laws and Section 9.4.2, the Owner of the Retail Unit and its authorized tenant may use the sidewalk immediately adjacent to its entire storefront and street entrance only:

(a) to operate a sidewalk café or outdoor food and beverage services, including to place thereon in connection therewith outdoor portable racks, seating, tables, umbrellas or other weather protector, lighting, heat lamps, fencing, menu and signage identifying the tenant; and

(b) for any legal use ancillary to its business.

The sidewalks, however, shall not be used in a manner that prevents or unreasonably obstructs pedestrian passage on and across the sidewalks.

Section 9.4.2 Obligations. The Owner using or whose tenant is using the sidewalk, at its sole expense:

(a) shall obtain, or cause its tenant to obtain from the applicable Governmental Authority, and give to the Board before implementing such use of the sidewalk, originals or copies of all required Governmental Work Permits for the work in question, and insurance certificates or policies as required in the By-Laws; and

(b) shall promptly and diligently endeavor to obtain from the appropriate Governmental Authority and give to the Board with reasonable diligence when the work in question is completed, all required governmental approvals, sign-offs, certificates (including (if and as applicable) an amended or new C of O of the Building, a letter of completion from the DOB and all other appropriate governmental

documents (collectively, "(collectively, "**Governmental Approvals**"), and promptly and diligently endeavor to close all related open applications; and

(c) shall be responsible to keep, or cause its tenant to keep, the sidewalk in neat, clean and sanitary condition and appearance, free of debris caused by such use, and to repair any resulting damage and destruction to the sidewalk, and restore the affected sidewalk to as near as commercially reasonable and economically practicable to the condition existing immediately before being damaged or destroyed.

Such Owner shall indemnify the Condominium Board and all other Unit Owners, on the terms set forth in Article 19, from and against all claims, litigations, liabilities, losses and damages arising from the use of the sidewalk by such Owner or its tenant.

Section 9.5 **Sponsor's Rights of Access and Use**.

Section 9.5.1 Units and General and Residential Common Elements. Sponsor shall have the right to access the Units and to access and have preferential use of the General Common Elements and the Residential Common Elements in order to:

(a) complete the construction, equipping and outfitting of the Building (including the Units and Common Elements) in accordance with Sponsor's DOB approved plans and specifications; and

(b) to obtain a FCO authorizing the use and occupancy of all Units for their permitted uses under this Declaration.

Section 9.5.2 General and Residential Common Elements. Sponsor also shall have the right to access and use the General Common Elements and the Residential Common Elements:

(a) to perform obligations of Sponsor under the Plan, as amended, or a Purchase and Sale Agreement with a Purchaser under the Plan, or a lease of an Unsold Unit, or to make Unit Changes to Unsold Units pursuant to the By-Laws;

(b) to connect facilities and related Lines and Conduits now or hereafter part of an Unsold Residential Unit to the facilities comprising at any time the General Common Elements and/or Residential Common Elements, to thereafter maintain, repair, restore and alter such newly connected facilities, and to reasonably access the General Common Elements and/or Residential Common Elements in order to perform the work in connection with the foregoing;

(c) until the issuance of the FCO of the Building, to install new, different and/or substitute facilities and related Lines and Conduits in, on and along the non-public portions of the General Common Elements and the Residential Common Elements (including the Building service rooms or other areas in the cellar, the public stairs, the unutilized or underutilized portions of a roof and its appurtenant roof structures, and the Building façade or exterior walls) and the unexposed portions of the General Common Elements and the Residential Common Elements (e.g., shafts, ducts, conduits, soffits, shelves, chases and chase walls), which facilities and related Lines and Conduits:

(c-1) shall be for the common use, service and/or benefit of the Owners and tenants of Units, or the Building or any portion thereof; or

(d) shall provide telephone, television, Internet and all other kinds of telecommunication, media and information services to Owners and tenants of Units

(e) to sell, rent, operate, manage, use and occupy Unsold Units and in connection therewith to provide access for ingress and egress to sales and rental personnel, brokers, prospective Purchasers and renters, Construction Parties, decorators and other persons authorized by Sponsor;

(f) to install, maintain, repair, restore and alter telecommunication equipment on roofs and roof structures and in equipment rooms and non-public portions of the General Common Elements and the Residential Common Elements and to permit licensees to so do;

(g) to install, maintain and repair furnishings, wall and floor coverings and other decorations in and on the residential lobby and other public areas of the Residential Common Elements;

(h) to install, maintain, repair, restore, alter and operate signage of any size, content, composition, material, design, illumination, character, color and/or appearance deemed appropriate by Sponsor in, on or from the Building façade and exterior walls, the sidewalks, in or on the residential lobby and other portions of the Residential Common Elements;

(i) to station sales and rental staff in the residential lobby and other public portions of the Residential Common Elements; and

(j) to maintain, repair, restore and alter Unsold Units.

Section 9.5.3 Terms of Access and Use. Sponsor's right to access Units and to access and use the General Common Elements and the Residential Common Elements shall be in accordance with the following terms:

(a) Sponsor shall have priority and preferential use of the General Common Elements and the Residential Common Elements, including in particular (but not limited to) the 171 Calyer Street residential entrance, lobby and elevator;

(b) Sponsor shall comply with the applicable Work Requirements;

(c) Sponsor shall have the exclusive right to make all determinations with respect performance of matters in Sections 9.5.1 and 9.5.2, including:

(c-1) all Construction Parties to undertake the work in question and construction specifications, materials and other details thereof;

(c-2) to temporarily interrupt electrical, water, plumbing, heating, cooling, hot water, ventilation and other Building Systems during the course of such work without Sponsor being responsible or accountable for any claims, litigations, liabilities or losses to an Owner or tenant of a Unit or to the Condominium Board that are attributable to such temporary interruption in Building Systems; but shall give, or (while Sponsor has voting control of the Board) cause the Board's managing agent or property manager to give, the affected Owners reasonable advance oral or written notice before so doing (except no notice need be given in the case of an emergency); and

(c-3) to stage and store materials, equipment and supplies in and on the sidewalks, Unsold Units, and temporarily Residential and General Common Elements, and to transport such materials, equipment and supplies on and across the General Common Elements and the Residential Common Elements, including the 171 Calyer Street residential entrance, lobby and elevator, which are to be used to:

(c-3.1) construct, equip and outfit the Common Elements and the Units; and

(c-3.2) maintain, repair, restore and alter Unsold Units;

(d) Sponsor shall endeavor, to the extent commercially reasonable and economically practicable, to minimize inconveniencing residents of the Building;

(e) from and after first occupancy a Residential Unit, Sponsor's Construction Parties shall have the unfettered right to perform work on Mondays to and including Fridays, from 8:00 a.m. to 5:00 p.m. and on Saturdays from 9:00 a.m. to 1:00 p.m., except that especially noisy work will not begin before 9:00 a.m., and except further that work may be performed at any time and on any day to correct or remediate a condition that: threatens or endangers the life, health, safety, security or protection of an occupant of a Unit; or requires action necessary to avoid injury to person or damage to property, or the suspension or disruption of an essential or necessary service to a Unit or the Common Elements;

(f) in the event of damage or destruction in connection with the access to and use of the General or Residential Common Elements, the Units or the sidewalks pursuant to this Section 9.5, when the use ends the only obligation of Sponsor shall be to repair the damage or destruction and restore the affected Common Elements, Units or sidewalks (as applicable) to as near as commercially reasonable and economically practicable to its condition existing immediately before being damaged or destroyed, but in no event will Sponsor be liable for any loss or damages based thereon;

(g) the Condominium Board shall cooperate with Sponsor to implement the provisions of this Section 9.5 pursuant to Article 16;

(h) the Condominium Board shall not impose or levy any fee, charge, deposit, security, payment, imposition, restriction, limitation, work rule, insurance or other requirement on:

(h-1) Sponsor or its Construction Parties in connection with the exercise or performance of Sponsor's Rights under this Section 9.5; or

(h-2) Sponsor or an Unsold Unit Owner, or Unit Users of an Unsold Unit in connection with their respective permitted use and enjoyment of the General Common Elements and the Residential Common Elements pursuant to the Condominium Documents (other than the same Common Charges levied on all Unit Owners in accordance with the By-Laws); or

(h-3) prevent, impair, impede or interfere with the use, occupancy, sale, rental, promotion, operation, management or other permitted use and enjoyment of one or more Unsold Units or Sponsor's Rights under this Article 9;

(i) nothing herein shall prevent an Owner or such Owner's tenant from using the sidewalks for ordinary pedestrian passage or prevent the Owners or their respective tenants from using the 171 Calyer Street residential entrance, lobby and elevator for ordinary ingress and egress to and from their Units, other than temporary interruptions and inconveniences;

(j) the foregoing rights reserved to Sponsor to access and use the General Common Elements and the Residential Common Elements and sidewalks shall be superior, paramount and take preference over the rights of the Board and other Unit Owners, including other Unsold Unit Owners (if any);

(k) in the event the Condominium Board or one or more Unit Owners shall violate this Section 9.5, Sponsor or the aggrieved Unsold Unit Owner (as applicable) shall have all rights and remedies available at law and in equity against the offending Board or Unit Owner (as applicable), including:

(k-1) the right of self-help; and

(k-2) the right to enjoin, abate or otherwise remediate the continuance or repetition of such violation by appropriate litigation;

(l) all amounts payable by Condominium Board in connection with its violation of this Section 9.5 shall be charged to all Unit Owners pro rata to their respective Common Interests, other than the Unsold Unit Owners,; and

(m) the provisions of this Section 9.5 cannot be amended without the consent of Sponsor (until issuance of the FCO of the Building) and the unanimous consent of all Owners of Unsold Units, duly executed, acknowledged and recorded in the City Register's Office together with such amendment, failing which such purported amendment shall be null and void *ab initio*.

Section 9.6 **Permitted Use and Occupancy of Units**.

Section 9.6.1 Sold Residential Unit. The indoor area of each Sold Residential Unit shall be used only as a private one-family dwelling and incidental home occupations permitted by Laws, and for no other purpose, and shall be occupied in accordance with all applicable Laws by only the Unit's Owner or tenant, the "Household" of said Owner or tenant, and the "Guests" of said Owner or tenant (see below for the definitions of the quoted terms).

If the Owner or a tenant is a corporation, partnership, limited liability company, trustee, consulate, mission, sovereign government or other non-individual, then occupancy of a Sold Residential Unit shall mean the individual who is an officer, director, shareholder, member, partner, trustee, principal or governmental official or employee designated by such entity or fiduciary (the "**Designated Occupant**").

The term "**Household**" means to the extent not prohibited by Laws, the Owner, the Owner's immediate family, domestic employees or housekeepers and health care aides of the Owner or a tenant and such tenant's Household or a Designated Occupant of the Unit (as applicable).

The term "**Guests**" means the visitors and invitees of an Owner or a tenant or Designated Occupant (as applicable) of a Sold Residential Unit, or of a Household member of such Owner or tenant or Designated Occupant (as applicable) of said Sold Residential Unit who do not pay any manner of consideration or value

or provide any service or exchange to occupy the Unit or any portion thereof and whose relationship to the Owner or said tenant (as applicable), or a Household member of such Owner or tenant or Designated Occupant (as applicable) is not attributable to advertising on any media platform (such as the Internet, Airbnb, Home Away, Roomorama or other social media site) or to a broker or other intermediary.

The foregoing permitted Household and Guests will be permitted to occupy the Sold Residential Unit even though the Owner or a tenant or Designated Occupant (as applicable) is absent; provided, however, at least one Household member of the Owner or tenant or Designated Occupant aged 18 years or older is simultaneously in occupancy overnight. No transient or short-term occupancy or stay, similar to a hotel, motel, dormitory, bed and breakfast, boarding house shall be accommodated in a Sold Residential Unit or any room of a Sold Residential Unit at any time, other than nonpaying Guests. No Sold Residential Owner shall permit or suffer (whether knowingly or unknowingly) such Owner's Sold Residential Unit to be used or occupied in violation hereof.

Notwithstanding the foregoing, the Condominium Board may, in its sole and absolute discretion, grant permission for occupancy of a Sold Residential Unit by individuals other than those set forth above, subject, however, to compliance with applicable Laws. If granted by the Condominium Board, such permission must be in writing and shall be personal to such Sold Residential Owner or tenant or Designated Occupant of the Sold Residential Unit (as applicable) and shall not inure to the benefit of a succeeding Owner or tenant or Designated Occupant of such Sold Residential Unit.

A terrace (if any) shall be used only for lounging, sunbathing and other passive recreational activities, and for no other purpose, and shall be occupied only in accordance with the same Unit Users applicable to the interior of the Sold Residential Unit. In no event may a terrace be used for sleeping, dining or any other any type of "living" or habitable space, or as an office.

The following restrictions and requirements apply to a terrace:

(a) no terrace shall be enclosed, partitioned, landscaped, furnished or decorated, without obtaining the prior written consents of both the Condominium Board and (until issuance of the FCO of the Building) Sponsor in each instance, except the reasonable consent of the Board and (until issuance of the Final Certificate of Occupancy of the Building) the consent of Sponsor shall be required for a temporary structure erected on a terrace in accordance with applicable Laws for religious, ceremonial or similar purposes;

(b) no antennae, satellite dishes or other telecommunication equipment may be installed in, on or from a terrace;

(c) no clothes, sheets, rugs, blankets, laundry, or other articles of any kind shall be hung on or out of, or shaken from terrace;

(d) no fence, barrier or partition (other than a fence, barrier or partition erected by Sponsor to separate two terraces), nor any furniture, furnishing, plants, trees, flowers, hedges, shrubs or other vegetation, or planters or containers, or other structures or objects shall be installed or placed in or on a

terrace unless in compliance with applicable Laws and after first obtaining in each instance the reasonable consents of the Board and (until the FCO of the Building is issued) Sponsor;

(e) any plants, trees, flowers, hedges, shrubs or other vegetation permitted to be installed on a Sold Residential Unit's terrace:

(e-1) shall be contained in free standing, removable boxes of wood, lined with metal or other materials impervious to dampness and standing on supports at least two inches from the surface, and if adjoining a façade or exterior Building wall or parapet, at least three inches from such element;

(e-2) the wood boxes shall have suitable weep holes to draw off water and only light weight soil shall be used; and

(e-3) in special locations, such as a corner abutting a façade or exterior Building wall or parapet or the like, plants may be contained in masonry or hollow tile walls which will be at least three inches from such elements, with a floor of drainage tiles and suitable weep holes at the sides to draw off water;

(f) no trees taller than six feet will be allowed on a terrace, including its container and supports;

(g) the Owner of such Sold Residential Unit shall have the duty, at such Owner's sole cost and expense, to;

(g-1) properly maintain the containers, the drainage tiles and weep holes in good operating condition in accordance with the Building Standard; and

(g-2) properly prune all vegetation so that the height of a tree shall not be taller than six feet, including its container and supports, and shall not hang over the railings, parapets or other structures, or otherwise outside the borders of the Unit's terrace.

A Sold Residential Unit's windows, entrance door and the door leading to its terrace (if any) may not be colored, painted, covered, replaced, removed or otherwise altered, without obtaining in each instance the prior written consents of both Sponsor (until issuance of the Final Certificate of Occupancy) and the Condominium Board; except window shades, blinds, curtains and other window treatments will be permitted if they are light colored or have light colored backings facing the outdoors in conformity with the Rules and Regulations appended to the By-Laws, as amended from time to time by the Condominium Board.

No radio or television aerial, antenna, satellite dish or other telecommunication device, and no "For Sale" or "For Rent" sign or other promotional signage (whether religious, political or otherwise) shall be installed in, on or to, or projected from the exterior of, a Sold Residential Unit, including its windows and terrace (if any).

The foregoing restrictions do not apply to an Unsold Residential Unit's windows, entrance door or the door leading to its terrace (if any), or a Retail Unit's storefront, which may be altered and decorated freely, other than the requirement to comply with the applicable General Requirements.

Section 9.6.2 Sold Parking Unit. A Sold Parking Unit shall be used for parking a motor vehicle whose dimensions (i.e., width, length and height) shall fit entirely within the dimensions of the Parking Unit and is for the exclusive use of such Owner or a Designated Occupant or tenant of such Owner's Residential Unit, or a Household member of each of the foregoing, or may be leased or rented to a resident of the Building, but not to an outsider (i.e., the general public) or for a term beyond the period such Owner owns its Residential Unit.

Section 9.6.3 Handicapped Parking Space. Parking Unit 11 ("**Handicapped Parking Unit**") is designated a handicap parking space in accordance with Laws and measures 11 feet in width, 18 feet in length and 8 feet 5 inches in height. A Residential Unit Owner or a family member of such Owner who resides with the Owner in the Owner's Residential Unit ("**Handicapped Resident**") and has a motor vehicle with government-issued handicap licensed plate ("**Handicapped Vehicle**") will have priority rights to own the Handicapped Parking Unit. Sponsor reserves the right to sell the Handicapped Parking Unit to any Purchaser who is purchasing a Residential Unit, or to any then existing Owner of a Residential Unit, who does not have a Handicapped Vehicle. If the Handicapped Parking Unit is not being used and occupied by a Handicapped Vehicle, a Handicapped Resident of a Residential Unit who has a Handicapped Vehicle that will fit on and within the dimensions of the Handicapped Parking Unit, shall have the right to require the Owner of such Handicapped Parking Unit, on not less than thirty (30) days' notice, to sell and convey the Handicapped Parking Unit at its then current fair market value to such Handicapped Resident or to the Owner of the Residential Unit in which such Handicapped Resident permanently resides. If the parties fail to agree upon the fair market value within fifteen (15) days after such notice is given, either party may submit the dispute to Baseball Arbitration for resolution. If said Owner of the Handicapped Parking Unit fails to comply with the foregoing, the Handicapped Resident or the Owner of the Residential Unit in which such Handicapped Resident permanently resides shall have the right, in addition all remedies at law and in equity, to the remedies set forth in the By-Laws.

Section 9.6.4 Sold Storage Unit. A Sold Storage Unit shall be used for storage of personal belongings and effects of its Owner or tenant or Designated Occupant, or members of such party's Household (as applicable), and is for the exclusive use of such Owner or a Designated Occupant or tenant of such Owner's Residential Unit, or a Household member of each of the foregoing, or may be leased or rented to a resident of the Building, but not to an outsider (i.e., the general public) or for a term beyond the period such Owner owns its Residential Unit. In no event shall a Sold Storage Unit be used to store any food or other perishable item, or any flammable or explosive item, or any item that would pose a health or safety threat or cause noxious odors, dirt or other unsanitary problems or create a nuisance.

Section 9.6.5 Unsold Residential, Parking and Storage Units. None of the requirements and restrictions contained in Sections 9.6.1,9.6.2 and 9.6.4 above shall apply to Unsold Residential, Parking and Storage Units, each of which may be used, occupied, altered, decorated, landscaped and changed to be used, for any lawful purposes, freely and without the consent of the Board or other Unit Owners, other than the restrictions against Prohibited Uses and storing certain items in a Sold Storage Unit, and the requirement to comply with the General Requirements. The permitted uses of Unsold Residential Units include as models and offices for the sale, promotion, rental, management and operation of Unsold Residential, Parking and

Storage Units, and may be noisy, emit odors, involve heavy traffic and cause other effects that need not be compatible with the primary use of the Building for dwelling purposes.

Sponsor shall have the unfettered right, at its sole cost and expense, to change the use of its Unsold Residential Units from time to time and in connection therewith to:

(a) execute and deliver all required applications, forms and other document to be filed with, or submitted to, a Governmental Authority (each, "**Government Document**");

(b) obtain all required Governmental Work Permits;

(c) upon completion of any work, obtain all required Governmental Approvals and promptly and diligently endeavor to close all related open applications; and

(d) (if required by Laws) to record an amendment to this Declaration to reflect such change in use.

The Condominium Board and other Unit Owners do not have the right to approve or consent to the Unit Users of Unsold Residential, Parking and Storage Units, nor impose any restrictions, limitations, requirements with respect to, the use or any changes in the use, or operation of, or the business conducted in, the Unsold Residential Units, or any portions thereof, nor levy any fees or charges or other impositions on Sponsor or its Unit Users.

The Unsold Residential, Parking and Storage Units may be occupied by any individuals approved by Sponsor, regardless of any relationship or lack of relationship with Sponsor.

In no event, however, shall a change in use of an Unsold Residential Unit change or impair the permitted use and enjoyment of a Sold Residential Unit without obtaining the consent of the Owner thereof.

Sponsor shall have the exclusive unfettered right to make all determinations concerning the use and occupancy of its Unsold Units and all portions thereof. The Condominium Board shall cooperate with Sponsor to implement the provisions of this Section 9.6.5 pursuant to Article 16.

Sponsor shall indemnify the Condominium Board and the other Owners on the terms set forth in Article 19 from and against all claims, litigations, liabilities, losses and damages attributable to the execution of a Government Document by the Board pursuant to Article 16 or the performance of the work pursuant thereto and any defects in such work.

Section 9.6.6 Retail Units. The Retail Units are not restricted to any particular use. The permitted uses of a Retail Unit may be noisy, emit odors, involve heavy traffic and cause other effects that need not be compatible with the primary use of the Building for dwelling purposes. The use and any change in use of a Retail Unit shall comply with all applicable Laws, including zoning Laws and the Building's C of O, subject to the right of a Retail Owner to seek a zoning variance and to amend the C of O to authorize a different use.

Each Retail Owner (including Sponsor) shall have the unfettered right to use and change the use of its Retail Unit from time to time to be used as a restaurant, food store, clothing store, bank and other

commercial establishment, whether or not similar to the foregoing. Each Retail Unit may be used and changed to be used for any lawful purpose, other than a Prohibited Use or any of the following uses ("**Offensive Uses**"):

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

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

(c) a billiard or pool hall or parlor;

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

(e) a commercial or non-profit establishment of any type or nature whatsoever which uses any portion of a Unit:

(e-1) to sell, afford or permit on premises sexual stimulation or sexual liaisons;

(e-2) to permit or present obscene (in the reasonable judgment of the Board), nude or semi-nude performances to the public;

(e-3) to sell, afford or permit body massages, whether or not of a sexual nature; (e-4) to sell "rubber goods" or other sexual or erotic products of a type not commonly found in high quality, national chain pharmacies; or

(e-4) to sell, rent or permit the viewing of "X" rated videos, photographs, books or other material;

(f) a facility for the sale of paraphernalia for use with illicit drugs or controlled substances not commonly found in high quality, national chain pharmacies;

(g) an office, clinic or other facility of any kind which provides or counsels on abortions or pregnancy termination, or alcohol, narcotics, methadone or other substance abuse clinic or treatment facility (including medical marijuana);

(h) a military recruitment office;

(i) a homeless shelter;

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

(k) a laboratory or facility which creates or handles medical or toxic waste;

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

(m) a funeral parlor, chapel, facility for the sale or display of tombstones or monuments or other death-related business, including cremation or euthanasia;

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

(o) a church or other house of worship;

(p) a storage facility (other than ancillary to a permitted retail or commercial use);

(q) any business that uses toxic chemicals in the normal course of business, other than a drop-off dry cleaner or laundry service;

(r) a dating or escort service;

(s) an office or other facility for any local, state or federal governmental agency; and

(t) any use of "barkers", outdoor music or other outdoor solicitation.

The Condominium Board and other Unit Owners shall not have the right to approve the use, any change in use, or the operation, occupancy or tenancy, of a Retail Unit or the businesses conducted therein.

Section 9.6.7 Remedies. If a Sold Unit Owner permits or suffers (whether knowingly or unknowingly) such Owner's Sold Unit to be used or occupied in violation of the Condominium Documents, such violation shall constitute a material violation of such Unit Owner's obligations and shall entitle the Condominium Board to all rights and remedies available at law and in equity against:

(a) such Sold Unit Owner, including to enjoin the violation pursuant to the By-Laws; and

(b) the offending tenant of such Sold Unit, including suits and proceedings at law and in equity, to terminate the offending lease and to eject, evict or otherwise remove said offending tenant from such Sold Unit by summary dispossess proceedings or by any other suitable action or proceedings at law or in equity, and to repossess said Sold Unit so leased or occupied by such offending tenant, all in the name, for the account and at the expense of such Sold Unit Owner, who automatically, by succeeding to title to such Sold Unit, shall conclusively be deemed to have, irrevocably and unconditionally authorized, appointed and designated the Managers who shall from time to time constitute the Condominium Board, collectively in their capacity as such, as agent and attorney-in-fact of said Sold Unit Owner, "coupled with an interest" and for valuable consideration, with full power of substitution, to so act on behalf and as agent of said Sold Unit Owner and in the name, place and stead of said Sold Unit Owner.

ARTICLE 10
EASEMENTS, RIGHTS AND RESTRICTIONS

Section 10.1 **Easements Affecting Common Elements and Units**. Subject to compliance with the General Requirements, the Condominium Board shall have an easement and right of access to, from, on and across all portions of the General Common Elements, the Residential Common Elements and the Units for following purposes, and all portions thereof shall be subject thereto:

(a) to conduct inspections for the presence of, and to take such measures as may be necessary to control or exterminate, any vermin, insects or other pests;

(b) to read meters and sub-meters;

(c) to maintain, repair, restore, alter and operate all areas, and all facilities now or hereafter, comprising the General Common Elements and the Residential Common Elements, and to provide Building Services to each and every Unit in accordance with this Declaration or the By-Laws;

(d) to install new, different and/or substitute facilities comprising the General Common Elements and the Residential Common Elements, including related Lines and Conduits or other connections, and to maintain, repair, restore, alter and operate such facilities; and

(e) to perform all work necessary:

(e-1) to fulfill the obligations of the Board under this Declaration or the By-Laws or Laws;

(e-2) to prevent damage or destruction to a Unit and the Common Elements, or any portion thereof, or to prevent bodily injury or death;

(e-3) to remedy violations of a Governmental Authority noted or issued, or conditions that would constitute such violations even though not yet noted or issued, against the General Common Elements and/or the Residential Common Elements;

(e-4) to remedy an emergency condition in or affecting a Unit or Common Element; and

(e-5) to remedy a violation of the Declaration, the By-Laws or the Rules and Regulations attributable to the Owner or a Unit User of a Unit that has continued beyond the grace or cure period, if any, provided for therein.

Section 10.2 **Easements of Support and Necessity.** Each Unit shall have easements and rights of physical support and necessity from all other Units and the Common Elements, and all other Units and the Common Elements shall be subject thereto.

Section 10.3 **Easements Allowing Encroachments**. Each Unit and the Common Elements shall have, and every Unit and Common Element shall be subject to, easements and rights for the existence, continuation and maintenance of encroachments by any Unit on another Unit and/or on a Common Element, or an encroachment by a Common Element on any Unit and/or on other Common Element, for so long as the Building or the affected Unit or Common Element (as applicable) shall stand, if and to the extent now existing or hereafter arising as a result of the Building or any portion thereof settling or shifting naturally, or a maintenance, repair, restoration, alteration or other work by a party performed in accordance with this Declaration and the By-Laws, whether following a casualty, or a taking by condemnation or eminent domain, or otherwise.

Section 10.4 **Statutory and Recorded Easements**. In addition to the specific easements reserved and granted in this Articles 10 and elsewhere in this Declaration and the By-Laws, the Property and every portion thereof (including the Common Elements and the Units) shall be subject to all easements and rights of use and access required by, or set forth in, the Condominium Act and other applicable Laws or any easement recorded against the Property prior to the recording of this Declaration or recorded thereafter in accordance with this Declaration or the By-Laws.

Section 10.5 **Emergency Easements**. In the case of an emergency condition in a Unit or a General Common Element or Residential Common Element that causes, or is reasonably believed by the person in question to threaten, imminent damage or destruction to property, or bodily injury or death:

(a) all affected Owners and Unit Users shall have an easement and right of access for egress to, from, on and across the General Common Elements and the Residential Common Elements and (to the extent reasonably necessary) another Unit leading to a street as and to the extent required by fire safety requirements of applicable Laws or this Declaration, and the General Common Elements and the Residential Common Elements, and every Unit, shall be subject thereto; and

(b) the Condominium Board shall have an easement and right of access for ingress and egress to, from, on and across the General Common Elements and the Residential Common Elements, and the Units, to implement and to continue with continuity to completion the remedial action necessary to abate, mitigate and otherwise remedy the condition causing or threatening to cause such emergency condition in accordance with the applicable Work Requirements, and the General Common Elements and the Residential Common Elements, and every Unit, shall be subject thereto.

Section 10.6 Utility Easements and Rights.

Section 10.6.1 Grant of Utility Easements. Sponsor hereby grants to the Condominium Board (on behalf and as agent of all Owners) and reserves for itself for so long as it owns a Unit, the unfettered power to grant licenses, leases and easements (collectively, "**Utility Rights**") to duly licensed utility providers for utility services to the General Common Elements and the Residential Common Elements, and to one or more Units, that the Condominium Board or Sponsor (as applicable) shall determine to be necessary, desirable or appropriate for the permitted use and enjoyment of the General Common Elements and the Residential Common Elements, or the Building Services to be provided to one or more Units. The foregoing Utility Rights include the power of the Board or Sponsor (as applicable) to grant such additional, new and substitute Utility Rights for utility services from time to time, and to relocate then existing utility services to other portions of the General Common Elements and the Residential Common Elements.

Section 10.6.2 Utility Provider Easement. Subject to compliance with the applicable Work Requirements, each utility provider of a utility service to the Building or to any portion thereof, or to all or portions of one or more Units, and such utility provider's Construction Parties, are hereby granted an easement and right of reasonable access to, from, on and across the Property, including the General Common Elements and the Residential Common Elements, and the Units, and any portion of each thereof, to the extent reasonably necessary to install, maintain, repair, restore, alter and operate all facilities related to such utility service (including reading meters and sub-meters). The Condominium Board or Sponsor (whoever granted the easement to the utility provider) shall be legally responsible and accountable for all claims, litigations, liabilities, losses and damages arising from any acts or omissions of said utility provider or its agents, employees and Construction Parties.

Section 10.6.3 Liabilities for Damage or Destruction. If a Unit or its appurtenant Limited Common Element is damaged or destroyed due to the implementation of said access easement or the performance of

work by or on behalf of a utility provider or any defects in such work, the Condominium Board or Sponsor (whoever granted the easement to the utility provider) shall reimburse the aggrieved Owner of the affected Unit, in accordance with the Payment and Collection Terms, for the expenses incurred and paid to repair the damage or destruction and to restore the affected area and facilities (including customized changes or improvements made by an Owner) to as near as commercially reasonable and economically practicable to the condition existing immediately prior to being damaged or destroyed. The utility provider shall be liable, jointly and severally, with the Board for all amounts owed hereunder.

All amounts payable by the Condominium Board hereunder shall be assessed to all Owners pro rata to their respective Common Interests or assessed to only the Owner or (if more than one Owner) the Owners (pro rata to their respective Common Interests) for whom the utility service solely or primarily benefits (as applicable).

Section 10.7 **Easements in Favor of Unit Owners**.

Section 10.7.1 Easements. Subject to Section 10.7.2, each Unit Owner shall have, and all other Units and Common Elements shall be subject to, easements and rights:

(a) to connect its appliances, fixtures, equipment and other facilities to the Building Systems;

(b) for the continued existence on the roof of all cooling facilities and telecommunications equipment serving its Unit (if any) and their related Lines and Conduits connecting such cooling facilities and telecommunications equipment to its Unit in their present locations;

(c) if the consent of the Board is given:

(c-1) to install on the roof, new, different and substitute cooling facilities and telecommunications equipment to serve its Unit, either in the present locations of the existing cooling facilities and telecommunications equipment or in other unutilized portions of the roof or its parapets, copings or a bulkhead; provided, however, such installations do not impair or interfere with the operation or reception of any then existing telecommunication equipment serving another Unit; and

(c-2) to connect such installations to existing, new, different and/or substitute facilities housed or to be housed in its Unit via Lines and Conduits to be installed within unutilized or underutilized portions of shafts, ducts, conduits, chases, chase walls, vents, shelves, coves, dropped ceilings, soffits, cavities and other portions of the General Common Elements and the Residential Common Elements concealed from view that can accommodate said Lines and Conduits;

(d) to maintain, repair, restore, alter and operate any existing and any permitted new, different and substitute cooling facilities and telecommunications equipment, and their respective related Lines and Conduits; and

(e) for ingress and egress to, from, on and across an elevator and public stairs comprising the General Common Elements and the Residential Common Elements designated by the Condominium Board

to access the roof and other portions of the General Common Elements and the Residential Common Elements to perform the foregoing work.

Section 10.7.2 Obligations. The Owner who or whose tenant is implementing any of the easements and rights set forth in Section 10.12.1, at its sole expense:

(a) shall obtain, or cause its tenant to obtain, and give to the Board before implementing the work, originals or copies of all required Governmental Work Permits for the work and insurance certificates or policies as required in the By-Laws;

(b) shall promptly and diligently endeavor to obtain all required Governmental Approvals and promptly close all related open applications when such work is completed;

(c) shall comply with all applicable Work Requirements;

(d) shall be responsible to keep, or cause its tenant to keep, the facilities involved in the work in good working order, condition and appearance;

(e) if the work to install, maintain, repair, restore, alter and operate equipment or other facilities involved in the work damages or destroys portions of the General Common Elements, the Residential Common Elements or a Unit, shall reimburse the Condominium Board (in the case of the General Common Elements and/or the Residential Common Elements) or the applicable Owner (in the case of its Unit or the Limited Common Elements appertaining exclusively to such Unit), in accordance with the Payment and Collection Terms, for the costs and expenses to repair such damage and destruction and to restore the impacted portions of the General Common Elements, the Residential Common Elements and/or Unit (as applicable) to as near as commercially reasonable and economically practicable to the condition existing immediately before being damaged or destroyed; and

(f) shall indemnify the Condominium Board and all other Unit Owners, on the terms set forth in Article 19, from and against all claims, litigations, liabilities, losses and damages arising from the work by or on behalf of such Owner or its tenant, including the work to install, maintain, repair, restore, alter and operate such facilities involved in the work, and defects in such work.

Section 10.8 Easements in Favor Retail Owners.

Section 10.8.1 Easements. Each Retail Owner, its authorized tenant, and the respective authorized agents, employees and Construction Parties of each of the foregoing, shall have rights and easements:

(a) to install facilities (including telecommunication equipment) to exclusively serve its Retail Unit in, on and along the non-habitable or non-public portions of the General Common Elements and the Residential Common Elements (e.g., the façade or exterior Building walls, the roofs (but not any terrace located thereon) and roof structures, and the cellar areas and rooms comprising the General Common Elements) and the Residential Common Elements);

(b) to install Lines and Conduits in, on and along the non-habitable or the non-public portions of the General Common Elements and the Residential Common Elements to connect such facilities to equipment serving said Retail Unit;

(c) to access the General Common Elements and the Residential Common Elements in order to install, maintain, repair, restore, alter and operate such facilities and to transport materials, supplies and equipment to, from, on and across the General Common Elements and the Residential Common Elements;

(d) to temporarily interrupt Building services in connection with the performance of the foregoing work; and

(e) for emergency egress to, on and across the public portions of the General Common Elements and Residential Common Elements leading to a street.

Section 10.8.2 Requirements. All of the rights and easements in Section 10.8.1 are unfettered and may be exercised and performed freely (i.e., without payment of any fee or charge, and without restriction or limitation), other than the requirement to comply with the applicable Work Requirements, which include:

(a) the requirement to comply with all applicable Laws;

(b) the requirement to not permanently diminish or adversely and unreasonably affect the proper and efficient performance, function, capacity or utility of another Owner's Unit or the Common Elements serving another Unit;

(c) the requirement to not impair or threaten the structural components or the structural integrity, stability, soundness, weather tightness and acoustics of the Building, or the life, health, safety, protection or security of Owners or permitted tenants or occupants of other Units; and

(d) the requirement to not unreasonably interfere with the peaceful possession or proper use of the Units or the Common Elements as permitted or stated in the Plan and the Condominium Documents.

Section 10.8.3 Damages. In the event of damage to a General Common Element and/or a Residential Common Element caused by the performance of the rights and easements under Section 10.8.1, whether undertaken by the Owner or a tenant of a Retail Unit, the Owner shall reimburse the Condominium Board, in accordance with the Payment and Collection Terms, for the reasonable costs and expenses paid or incurred by the Board to repair the damage and to restore the impacted General Common Element and/or Residential Common Element to as near as commercially reasonable and economically practicable to the condition existing immediately before being damaged.

Section 10.8.4 Signage. Each Retail Owner and its authorized tenant shall have rights and easements to erect, install, maintain, repair, restore and alter, in accordance with the applicable Work Requirements, signage in one or more locations on:

(a) the façade or exterior Building walls enclosing such Owner's Retail Unit, extending horizontally along the entire length of the Retail Unit and vertically from the sidewalk to a point opposite the top of the structural ceiling enclosing such Retail Unit, and on the Unit-side of its storefronts and street entrance; and

(b) the portions of a sidewalk along and adjacent to such Owner's Retail Unit.

The signage may be of any nature, size, content, composition, material, design, illumination, configuration, fabrication, quality, color, appearance, content or character whatsoever, and may be used for any promotional, advertising, display, sales, rental, identity, business, operation and/or other lawful purpose.

The Condominium Board and other Unit Owners shall not have the right to approve or consent to the signage or impose any charge, fee, limitation, restriction or requirement to erect, install, maintain, repair, restore or alter such signage. In no event will the Owner or a tenant of a Retail Unit be required to enter into any agreement or comply with any work rules of the Condominium Board, including those that may be adopted for alterations to Sold Residential Units.

Section 10.9 **Permitted Damage or Destruction**.

Section 10.9.1 Permitted Damage or Destruction. If and to the extent required or necessary to implement the easements and rights granted under this Article 10, the Condominium Board or a Unit Owner (as applicable) shall have the right, on the terms and conditions contained in Section 10.9.2, to remove:

(a) finishes, coverings and other decorations on walls, partitions, floors and ceilings;

(b) portions of boundary and interior walls, shelves, coves, dropped ceilings, ducts and soffits, and the Unit's interior partitions; and

(c) temporarily relocate cabinets, fixtures and other facilities.

Section 10.9.2 Terms and Conditions. The party implementing its easements and rights in Section 10.9.1:

(a) shall not impair or diminish, by more than a *de minimis* extent, the use, occupancy, operation and business of an Owner or tenant of a Unit;

(b) shall comply with all applicable Work Requirements;

(c) upon completion of the work, shall reimburse the impacted party, in accordance with the Payment and Collection Terms, for all costs and expenses paid or incurred by the impacted party, to:

(c-1) repair the damage and destruction attributable to the work and to restore the impacted elements, including their respective finishes, coverings, decorations, and customized changes or improvements, to as near as commercially reasonable and economically practicable to their former condition and finish immediately before being damaged or destroyed, or replacements thereof if significantly damaged or destroyed; and

(c-2) reinstall to their original locations any cabinets, fixtures and other facilities that were removed, or replacements thereof if significantly damaged or destroyed.

If the Board is undertaking the work, the costs and expenses to be borne by the Board under this Section 10.9.2 shall be assessed to the Unit Owners for whom the work is being undertaken or primarily benefits. If the Board is the impacted party, all amounts owing to the Board under this Section 10.9.2 shall constitute Additional Common Charges.

Nothing herein shall be construed to permit the Condominium Board or an Owner or a tenant to undertake any work in violation of this Declaration or the By-Laws, including the requirement to obtain any required discretionary or reasonable consent of the Board or the affected Owner, if and as set forth in this Declaration or the By-Laws.

Section 10.10 **Easement for Excess Development Rights**. Sponsor and a Development Rights Owner (if any) shall each have an easement and right for ingress and egress to, from, on and across all of the General Common Elements and Residential Common Elements for any purpose in connection with the utilization of its Excess Development Rights.

Section 10.11 **Violations**. In the event of any violation of the provisions of this Article 10, the rights and remedies set forth in the provisions of Article 5 of the By-Laws shall apply.

ARTICLE 11
BOARD ACQUISITION OF UNITS AND PERSONAL PROPERTY

Section 11.1 **Authority for Acquisition**. The Condominium Board is hereby granted the power on behalf and as agent of the Unit Owners, in the name of the Condominium Board or in the name of its affiliate or (in the case of the exercise of the Right of First Refusal) in the name of either an affiliate or non-affiliate of the Board, pursuant to the terms provided in Section 3.13.12 of the By-Laws):

(a) to accept a surrender of, and thereby acquire title to, a Unit and its appurtenant Common Interest from any Owner who elects to surrender the Owner's Unit and its appurtenant Common Interest pursuant to Section 1.3.9;

(b) to purchase and acquire title to a Unit and its appurtenant Common Interest as a result of:

(b-1) a foreclosure of the Board's lien for unpaid Common Charges pursuant to the By-Laws and Section 339-aa of the Condominium Act or by a deed given in lieu of such foreclosure; or

(b-2) the exercise of a Right of First Refusal of the Condominium Board, pursuant to the terms provided in Section 3.13.12 of the By-Laws;

(c) to lease a Unit as a result of the exercise of said Right of First Refusal, pursuant to the terms provided in said Section 3.13.12 of the By-Laws; and

(d) to purchase, lease or otherwise acquire or hold real property, personal property and assets pursuant to Section 1.3.5(b).

Nothing contained in this Section 11.1 shall, and shall not be construed to, impair, prevent or prejudice the right of a holder of a Registered Lender to pay any sum of money or to perform any act on behalf of the Owner of the Unit encumbered by such holder's Registered Lender, which the Condominium Board shall accept with the same force and effect as if the same were paid or performed by said Owner in accordance with Section 3.15.3 of the By-Laws.

Section 11.2 **Authority for Dispositions**. The Condominium Board, on behalf and as agent of all Unit Owners, is hereby granted the further power to make all dispositions whatsoever with respect to each Unit acquired, purchased or leased by the Condominium Board or its affiliate pursuant to Section 11.1 (but not to cast the votes appurtenant to a Unit owned by the Condominium Board or its affiliate), including the following:

(a) to hold, lease and operate such Unit and its facilities;

(b) (in the case of a Unit acquired or purchased) to mortgage and grant security interests in such Unit and its appurtenant Common Interest, subject to compliance with Section 2.2.4(p) of the By-Laws and obtaining the consent of Sponsor during only the Sponsor Veto Control Period;

(c) (in the case of a Unit acquired or purchased) to offer and contract for sale at public or private sale, on terms and conditions determined by the Condominium Board (in its sole business judgment), and convey such Unit and its appurtenant Common Interest; and

(d) to make such other dispositions of such Unit and its appurtenant Common Interest as may be determined by the Condominium Board, in its sole business judgment (but not to cast the votes appurtenant to a Unit owned by the Condominium Board or its affiliate).

The Condominium Board shall have the power to make all dispositions of personal property and chattel real purchased, leased or otherwise acquired, held or operated by the Condominium Board or its affiliate pursuant to Section 11.1.

Section 11.3 **Allocation of Costs and Expenses**. All costs and expenses of the Condominium Board or its affiliate to purchase, acquire, finance, lease, own maintain, repair, restore, alter and operate a Residential, Parking and/or Storage Unit, shall be included in the Residential Common Expenses assessed to only all Residential, Parking and Storage Owners pro rata to their respective Common Expenses, except the amounts paid by the Condominium Board or its affiliate to purchase a Residential, Parking and/or Storage Unit pursuant to the Board's Right of First Refusal shall not be assessed to the Owner selling such Unit.

All costs and expenses of the Board or its affiliate to purchase, acquire, finance, lease, own maintain, repair, restore, alter and operate personal property, shall be assessed by the Board to the applicable Owners for whom such personal property serves or primarily benefits.

ARTICLE 12
POWER OF ATTORNEY FROM EACH UNIT OWNER

Section 12.1 **Appointment**. Sponsor, as the initial Owner of all Units, and each and every succeeding Owner of a Unit, upon becoming an Owner of a Unit shall thereupon conclusively be deemed to automatically, irrevocably and unconditionally designate and appoint Sponsor, the Condominium Board and the Development Rights Owner, separately, as such Owner's agent and to grant each such agent with

all authority and power to do or perform as agent of said Owner all subjects and matters applicable to such agent for the following limited purposes only:

(a) Sponsor and the Condominium Board, separately, with respect only: to prepare and duly execute, acknowledge and record in the City Register's Office amendments to this Declaration or the By-Laws:

(a-1) as required by an Institutional Lender, a Governmental Authority having competent jurisdiction or a title insurer;

(a-2) to correct conflicts, inconsistencies or ambiguities, or scrivener's errors, in this Declaration, the By-Laws and/or the Floor Plans; or

(a-3) to reform this Declaration or the By-Laws, as more fully provided in Section 4.3.2(a-4) of the By-Laws;

(b) Sponsor and the Condominium Board, with respect only: to grant Utility Rights in accordance with Section 10.6.1;

(c) the Condominium Board, with respect only: to exercise, perform and implement all powers and duties of the Board contained in this Declaration and in Section 2.2.4 and other Sections of the By-Laws, including:

(c-1) to acquire any Unit, together with its appurtenant Common Interest, whose Owner elects to surrender the same pursuant to Section 11.1(a);

(c-2) to acquire and purchase any Unit, together with its appurtenant Common Interest:

(c-2.1) , at a sale following a foreclosure of the Board's lien for unpaid Common Charges pursuant to Section 11.1(b-1) and Section 339-aa of the Condominium Act, or to so acquire a Unit and its appurtenant Common Interest by deed given in lieu of such foreclosure, and in either case upon such terms and conditions as shall be approved by the Board, in its sole business judgment; or

(c-2.2) pursuant to the exercise of a Right of First Refusal, pursuant to the terms provided in Section 11.1(b-2);

(c-3) to acquire, purchase, lease, hold and operate real and personal property and chattel real, pursuant to Section 11.1(c) or Section 2.2.4(i) of the By-Laws upon such terms and conditions as shall be determined by the Board, in its sole business judgment;

(c-4) to convey, assign, transfer, sell, lease and otherwise deal with any such Unit or personal property or chattel real so acquired, purchased, leased, held or operated pursuant to the foregoing upon such terms and conditions as shall be determined by the Board, in its sole business judgment, without obtaining any further authorization by Sponsor or other Unit Owners, but not to vote the Common Interest appurtenant to a Unit owned by the Board or its affiliate;

(c-5) to incur debt and to mortgage, finance, refinance any Unit or personal property or chattel real acquired, purchased, leased or held by the Board in accordance with the By-Laws, upon such terms and conditions as shall be determined by the Board, in its sole business judgment; and

(c-6) to execute, acknowledge, deliver and, if necessary, record or file any application, declaration, easement, license, agreement or other document or instrument, or any change thereto, affecting the Condominium Association, the Property, the Common Elements, the sidewalks, or a portion of any of the foregoing, that the Condominium Board deems necessary or appropriate or is required to so do under this Declaration or the By-Laws:

(c-6.1) to comply with any Laws (including the Zoning Resolution, or a requirement of a Governmental Authority, such as the DOB, the New York City Planning Commission or the Board of Standards and Appeals); or

(c-6.2) to permit or facilitate the permitted use and enjoyment of all or part of the General Common Elements, the Residential Common Elements, the sidewalks, or the Units by the respective Owners and tenants of Units in accordance with this Declaration, the By-Laws and the Rules and Regulations; or

(c-6.3) to cooperate with the request of an Owner, if required by this Declaration or the By-Laws or if deemed appropriate by the Condominium Board, in its sole business judgment; and

(d) Sponsor or a Development Rights Owner with respect only to implement the utilization, sale, transfer or other disposition of all or any portion of its Excess Development Rights.

The foregoing shall constitute a durable power of attorney in favor of each said agent and as attorney-in-fact of Sponsor and each and every succeeding Owner of a Unit, "coupled with an interest" and for valuable consideration, with full power of substitution, to act on its behalf and as its agent, and in its name, place and stead, in any way in which it could do if personally present, to the full extent that it is permitted by law to act through an agent.

Sponsor, Condominium Board and Development Rights Owner shall each conclusively be deemed to have accepted such appointment as agent of Sponsor and each and every succeeding Owner of a Unit and the legal responsibilities imposed on each agent by applicable Laws.

ARTICLE 13
AMENDMENTS TO DECLARATION

Section 13.1 **Application to Declaration and By-Laws**. The terms of Article 4 of the By-Laws shall apply to, and shall govern and control, the requirements to execute, acknowledge and record amendments to this Declaration or the By-Laws.

ARTICLE 14
FOREIGN GOVERNMENT; DIPLOMAT

Section 14.1 **Waiver of Immunity**. A foreign government or the United Nations, or any agency,

department, embassy, consulate or mission or governmental entity of a foreign state or the United Nations, or any other foreign government or instrumentality, or any individual, entitled to diplomatic or sovereign immunity (each, "**Foreign Government**" or "**Diplomat**", as applicable), upon becoming an Owner of a Unit or leasing or occupying a Unit, shall conclusively be deemed to have automatically, irrevocably and unconditionally covenanted and agreed as follows:

(a) to own, lease or occupy a Unit constitutes commercial activity within the meaning of the Foreign Sovereign Immunities Act of 1976, 28 U.S.C. §1602, et seq., as the same may be amended ("**FSIA**");

(b) to voluntarily waive any sovereign or diplomatic immunity (as applicable) from the personal jurisdiction of the courts of the United States of America and of the individual States comprising the United States of America with respect to any claim affecting the Property or the ownership, lease, use, occupancy, maintenance, repair, restoration, alteration or operation of its Unit arising under this Declaration, the By-Laws or the Rules and Regulations, as each may be duly amended from time to time;

(c) to voluntarily waive all rights to sovereign or diplomatic immunity (as applicable) from pre-judgment attachment, attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States of America or of said individual States comprising the United States of America even though the Unit may be used for the purposes of maintaining a diplomatic or consular mission or the residence of the chief of such mission or the Diplomat (as applicable), or otherwise;

(d) to consent to any suit, action or proceeding arising under this Declaration, the By-Laws or the Rules and Regulations, as each amended from time to time, affecting the Property or the ownership, lease, use, occupancy, maintenance, repair, restoration, alteration or operation of the Unit owned, leased or occupied by such Foreign Government or Diplomat (as applicable), being brought in any state or federal court in the State of New York only;

(e) to waive any objection that such Foreign Government or Diplomat (as applicable) may have now or hereafter to the laying of the venue of any such suit, action or proceeding under clause (d) above, in any such court, or claim that any such suit, action or proceeding under clause (d) above has been brought in an inconvenient forum;

(f) to acknowledge the competence of any such court, and to submit to the jurisdiction of any such court in any such suit, action or proceeding;

(g) to comply with any final non-appealable order or judgment issued by any such court in any such suit, action or proceeding, which shall be conclusive and binding upon such Foreign Government or Diplomat (as applicable) and may be enforced in the courts of such Foreign Government's or Diplomat's (as applicable) country of origin once a further judgment has been obtained in the courts of said Foreign Government's or Diplomat's (as applicable) country of origin, which further judgment may as a matter of practice be obtained without re-litigation on the merits of the matter adjudicated upon by such state or federal court in the State of New York, a certified or exemplified copy of which shall be conclusive evidence

of the fact and of the amount of its obligation; provided that service of process is effected upon it in the manner specified above or as otherwise permitted by Laws;

(h) to accept service of process upon such Foreign Government or Diplomat (as applicable) in any such suit, action or proceeding in the state or federal courts in the State of New York, to the extent that FSIA is applicable to such Foreign Government or Diplomat (as applicable), by mailing copies thereof by registered or certified mail, return receipt requested, postage prepaid, to such Foreign Government or Diplomat (as applicable) at the Property or at any other address of which such Foreign Government or Diplomat (as applicable) has given notice in accordance with Article 7 of the By-Laws; and

(i) in connection with any such suit, action or proceeding in the state or federal courts in the State of New York, to the extent that FSIA is applicable to such Foreign Government or Diplomat (as applicable), the waiver of immunity and arrangements for service of process set out herein are made in conformity with, and shall be governed by FSIA, and the foregoing provisions constitute a special arrangement for service between such Foreign Government or Diplomat (as applicable) and each other person entitled to enforce the provisions of this Article 14 for the purposes of FSIA.

Section 14.2 **Designation of Agent for Service of Process**. For the purpose of any suit, action or proceeding brought in any state or federal court in the State of New York, each Foreign Government or Diplomat (as applicable) shall maintain an agent for service of process in the City and State of New York. Absent a written designation of another person executed and delivered to the Condominium Board by the Foreign Government or Diplomat (as applicable), each Foreign Government or Diplomat (as applicable) shall conclusively be deemed to have automatically, irrevocably and unconditionally designated, appointed and empowered any agent, employee or representative of such Foreign Government or Diplomat (as applicable) located in the State of New York as its duly authorized and lawful agent to receive process for and on behalf of such Foreign Government or Diplomat (as applicable) in any state or federal suit, action or proceeding in the State of New York based on or arising from:

(a) the ownership, lease, use, occupancy, maintenance, repair, restoration, alteration or operation of the Unit owned, leased or occupied by such Foreign Government or Diplomat (as applicable); or

(b) this Declaration, the By-Laws or the Rules and Regulations, as each may be duly amended from time to time.

Nothing contained herein is intended or shall be deemed to limit the rights of the Condominium Board or any other Unit Owner to serve process in any other country or any other manner permitted by Laws or to bring any legal action or proceeding or to obtain an attachment or execution of judgment in any competent jurisdiction, including in the courts of the Foreign Government's or Diplomat's (as applicable) country of origin.

Section 14.3 **Compliance with Laws**. If, as a result solely of its status as a Foreign Government or Diplomat (as applicable), any Unit Owner is exempt from compliance with any Laws required to be complied with under this Declaration or the By-Laws, as each may be duly amended from time to time,

such Foreign Government or Diplomat (as applicable), upon becoming an Owner of a Unit or leasing or occupying a Unit:

(a) shall conclusively be deemed to have automatically, irrevocably and unconditionally agreed to comply with, and shall be required hereunder to comply with, such Laws notwithstanding any exemption therefrom; and

(b) shall be liable to the Condominium Board, as agent and on behalf of the other Unit Owners, for any claims, litigations, liabilities, losses and damages attributable to its non-compliance with any such Laws.

Nothing contained herein shall require a Unit Owner to pay any Real Estate Taxes or sales and use taxes for which it is exempt or abated pursuant to Section 3.3.8 of the By-Laws or to comply with any Laws which it has successfully contested, to the extent such contest is permitted under Section 3.16.2 of the By-Laws.

Section 14.4 **Certificate**. At or prior to the time a Foreign Government or Diplomat becomes a Unit Owner or a tenant of a Unit, the Condominium Board or the Condominium Association's then managing agent or property manager, if any (as directed by any of them), shall receive a duly executed certificate from such Foreign Government or Diplomat, as applicable (in form and substance satisfactory to the Board) confirming such party's waiver of sovereign and diplomatic immunity and agreeing the provisions of this Article 14 are valid, fully enforceable in accordance with its terms and legally binding upon said party, without defense.

ARTICLE 15
FOREIGN PERSON

Section 15.1 **Foreign Person**. An organization that is not formed or organized under the laws of the State of New York or is not an instrumentality of the State of New York or any county, municipality, village or other Governmental Authority of the State of New York, or any individual who does not maintain his or her principal residence in the State of New York (each, "**Foreign Person**"), upon becoming an Owner of a Unit or leasing or occupying a Unit, shall conclusively be deemed to automatically, irrevocably and unconditionally covenanted and agreed as follows:

(a) to be personally subject to the jurisdiction of the Supreme Court of the State of New York or (if such court lacks jurisdiction) a court of competent jurisdiction in the State of New York (including federal courts sitting in New York) and to JAMS (or any successor thereto with similar function) under Article 6 of the By-Laws with respect to all claims arising, directly or indirectly, under this Declaration, the By-Laws or the Rules and Regulations (as each may be dully amended from time to time), the Property or its lease, use, occupancy, maintenance, repair, restoration, alteration or operation of such Foreign Person's Unit, and any defenses by a Foreign Person with respect to jurisdictional defects shall conclusively be deemed to automatically, irrevocably and unconditionally have been waived;

(b) to deliver to the Condominium Board or the Condominium Association's then managing agent or property manager, if any (as directed by any of them), at or prior to the time such Foreign Person becomes a Unit Owner or a tenant of a Unit:

(b-1) (in the case of entity) proof of designation of the Secretary of State of the State of New York as agent of the Foreign Person upon whom process against such Foreign Person may be served; or

(b-2) (in the case of an individual) an instrument signed and notarized by such Foreign Person (in form and content acceptable to the Condominium Board, in its sole business judgment) irrevocably and unconditionally subjecting such Foreign Person to jurisdiction in the State of New York and either: appointing and designating an attorney admitted to practice and maintaining an office in the State of New York as such Foreign Person's agent for service of process, duly signed by said designated agent; or appointing and designating a New York organization, whose business includes to act as agent for service of process, as such Foreign Person's agent for service of process, with proof of such appointment and designation being given to the Board or its then managing agent or property manager, if any (as directed by any of them), failing which such Foreign Person shall conclusively be deemed to have automatically, irrevocably and unconditionally appointed and designated any agent, employee or representative of such Foreign Person located in the State of New York as its duly authorized and lawful agent to receive process for and on behalf of such Foreign Person in any state or federal suit, action or proceeding in the State of New York based on or arising under this Declaration, the By-Laws or the Rules and Regulations, as each may be duly amended from time to time;

(c) to consent to service of process upon such Foreign Person in any litigation by mailing copies thereof by registered or certified mail, return receipt requested, postage prepaid, to it at the Property or any other address in the United States of America or by reputable international courier service to any address which it has given in a notice in accordance with Section 7.1 of the By-Laws;

(d) to all such litigation:

(d-1) being determined in accordance with the internal laws of the State of New York without regard to legal principles or conflicts of laws, which shall govern pursuant to the terms provided in Section 21.7;

(d-2) being adjudicated in only the Supreme Court of the State of New York or (if such court lacks jurisdiction) a court of competent jurisdiction in the State of New York (including federal courts sitting in New York) or arbitrated pursuant to the terms provided in Article 6 of the By-Laws (if and as applicable); and

(d-3) being brought in New York County or Kings County, in the State of New York;

(e) to waive any motion, defense or objection that it may now or hereafter have in any litigation arising, directly or indirectly, under this Declaration or the By-Laws or the Rules and Regulations:

(e-1) to the laying of the venue in any such court or arbitration panel;

(e-2) any claim that the litigation brought in any such court or dispute resolution body has been brought in an inconvenient forum; and

(e-3) any claim that it is not personally subject to the jurisdiction of such courts or arbitration panel;

(f) to any non-appealable final judgment or order in said litigation or award in arbitration (as applicable) being conclusive and binding upon it and enforceable against it in the courts of the United States of America or of any individual States comprising the United States of America or any federal court and any other courts having jurisdiction over it by suit upon such judgment, order or award (as applicable) and that it shall not assert (and shall conclusively be deemed to have automatically, irrevocably and unconditionally waived the right to assert) any defense, counterclaim or set-off in any such suit upon said judgment or award;

(g) to duly execute, deliver and file all such further instruments as may be necessary under the laws of the State of New York in order to implement its consent, waivers and agreements to the foregoing provisions;

(h) to any judgment, order or award obtained by the Condominium Board, a Unit Owner or whomsoever against it in a litigation being fully enforceable against it, subject to any rights of appeal; but any defense by it as to the validity or enforceability of same shall conclusively be deemed to have been automatically, irrevocably and unconditionally waived; and

(i) to fail or refuse to comply with the provisions of this Section 15.1 shall entitle the Condominium Board, in addition to all other legal and equitable rights and remedies, to withhold or deny furnishing the Statement of Common Charges and Indebtedness, Certificate of Waiver or Exemption, and Estoppel Certificate set forth in Sections 3.3.11, 3.13.12.8 and 3.13.12.12, respectively, of the By-Laws, without recourse of any kind against the Condominium Board or Unit Owners, or their respective its Related Parties, incurring any liability for losses or damages by reason thereof.

ARTICLE 16
COOPERATION AND ASSURANCES

Section 16.1 **Covenant to Cooperate**.

Section 16.1.1 Covenant to Cooperate. The Condominium Board (including its Managers and Officers), the Sponsor, each Unit Owner, all other persons (including tenants of Units) who, or whose interest or estate in the Property or a Unit, are subject to this Declaration shall fully cooperate with each other to effectuate the purposes and provisions of this Declaration, the By-Laws and the Rules and Regulations, as each may be duly amended from time to time. The party whose cooperation is sought is hereafter in this Article, the "**Cooperating Party**", and the party requesting such cooperation is hereafter in this Article, the "**Requesting Party**".

Section 16.1.2 Actions and Documents. Subject to compliance with Section 16.3, in furtherance of such cooperation, the Cooperating Party shall diligently and in good faith take such actions and shall diligently and properly complete, sign, have notarized or acknowledged (if and as required) and deliver such documents (including Government Documents and Litigation Documents) as may reasonably be requested by the Requesting Party in order to effectuate the purposes and provisions of this Declaration, the By-Laws and the Rules and Regulations, as each may be duly amended from time to time, and to realize the benefits intended to be conferred thereby; provided, however:

(a) if the consent of the Cooperating Party to the action or transaction is required under this Declaration, the By-Laws or the Rules and Regulations, the consent will have been given; and

(b) no other Unit or the Building Services being provided to another Unit will be affected adversely beyond a *de minims* extent.

Section 16.1.3 Immunity of Board and Other Unit Owners. The Condominium Board and Unit Owners (other than the applicable Requesting Party) shall not be liable for any claims, litigations, liabilities or losses in connection with the preparation, execution or submission of a Government Document or Litigation Document or other document, or that may be asserted by:

(a) any Construction Parties engaged in the work undertaken by or on behalf of said Requesting Party; or

(b) any person for bodily injury or death, or property damage, attributable to such work and any defects in such work.

Section 16.1.4 Right and Obligations of Requesting Party. The Requesting Party shall:

(a) pay or reimburse each Cooperating Party (as directed by the Cooperating Party) for the reasonable costs and expenses to perform a request made by a Requesting Party under Section 16.2 (including the reasonable fees and disbursements of the Construction Parties and the Building's managing agent or property manager (if and as applicable), and the Legal Expenses of the attorneys, of the Cooperating Party to review and offer advice on a Government Document or Litigation Document or other document), unless otherwise expressly stated elsewhere in the Condominium Documents to be performed by a Cooperating Party without fee, charge or payment whatsoever (such as in the case of a Requesting Party who is the Condominium Board or an Unsold Unit Owner, including Sponsor);

(b) pay the governmental fees and charges required in connection with a Government Document;

(c) assume full and sole responsibility for, and indemnify (on the terms contained in Article 19) the Cooperating Party from and against, all claims, litigations, liabilities, losses and damages attributable to:

(c-1) the execution of a Government Document by the Cooperating Party, the plans and specifications accompanying such Government Document, and any flaws in such plans and specifications;

(c-2) the execution of a Litigation Document by the Cooperating Party and any flaws in such Litigation Document;

(c-3) any work, the performance of such work by or on behalf of the Requesting Party pursuant to a Government Document executed by a Cooperating Party, and any defects in such work, and any bodily injury or death, and/or property damage or destruction arising from said work;

(c-4) the Construction Parties engaged to perform the work pursuant to a Government Document executed by a Cooperating Party, including payments to Construction Parties and other persons engaged in the work;

(c-5) any mechanic's lien for labor or material filed against the Building or a portion thereof in connection with the work undertaken pursuant to a Government Document executed by a Cooperating Party; and

(c-6) any action or inaction taken or omitted by a Cooperating Party in accordance with these provisions;

(d) the Requesting Party shall pay or reimburse (as directed), in accordance with the Payment and Collection Terms, the amount owed to the Cooperating Party pursuant to clauses (a) and (c) above; and

(e) the execution of a Government Document or Litigation Document by a Cooperating Party shall not excuse or abate the amount payable to such Cooperating Party under clauses (a), (c) and (d) above and shall not constitute an assumption by a Cooperating Party of any liability for the maintenance, repair, restoration or other work arising from any plans or specifications given by or on behalf of the Requesting Party in connection therewith, nor an approval, acknowledgment or admission of the accuracy, suitability or soundness of said plans or specifications or their compliance with applicable Laws, nor a limitation on the rights or remedies of a Cooperating Party or the obligations of said Requesting Party.

Section 16.1.5 Contribution. If the Cooperating Party is determined by a final non-appealable order or judgment of a court of competent jurisdiction to be at fault or accountable for causing property damage or destruction, or bodily injury or death, the Cooperating Party shall contribute to the award in a litigation, and related losses in such proportion as is appropriate to reflect the relative fault of the Cooperating Party, on the one hand, and the Requesting Party, on the other hand, as well as any other relevant equitable considerations, if and as determined by said non-appealable final court order or judgment, except the entire award shall be paid by the Requesting Party or the Cooperating Party (as applicable) if said non-appealable final court order or judgment finds bad faith or intentional wrongdoing on the part of the Requesting Party or the Cooperating Party (as applicable).

Section 16.2 **Assurances**. Each Cooperating Party shall make and give such assurances as may reasonably be requested by a Requesting Party to confirm or effectuate the provisions of the Condominium Documents or any transaction or action, any of the rights of the Requesting Party, or other matter provided, authorized, permitted or contemplated in the Condominium Documents (collectively, "**Assurances**").

Section 16.2.1 Giving Instruments and Documents. Subject to Sections 16.1.2 and 16.1.3, each Cooperating Party shall make and give such assurances as may reasonably be requested by a Requesting Party to confirm or effectuate the provisions of this Declaration or the By-Laws or any transaction or action, any of the rights of the Requesting Party, or other matter provided, authorized, permitted or contemplated in this Declaration or the By-Laws. These include the requirement for the Cooperating Party to sign, have notarized or acknowledged (if and as applicable) and deliver to the Requesting Party, within ten (10) days after written request therefor is given, instruments or documents (in addition to those specifically provided in this Declaration or the By-Laws) prepared or provided by, and at the sole expense of, the Requesting Party in accordance with, and if and to the extent required in, Section 16.1.4.

Section 16.3 **Default of Cooperating Party**. If a Cooperating Party violates or wrongfully fails to comply with its obligations under this Article 16, the aggrieved Requesting Party shall have, in addition to all available legal and equitable rights and remedies, all rights and remedies provided in Article 5 of the By-Laws.

ARTICLE 17
COVENANTS TO RUN WITH THE LAND

Section 17.1 **Covenants Run With Land**. All provisions of this Declaration, the By-Laws and the Rules and Regulations shall be perpetual and shall be construed to be covenants running with the Land and every part thereof and interest and estate therein, and all provisions hereof shall be binding upon and shall inure to the benefit of each and every Unit Owner and other owner (if any) of any interest or estate in a Unit or all or any part of the Property, and their respective heirs, distributees, legatees, executors, administrators, legal representatives, successors and assigns, but do not create any rights in, or for the benefit of, the general public.

Section 17.2 **Binding Effect**. This Declaration, the By-Laws and the Rules and Regulations, as each may be duly amended from time to time, shall be binding upon the following persons (each, "**Transaction Person**"), who shall be legally bound thereby and shall comply therewith:

(a) all Unit Owners at the time in question and their respective employees, agents and Construction Parties, and each holder of an equity interest in an Owner;

(b) all tenants who enter into leases after the recording of this Declaration;

(c) all tenants under unrecorded leases in effect on the date of recording this Declaration in the City Register's Office, absent the recording a memorandum thereof in the City Register's Office, unless a recorded lease or memorandum expressly provides that it is subordinate to this Declaration or the By-Laws, in which case the tenant thereunder shall legally be bound thereby;

(d) each holder of a mortgage of a Unit whose mortgage is recorded after the date this Declaration is recorded in the City Register's Office or an existing holder of a mortgage on the Property at the date this Declaration is recorded in the City Register's Office whose mortgage provides its lien is subordinate to, or who records an instrument subordinating its mortgage lien to, this Declaration;

(e) each holder of a loan secured by the pledge of, or a security interest in the holder or holders (as applicable) of a majority of the legal, equity or beneficial interest in an Owner of an entity that owns a Unit ("**Controlling Interest**"); and

(f) all other persons who may use or enter upon the Property or any portion thereof after the recording of this Declaration in the City Register's Office or enters into a written contract, agreement or other instrument with, or legally binding arrangement with, the Condominium Board.

Section 17.3 **Acceptance, Adoption and Ratification**. Each Unit Owner, upon becoming the Owner of a Unit (whether automatically upon recording this Declaration or by accepting or recording a deed conveying title to a Unit to such Owner's, or otherwise succeeding to title thereto by gift, descent, inheritance, distribution, transfer, merger, consolidation, liquidation, dissolution, bankruptcy, insolvency, reorganization or otherwise), and each and every other Transaction Person who is bound by this Declaration pursuant to the terms provided in Section 17.2, shall conclusively be deemed to have automatically and unconditionally agreed to accept, adopt, ratify and comply with the provisions of this Declaration, the By-Laws and the Rules and Regulations, as each may be duly amended from time to time, and to be bound thereby as covenants running with the Land with the same force and effect as though such provisions were recited and stipulated at length in each and every deed, conveyance, lease, mortgage, transaction instrument or other instrument granting or establishing an interest or estate in such Unit.

ARTICLE 18
SERVICE OF PROCESS

Section 18.1 **Designation of Secretary of State**. The Secretary of State of the State of New York is hereby appointed the agent of the Condominium Board upon whom process against it or the Condominium Association may be served. Service of process on the Secretary of State as agent of the Condominium Board and the Condominium Association shall be made by personally delivering to, and leaving with, the Secretary of State or his or her deputy, or with any person authorized by the Secretary of State to receive such service, at the office of the New York State Department of State in Albany, New York, duplicate copies of such process together with the statutory fee, which shall be a taxable disbursement. Service of process on the Condominium Board and the Condominium Association shall be complete when the Secretary of State is so served. Nothing in this Section 18.1 shall affect the right of any person to serve process against the Condominium Board on behalf of the Condominium Association in any other manner permitted by Laws.

Section 18.2 **Person and Address to Whom Process is To Be Sent**. 171 Calyer Street Project LLC, having a post office address at 463 Seventh Avenue 4th Floor, New York, New York 10018, is hereby designated as the person and address to which the Secretary of State shall mail a copy of any such process served upon the Secretary of State with respect to any litigation against the Condominium Association or the Condominium Board. The Condominium Board shall have the power and duty, from time to time, without obtaining the consent of Unit Owners, to change the name and/or post office address of the person designated to receive a copy of such service of process from the Secretary of State. The person so designated to receive a copy of such service of process from the Secretary of State is hereby authorized,

without obtaining the consent of the Condominium Board or Unit Owners, to also change its post office address to which a copy of service of process is to be sent. The foregoing changes shall be appropriately updated with reasonable promptness by filing such updated information with the Secretary of State in a form then acceptable to the Secretary of State. The person designated at the time in question to receive such service of process shall with commercially prompt diligence after receipt thereof give copies of such process to the Condominium Board and the then Owner of each Unit.

ARTICLE 19
INDEMNIFICATION

Section 19.1 **Terms of Indemnity**. A party required to indemnify another party under any provision of this Declaration or the By-Laws shall also indemnify (if such party is an entity or a fiduciary) its past and present managers, members, partners, shareholders, officers, directors, trust makers and/or beneficiaries, or principals (if and as applicable), and the respective heirs, legatees, distributees, executors, administrators, legal representatives, and successors in interest or each of the foregoing. The indemnity shall be on the terms set forth below in this Article 19 and shall be in addition to all other rights and remedies available to the indemnified party at law or in equity.

Section 19.1.1 Notice of Claim or Litigation. With prompt diligence after an indemnified party receives notice of any claim or is served with a summons with notice and/or pleadings, or a demand, in a litigation for which indemnity is sought from the indemnifying party, such indemnified party shall notify the indemnifying party in writing of such claim accompanied by copies of any writings thereof or the commencement of such litigation accompanied by copies of such summons and/or pleadings, or demand, as applicable.

Section 19.1.2 Selection of Attorneys and Compromise and Settlement. The indemnifying party, at its sole expense, shall be entitled to control and conduct the defense, compromise and settlement of the indemnified matter (including all appeals of any order, judgment or award in a litigation for which indemnity is sought) with counsel chosen by the indemnifying party, subject to compliance with the following Section 19.1.3 and the requirement to diligently keep the applicable indemnified party and its representatives and counsel reasonably apprised of all compromise and settlement negotiations and legal proceedings.

Section 19.1.3 Requirements. If and to the extent that the indemnified party is named as a party in any claim or litigation and such claim or litigation is compromised or settled by the indemnifying party, the indemnified party and (if the indemnified party is an entity or fiduciary) its managers, members, partners, shareholders, officers, directors, trust makers and/or beneficiaries, or principals (if and as applicable), shall be fully and unconditionally released and discharged in writing from all liabilities with respect to such claim by all claimants or (if and as applicable) by all plaintiffs or petitioners or counter-claimants or cross-claimants in such litigation, and shall not be adversely affected beyond a *de minimis* extent by a proposed compromise or settlement of such claim or litigation (as applicable) without obtaining the consent of the indemnified party, and if the indemnified party conditions, delays, withholds or denies its consent, the liability of the indemnifying party shall not be excused from its liability under the indemnity. The

indemnifying party shall give the indemnified party or its attorney or representative (as directed by any of them) a fully executed original or counterpart original of such compromise or settlement agreement (as applicable) with prompt diligence after the execution and delivery thereof to the indemnifying party or its counsel.

Section 19.1.4 Cooperation of Indemnified Party. The indemnified party, without fee or charge, shall fully cooperate with the indemnifying party and its counsel in the defense of said claim or litigation (as applicable), including:

(a) to appear and testify in any litigation in which the indemnified party is named as a defendant;

(b) to preserve and to make available to the indemnifying party and its counsel, at a location reasonably convenient to the indemnified party in Brooklyn or Manhattan, and in a commercially reasonable manner and period, any information within its actual knowledge and any documents (whether paper or electronic or similar records, material or data capable of reproduction) reasonably related to the defense of said claim or litigation (as applicable) within its possession or under its control and existing at or after the time the indemnified party was given notice of the claim or litigation (as applicable), other than documents that are subject to a non-disclosure agreement legally binding on the indemnified party; and

(c) to otherwise act in good faith and with commercially reasonable diligence in the defense of said claim or litigation (as applicable).

Section 19.1.5 Cooperation of Indemnifying Party. The indemnifying party, without fee, charge, condition or restriction, shall fully cooperate with the indemnified party and its representatives and counsel, including:

(a) to consult with the indemnified party and its representatives and counsel with respect to the proposed terms of the defense, compromise and settlement of such claim or litigation (as applicable) and all proposed writings related thereto; and

(b) to give the indemnified party and its representatives and counsel, with commercially prompt diligence after being received by the indemnifying party or its counsel, and (to the extent practicable) in a commercially reasonable period in advance before being given by the indemnifying party or its counsel to the claimants or their respective counsel in said claim or to the plaintiffs or petitioners or counter-claimants or cross-claimants, or their respective counsel, in said litigation (as applicable), copies of the following documents (collectively, "**Litigation Documents**"):

(b-1) all notices and writings with respect to said claim received or to be given;

(b-2) all pleadings, complaints, answers, counterclaims, cross-claims, petitions, applications, certifications, motions, briefs, memoranda, affidavits, affirmations, interrogatories, answers to interrogatories, bills of particulars, transcriptions of depositions, document requests or demands, and other writings with respect to said litigation, and all drafts and revisions thereto, received or to be given; and

(b-3) all drafts of each proposed compromise or settlement agreement with respect to such claim or litigation (as applicable) and all revisions thereto received or to be given, and all proposed execution versions of each compromise or settlement agreement, release and/or discharge agreement, and other writings with respect to said claim or litigation (as applicable) received or to be given.

Section 19.1.6 Participation of Indemnified Party. The indemnified party shall have the right, but not the obligation, to participate and be represented by separate counsel (chosen by such indemnified party) in the defense, compromise and settlement of said claim or said litigation (as applicable), including to attend all depositions in the litigation and all proceedings before a court or arbitrator or other dispute resolution body. The indemnified party shall pay the fees and disbursements of its separate counsel, unless such participation is necessitated by a conflict of interest between the indemnified party and the indemnifying party's counsel, in which case the indemnifying party shall pay the Legal Expenses of the indemnified party's counsel.

Section 19.1.7 Contribution. In the event the indemnified party is determined in a final non-appealable order or judgment of a court of competent jurisdiction to be at fault in an indemnified matter, the indemnified party shall contribute to the award in a litigation, and related losses in such proportion as is appropriate to reflect the relative fault of the indemnified party, on the one hand, and the indemnifying party, on the other hand, as well as any other relevant equitable considerations, as determined in said final non-appealable court order or judgment, except the entire award shall be paid by the indemnified party or the indemnifying party (as applicable) if said non-appealable final court order or judgment finds bad faith or intentional wrongdoing on the part of the indemnified party or the indemnifying party (as applicable).

Section 19.1.8 Exclusions from Indemnity. To the extent required by law to make the indemnity valid and enforceable, the indemnity shall exclude all liabilities and losses determined in a final non-appealable order or judgment of a court of competent jurisdiction is due to the negligence, gross negligence or intentional wrongdoing of the indemnified party. In the case of an indemnified party who is a Manager or Officer, this indemnity shall exclude all liabilities and losses determined in a final non-appealable order or judgment of a court of competent jurisdiction is due to bad faith, breach of a fiduciary duty or obligation, self-dealing, dishonesty, fraud, theft, gross negligence, willful misconduct, illegality or other intentional wrongdoing.

Section 19.1.9 Payment. The indemnifying party shall timely pay all amounts owing to all claimants pursuant to a compromise or settlement agreement in a claim or to all plaintiffs or petitioners or counter-claimants or cross-claimants (as applicable) pursuant to a compromise or settlement agreement or a final, non-appealable order or judgment or award in a litigation (if and as applicable).

Section 19.1.10 Violation. If the indemnifying party violates any of the terms of this Section 19, the indemnified party shall have the right (but not the obligation), in addition to all other legal and equitable rights and remedies:

(a) to compel the indemnifying party by appropriate action or proceeding to comply with its obligations hereunder; and/or

(b) to pay and perform the obligations of the indemnifying party hereunder, at the expense and for the account of the indemnifying party, if the indemnifying party fails to cure the violation within a deadline of ten (10) days after being notified by the indemnifying party of its intention to do so, in which case the indemnifying party shall reimburse the indemnified, in accordance with the Payment and Collection Terms, for all amounts paid or incurred by the indemnified party to pay and perform such obligations.

Section 19.1.11 Common Expenses. If the indemnifying party is the Condominium Board, then the amount payable by the Condominium Board under an indemnity shall be assessed to all Owners pro rata to their respective Common Interests or assessed to only the Owner or (if more than one Owner) the Owners (pro rata to their respective Common Interests) for whom the Board acted or primarily benefitted therefrom (as applicable).

Section 19.1.12 Additional Common Charges. If the indemnifying party is a Unit Owner, then the amount payable by such Unit Owner under an indemnity to the Condominium Board shall constitute Additional Common Charges, but shall be reduced by the amount of any insurance proceeds received and collected by the Condominium Board in connection therewith after deducting all expenses (including Legal Expenses) incurred or paid in connection therewith.

Section 19.2 **Indemnification of Board Parties**.

Section 19.2.1 Indemnity. The Condominium Board, as a General Common Expense assessed to all Units pro rata to their respective Common Interests, shall indemnify all Managers and Officers, on the terms set forth in Section 19.1, from and against:

(a) an action or proceeding brought by any Governmental Authority or other person, whether civil or criminal, in which a Manager or Officer is made, or threatened to be made, a party for having acted or served in such capacity in implementing the transactions duly adopted by the Board in accordance with the By-Laws or otherwise; and

(b) all judgments, fines, amounts paid in settlement and reasonable expenses, including Legal Expenses, actually and necessarily incurred as a result of the threat of, the commencement of and/or the continuation of such action or proceeding, and any appeal therein;

provided, however, such Manager or Officer (as applicable) acted, in good faith, for a purpose that such person reasonably believed to be in the best interests of the Board and the Condominium Association, and in the case of criminal proceedings, also had no reasonable cause to believe that his or her conduct was unlawful.

Section 19.2.2 No Presumption. The termination of any such civil or criminal proceeding by judgment, settlement, conviction or upon a plea of *nolo contendere*, or its equivalent, shall not in itself create a presumption that such Manager or Officer did not act in good faith, for a purpose which such person

reasonably believed to be in the best interests of the Board and the Condominium Association or that such person had reasonable cause to believe that his or her conduct was unlawful.

Section 19.2.3 Advance Payment. The expenses incurred in defending a civil or criminal action or proceeding by a Manager or Officer to be indemnified under this Section 19.2 shall be paid by the Board, on behalf and as agent of the Unit Owners, in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of such Manager or Officer (as applicable) to repay such amounts if, and to the extent, a final non-appealable order or judgment of a court of competent jurisdiction adverse to said Manager or Officer (as applicable) establishes that the acts of such Manager or Officer (as applicable) were committed in bad faith or were the result of active and deliberate dishonesty or willful misconduct and were material to the cause of action so adjudicated, or that such Manager or Officer (as applicable) thereby personally gained a financial profit or other advantage to which he or she was not legally entitled. The failure of the Condominium Board (including its independent legal counsel) to have made a determination prior to the commencement of such action that indemnification of said Manager or Officer is proper under the circumstances because he or she has met said applicable standard of conduct, shall not prejudice the right of the Condominium Board to recover from said Manager or Officer (as applicable) the amounts paid or incurred by the Condominium Board under this indemnification if, and to the extent, a final non-appealable order or judgment of a court of competent jurisdiction establishes such Manager or Officer has not met said standard of conduct.

Section 19.2.4 Employees Agents and Committee Members. The Condominium Board, on behalf and as agent of the Unit Owners, as a General Common Expense assessed to all Units pro rata to their respective Common Interests, may indemnify employees and agents of the Board, and members of committees appointed by the Board, with such scope and effect as determined by the Board, but in no event shall such indemnification be greater than would be available to such individual under this Declaration or the By-Laws, if such individual were a Manager.

Section 19.2.5 Remedies. If a claim for indemnification under this Section 19.2 is not paid in full by the Condominium Board within thirty (30) days after a written claim has been received by the Board, the claimant may at any time thereafter bring suit against the Board to recover the unpaid amount of the claim, in which case the prevailing party in such suit shall be reimbursed (in accordance with the Payment and Collection Terms) for all expenses, including Legal Expenses and Per Diem Interest thereon, paid or incurred in connection therewith, if and as provided in a final, non-appealable court order or judgment. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Board) that the claimant has not met the standard of conduct prescribed in Section 19.2.3, but the burden of proving such defense shall be on the Condominium Board.

Section 19.2.6 Insurance. The Condominium Board, on behalf and as agent of the Unit Owners, shall have the power to purchase and maintain insurance to indemnify:

(a) the Condominium Board for any obligation which it incurs as a result of the indemnification of Managers and Officers under the provisions of this Article 19;

(b) the Managers and Officers in instances in which they may be indemnified by the Board under the provisions of this Article 19;

(c) the Condominium Board for any obligation which the Board incurs on behalf and as agent of the Unit Owners; and

(d) the Managers and Officers under any indemnification provided in this Declaration or the By-Laws, a resolution of Unit Owners, a resolution of the Board, or any agreement.

ARTICLE 20
EXCESS DEVELOPMENT RIGHTS

Section 20.1 **Utilization and Benefit**. Sponsor exclusively owns all Excess Development Rights appurtenant to the Land and shall have the exclusive right to control, utilize, sell, lease or otherwise transfer all or a portion of the Excess Development Rights for the purposes, and in accordance with the provisions, of the Zoning Resolution or other applicable Laws and retain all benefits derived therefrom without participation by the Condominium Board or any Unit Owners. Neither the Condominium Board nor any Unit Owner shall have any right or interest in any Excess Development Rights.

Section 20.2 **Deemed Waiver, Consent and Grant**. Each Unit Owner by accepting a deed or otherwise succeeding to title to a Unit, and the Condominium Board, shall be deemed to have consented to and agreed that, if Sponsor or a Development Rights Owner seeks to enlarge the zoning lot in which the Land is located ("**171 Calyer Street Zoning Lot**") by adding other parcels of real property so as to create an enlarged zoning lot, or seeks to utilize or transfer all or a portion of its share of the Excess Development Rights for the purposes and in accordance with the provisions of the Zoning Resolution or other applicable Laws, the Condominium Board and the Unit Owners shall conclusively be deemed to have irrevocably and unconditionally:

(a) waived the right to execute any declaration of zoning lot restrictions, zoning lot development agreement, easement for light and air or other document or instrument and the right to appear in opposition before any community board or Governmental Authority to oppose in any manner the utilization, sale or transfer of its share of the Excess Development Rights or the establishment of the combined zoning lot or any enlargement, division or proposed use;

(b) consented, as a party in interest, to any declaration or other agreement utilizing the Excess Development Rights in any manner, including by effecting a transfer of Excess Development Rights or a merger or division of the parcel comprising the 171 Calyer Street Zoning Lot with any other tax lots in order to form a single zoning lot for the purpose of transferring all or any portion of the Excess Development Rights from Sponsor or a Development Rights Owner (as applicable); and

(c) granted to Sponsor and a Development Rights Owner an irrevocable power of attorney coupled with an interest, and for valuable consideration, to execute, acknowledge and deliver any such declaration of zoning lot restrictions, zoning lot development agreement, easement for light and air, or other document or instrument necessary or expedient to carry out the exercise of any rights, reserved, retained or granted to Sponsor or a Development Rights Owner or, alternatively upon request of Sponsor or a

Development Rights Owner**,** agreed to execute any declaration of zoning lot restrictions, zoning lot development agreement, easement for light and air, or other document or instrument requested by Sponsor or a Development Rights Owner, in order that Sponsor or a Development Rights Owner (as applicable) may effectively utilize, sell or otherwise transfer its share of the Excess Development Rights to any person designated by it and such person may effectively utilize such transferred share of the Excess Development Rights.

Section 20.3 **Restriction**. The provisions of this Article 20 may not be amended, qualified, added to, deleted or otherwise changed, in whole or in part, except in an amendment to this Declaration, duly executed, acknowledged and recorded in the City Register's Office together with the duly executed and acknowledged consent of Sponsor or a Development Rights Owner if the same relates to or affects Sponsor or a Development Rights Owner, respectively, or both Sponsor and a Development Rights Owner if same related to both of them or affects both of them.

ARTICLE 21
GENERAL

Section 21.1 Notices. The provisions of Article 7 of the By-Laws shall apply to the giving of notices under this Declaration and are hereby incorporated herein with the same force and effect as though set forth at length.

Section 21.2 **Condominium Act; Reformation**. The Condominium Act is paramount and shall govern and supersede any provision of this Declaration, the By-Laws or the Rules and Regulations that is contrary to, or inconsistent with, the Condominium Act. If any provision of this Declaration, the By-Laws or the Rules and Regulations is invalid under, or insufficient to submit the Property to, the provisions of, the Condominium Act, or otherwise fails to comply with the Condominium Act, or to bind the respective Unit Owners and the Condominium Board, then this Declaration, the By-Laws and the Rules and Regulations shall conclusively be deemed to have been automatically, irrevocably and unconditionally reformed to delete such invalid provision or to include such missing provision so as to be in full compliance with the Condominium Act or to bind the respective Unit Owners and the Condominium Board (as applicable).

Section 21.3 **Conflicts, Inconsistencies and Ambiguities**. In the event of any conflict, inconsistency or ambiguity between: (a) the provisions of this Declaration and the provisions of the By-Laws or the Rules and Regulations, the provisions of this Declaration are paramount and shall control; (b) the provisions of the By-Laws and the provisions of Rules and Regulations, the provisions of the By-Laws are paramount and shall control; and (c) the provisions of this Declaration, the By-Laws or the Rules and Regulations and any contract, agreement, lease, declaration or other document or instrument entered into by or on behalf of the Condominium Board or a Unit Owner after this Declaration is recorded, the provisions of this Declaration, the By-Laws and the Rules and Regulations are paramount and shall control.

Section 21.4 **Changes**. The provisions of this Declaration and the By-Laws may be changed only by an amendment to the Declaration, duly executed, acknowledged and recorded in the City Register's

Office in accordance with Article 4 of the By-Laws. The Rules and Regulations, however, may be amended without recording an amendment to this Declaration or the By-Laws pursuant to the terms provided in Section 3.16.5 of the By-Laws.

Section 21.5 **Waiver**. The provisions of this Declaration or the By-Laws may be waived without recording an amendment thereto; provided, however, the waiver is in writing signed by or on behalf (through a duly authorized representative or agent) of the Unit Owner or Condominium Board (as applicable). A written waiver shall not be required for a provision that is expressly stated to have been waived or deemed waived if not exercised, satisfied or performed within a specified period. A waiver may be given retroactively and have the same force and effect as though given before the act or matter at issue had been undertaken or commenced. The delay or failure to enforce or insist on strict performance of, or compliance with, any provision of this Declaration, the By-Laws or the Rules and Regulations shall not mean or infer that the provision has been waived or that the right to enforce or insist then or thereafter on strict performance of, or compliance with, that or any other provision of this Declaration, the By-Laws or the Rules and Regulations has been waived. A waiver of any violation or requirement of this Declaration, the By-Laws or the Rules and Regulations shall not be, or construed to be, a waiver of any subsequent or other violation or requirement hereof or thereof. The requirements contained in the Condominium Act cannot be waived.

Section 21.6 **Valid and Enforceable**. The invalidity or unenforceability of any provision of this Declaration, the By-Laws or the Rules and Regulations shall not affect the validity or enforceability of any other provision hereof or thereof. Each provision of this Declaration, the By-Laws and the Rules and Regulations is, and shall be construed to be, valid, binding and enforceable to the fullest extent permitted by Laws.

Section 21.7 Governing Laws. The internal laws of the State of New York will govern and control this Declaration, the By-Laws and the other EXHIBITS attached hereto, and the interpretation and enforcement of their respective provisions, without regard to legal principles or conflicts of laws.

Section 21.8 **Table of Contents and Headings**. The Table of Contents, and the Article and Section headings, of this Declaration are for convenience and reference only and do not, and shall not be construed to, affect the meaning or interpretation of any provision of this Declaration.

Section 21.9 **Certain References**. All references in this Declaration to: (a) the words "Article", "Section", "provision", "paragraph", "clause", "EXHIBIT" or similar words refer to an Article, Section, provision, paragraph and clause of this Declaration, or an EXHIBIT attached to this Declaration, unless otherwise expressly stated; (b) the words "hereof", "herein", "above", "below" and similar terms mean this Declaration; (c) a Section, provision, paragraph or clause of this Declaration or the By-Laws shall include the text of such Section, provision, paragraph or clause with the same force and effect as though set forth at length herein; or (d) an EXHIBIT, schedule, document, instrument or agreement shall include all provisions thereof and all attachments thereto.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE OF DECLARATION OF THE CALYER GREENPOINT

IN WITNESS WHEREOF, Sponsor has caused this Declaration to be executed as of _____ __, 202__.

171 Calyer Street Project LLC

By:
Signature:_____
Mark Adjmi, Member

ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this _____ day of _____, 202__, before me, the undersigned, personally appeared Mark Adjmi, 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
(Affix Stamp)

EXHIBIT A

TO

DECLARATION OF CONDOMINIUM

ESTABLISHING THE CALYER GREENPOINT

DESCRIPTION OF LAND

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND SITUATE, LYING AND BEING IN THE BOROUGH OF BROOKLYN, COUNTY OF KINGS, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING at a point on the northerly side of Calyer Street, distant 25 feet westerly from the corner formed by the intersection of the northerly side of Calyer Street with the westerly side of Manhattan Avenue;

RUNNING THENCE northerly parallel with Manhattan Avenue, 100 feet;

THENCE easterly parallel with Calyer Street, 25 feet to the westerly side of Manhattan Avenue;

THENCE northerly along the westerly side of Manhattan Avenue, 25 feet;

THENCE westerly parallel with Calyer Street, 100 feet;

THENCE southerly parallel with Manhattan Avenue, 25 feet;

THENCE westerly parallel with Calyer Street, 100 feet to the easterly side of Lorimer Street;

Thence southerly along the easterly side of Lorimer Street 100 feet to the corner formed by the intersection of the northerly side of Calyer Street with the easterly side of Lorimer Street;

Thence easterly along the northerly side of Calyer Street, 175 feet to the point or place of BEGINNING.

EXCEPTING THEREFROM All that certain plot or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of Calyer Street, distant 25 feet westerly from the corner formed by the intersection of the northerly side of Calyer Street with the westerly side of Manhattan Avenue;

Running thence northerly parallel with Manhattan Avenue, 100 feet;

Thence easterly parallel with Calyer Street, 25 feet to the westerly side of Manhattan Avenue;

Thence northerly along the westerly side of Manhattan Avenue, 25 feet;

Thence westerly parallel with Calyer Street, 100 feet;

Thence southerly parallel with Manhattan Avenue, 25 feet;

Thence westerly parallel with Calyer Street, 4 feet;

Thence southerly parallel with the westerly side of Manhattan Avenue, 100 feet to the northerly side of Calyer Street;

Thence easterly along the northerly side of Calyer Street, 79 feet to the point or place of BEGINNING.

Said premises being known as 171 Calyer Street, Brooklyn, New York.

END OF EXHIBIT A

EXHIBIT B
TO
DECLARATION OF CONDOMINIUM
ESTABLISHING THE CALYER GREENPOINT

DESCRIPTION OF UNITS

(TO BE COMPLETED PRIOR TO RECORDING)

Unit Designation	**No. of Rooms/ Baths (1)**	**Tax Lot No. .**	**Floor Location**	**Approx. Interior Unit Square Footage (2)**	**Approx. Exterior Square Footage (2)**	**Unit Total Square Footage (3)**	**Common Elements to Which Unit Has Immediate Access**	**Percentage of Common Interest (4)**
Residential Unit								

Legend:
T: Terrace.
Footnotes start after end of EXHIBIT B.

Unit Designation	No. of Rooms/ Baths (1)	Tax Lot No. .	Floor Location	Approx. Interior Unit Square Footage (2)	Approx. Exterior Square Footage (2)	Unit Total Square Footage (3)	Common Elements to Which Unit Has Immediate Access	Percentage of Common Interest (4)

Legend:
T: Terrace
Footnotes start after end of EXHIBIT B.

FOOTNOTES TO EXHIBIT B
DESCRIPTION OF UNITS

1. Number of Residential Rooms and Baths.

1.1 Room Count. Each bedroom, living room/dining room, storage area, storage room and walk-in laundry room, pantry and mudroom is counted as one room. A kitchen, kitchenette, foyer, closet and laundry closet are not being counted as a separate room. A bathroom with a bathtub or shower is counted as one bathroom, and a powder room (i.e., a lavatory without either a bathtub or shower) is counted as a half-bathroom.

2. Floor Area of Unit.

2.1 Unit Dimensions. The indoor area of each Residential, Retail and Storage Unit is measured: horizontally from the prevailing exterior side of an enclosing boundary wall or façade or exterior Building wall (but not beyond the Property line), or from the midpoint of a party wall separating two Units; and vertically from the Unit-side of the surface of the structural floor to the Unit-side of the surface of the structural ceiling. Each terrace is measured: horizontally from the prevailing exterior side of an enclosing parapet (but not beyond the Property line) or from the exposed prevailing surface of an enclosing façade or exterior Building wall, or from the midpoint of a fence or barrier separating two terraces; and vertically from the Unit-side of the surface of a roof or roof setback enclosing the terrace to a height of an imaginary horizontal plane that is directly opposite and coincident with the Unit-side of the surface of the Unit's structural ceiling. The Common Elements bordering or within the interior of a Unit or terrace are included in the computation of the floor area of the Unit and terrace, but such Common Elements are not part thereof. Each 90 degree Parking Unit is 18 feet in length and 8 feet 6 inches in width. Each accessible van Parking Unit is 18 feet in length and 11 feet 2 inches in width. Each parallel Parking Unit is 20 feet 4 inches in length and 8 feet 6 inches in width. Each Parking Unit is measured vertically from the Unit-side of the surface of the structural floor to the Unit-side of the surface of the structural ceiling.

2.2 Inclusion of Common Elements. The floor area occupied by any Common Elements bordering or within a Unit (such as a boundary wall or façade or exterior Building wall) have been included in the computation of the floor area of the Unit, but such Common Elements are not part of the Unit.

2.3 Allowance. All floor areas used in the calculations of Common Interests are approximations within a tolerance of about 5%.

2.4 Based on Full (Actual) Square Footage. The approximate floor areas shown in the "Unit" column and the "Terrace" column equal the full (actual) square footages of the Unit and the terrace, respectively.

2.5 Terrace. The terrace (if any) appurtenant to a specified Unit is included in, and is part of the private ownership of such Unit.

EXHIBIT C TO DECLARATION OF CONDOMINIUM

BY-LAWS

OF

THE CALYER GREENPOINT

171 Calyer Street
Brooklyn, New York 11222

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BY-LAWS
OF
THE CALYER GREENPOINT

ARTICLE 1
GENERAL

Section 1.1 **Purpose**. The purpose of these By-Laws is to set forth the requirements, rules and procedures concerning the conduct of the affairs and business of the Condominium Association and the operation of the Property, and the adjacent sidewalks, and all easements, rights and appurtenances belonging to the Land to the extent submitted to condominium ownership pursuant to the Declaration.

Section 1.2 **Applicability of By-Laws**. These By-Laws shall apply to each and every existing and future Owner, Unit User and Transaction Person, all of whom, automatically upon becoming the Owner of a Unit on the recording of the Declaration, or by accepting a deed or succeeding to title to a Unit, or upon accepting a security interest in a Unit, or executing a lease, or occupying a Unit, or entering into a transaction with the Condominium Board (as applicable), shall conclusively be deemed to automatically, irrevocably and unconditionally be legally bound by the Declaration, these By-Laws and the Rules and Regulations, as each may be duly amended from time to time.

Section 1.3 **Glossary**. The meanings of the capitalized terms and the interpretation of certain lowercase words used in these By-Laws are contained in EXHIBIT C Glossary to the Declaration. All other lowercase words shall have their ordinary meanings.

ARTICLE 2
GOVERNANCE

Section 2.1 **General**. The affairs and business of the Condominium Association and the operation of the Property and the adjacent sidewalks shall be governed by the Condominium Board as provided elsewhere herein and in the Declaration and the Rules and Regulations, and shall be implemented by the Officers at the direction of the Condominium Board. In exercising its powers and performing its duties under the Condominium Documents, the Condominium Board shall act on behalf, and as the agent, of all Unit Owners.

Section 2.2 **Condominium Board**.

Section 2.2.1 Status. The Condominium Board shall have the status conferred upon it pursuant to the terms of the Condominium Act and to the extent permitted by Laws, the status conferred upon the governing body of an unincorporated association pursuant to the terms of the General Associations Law of the State of New York.

Section 2.2.2 Principal Office of the Condominium Board. The principal office of the Condominium Board shall be located either at the Property or at such other place in the borough of Brooklyn reasonably convenient to a majority of the then existing Owners, in number and Common Interest, as may be designated from time to time by the Condominium Board.

Section 2.2.3 General Powers and Duties. The Condominium Board, as agent of the Unit Owners, shall have all of the powers and duties necessary or incidental to govern, control, conduct, administer, manage, transact and operate the affairs and business of the Condominium Association, the Property (including the Units and the Common Elements), and the sidewalks, in accordance with the terms of the Declaration, these By-Laws and the Rules and Regulations. The Condominium Board may do all such acts and things in furtherance of its powers and duties as are generally conferred upon a board of directors of a New York business corporation, except those that by Laws, or pursuant to the terms of the Declaration or these By-Laws, are limited or restricted, or may not be, or are expressly not, delegated to the Condominium Board by the Unit Owners. The Condominium Board shall exercise its powers and perform its duties in a manner consistent with the management of a high quality, first-class building used primarily for residential purposes with parking, storage and retail components in the vicinity of the Building and which is similar or nearest in use, size and amenities of the Building.

Section 2.2.4 Specific Powers and Duties. The Condominium Board shall have all of the powers and duties expressly set forth in the Declaration, these By-Laws and the Rules and Regulations. Without limiting the generality of the foregoing and Section 2.2.3 in any respect, these include the specific powers and duties of the Condominium Board:

(a) to prepare and adopt a budget of Condominium operation of the General and Residential Common Elements, which shall be consistent with the budget for the first 12 months of Condominium contained in Schedule B in Part I of the Plan ("**First Year's Budget**" or "**Schedule B**"), including a Reserve for Contingencies and a Reserve for Capital Replacements, in accordance with Section 3.2.3 below, as such Schedule B may last be changed in a duly filed amendment to the Plan before the First Unit Closing;

(b) to govern, control, conduct, administer, manage and otherwise transact the affairs and business of the Condominium Association for each budget year;

(c) to determine the amount, establish the means and methods of payment of, and collect, the General Common Charges from all Unit Owners, the Residential Common Charges from only the Residential, Parking and Storage Owners, any Additional Common Charges from the applicable Unit Owner and any Special Assessments from the applicable Unit Owners;

(d) to institute appropriate litigation for nonpayment Common Charges, including Additional Common Charges and Special Assessments, against defaulting Unit Owners; and to adopt, impose, levy and collect reasonable charges, fees, interest and fines against Unit Owners for violations of the Condominium Documents, as each may be duly amended from time to time;

(e) to use the General Common Charges to pay the General Common Expenses, the Residential Common Charges to pay the Residential Common Expenses, the Additional Common Charges to pay the Specially Allocated Expenses, and the Special Assessments (if any) to pay the General Common Expenses and/or the Residential Common Expenses (if and as applicable); and to use all other assets and funds held or received by the Condominium Board to operate and manage the Property, to govern, control, conduct, administer, manage and otherwise transact the affairs and business of the Condominium Association, and to implement its rights, obligations and duties;

(f) to maintain, repair, restore (including after damage or destruction by fire or other casualty, condemnation or eminent domain, or otherwise, as provided in these By-Laws) and alter the General Common Elements, the Residential Common Elements, the Association's Assets (including any Units or other real property, personal property or assets owned, leased or otherwise held by the Condominium Board or its affiliate from time to time), and the sidewalks;

(g) to furnish to Units and their respective Owners and tenants all intended Building Services and utilities comprising the General, Residential and Retail Common Elements, subject to temporary interruptions or reductions, in accordance with the Declaration or these By-Laws;

(h) to purchase and lease supplies, materials and facilities;

(i) to acquire and lease all rights, titles and interests in real and personal property and chattel real deemed necessary or appropriate by the Condominium Board;

(j) to give or grant leases (which include licenses), easements and other agreements to operate portions of the General Common Elements, the Residential Common Elements and/or the Association's Assets, or considered to be necessary or appropriate by the Condominium Board, in its sole business judgment;

(k) to employ or engage, compensate and dismiss Building personnel;

(l) to enter into contracts with Construction Parties, service providers and vendors of materials and supplies at market or competitive rates;

(m) to engage a managing agent or property manager to serve at a compensation to be negotiated by, and acceptable to, the Condominium Board and to perform such duties and services as the Condominium Board shall direct;

(n) to accept a surrender and acquire a Unit and its appurtenant Common Interest in accordance with Article 11 of the Declaration in the name of the Condominium Board or its affiliate, on behalf and as agent of the Unit Owners;

(o) to purchase or acquire a Unit in the name of the Condominium Board or its affiliate, on behalf and as agent of the Unit Owners, at a foreclosure or other judicial or non-judicial sale in connection with the foreclosure of the Board's lien for unpaid Common Charges;

(p) to purchase or lease a Unit on the permitted exercise of the Board's Right of First Refusal and to sublease any Unit any Unit so leased to the Board;

(q) to sell, lease and otherwise deal with, and make any disposition of, Units or other real and personal property acquired by, and to lease Units acquired by, the Condominium Board or its affiliate, on behalf and as agent of the Unit Owners;

(r) to incur debt on behalf and as agent of:

(r-1) all Unit Owners to maintain, repair, restore, alter or dispose of the General Common Elements, the Association's Assets, the sidewalks and/or to operate the Condominium Association; or

(r-2) all Residential, Parking and Storage Owners only to maintain, repair, restore, alter or dispose of the Residential Common Elements;

provided, however:

(r-2.1) no debt shall be incurred for a major or minor maintenance, repair, restoration or alteration of the General or Residential Common Elements, the Association's Assets, or sidewalks, or for working capital, bad debts, unpaid Common Expenses, depreciation, obsolescence or similar purposes, earlier than the fifth (5th) anniversary of the first conveyance of a Unit as provided in Section 339-jj.1 of the Condominium Act; except Sponsor (as the initial Owner of all Units) and each succeeding Owner of a Unit (by accepting or recording a deed to such Unit or otherwise succeeding to title to said Unit), shall conclusively be deemed to have irrevocably and unconditionally waived said five (5)-year restriction on incurring debt to the full extent such waiver is permitted by law;

(r-3) the incurrence of such debt shall require the vote or consent of:

(r-3.1) Sponsor during the period ending not more than five years after the closing and conveyance of the first Residential Unit ("**First Unit Closing**") or whenever the Unsold Units constitute less than 25% of the aggregate Common Interests appurtenant to all Units, whichever is sooner ("**Sponsor Veto Control Period**"); and

(r-3.2) eighty percent (80%) in number and Common Interest of all Unit Owners (including both Retail Owners) in the case of debt being incurred with respect to the General Elements, the Association's Assets, or sidewalks, or for working capital, bad debts, unpaid Common Expenses, depreciation, obsolescence or similar purposes; or

(r-3.3) a majority in number and Common Interest of all Residential, Parking and Storage Owners in the case of debt being incurred with respect to the Residential Common Elements;

(r-4) no lien to secure repayment of any debt may be created on any Unit or its appurtenant Common Interest (other than a Unit owned by the Board or its affiliate) without obtaining the consent of the Owner of such Unit; and

(r-5) the liability of each Owner for said debt (including the interest, late fees and other charges under the loan instruments) shall be pro rata to the Common Interest appurtenant to its Unit, without recourse for personal liability and limited to such Owner's interest in its Unit, and if the debt shall not be fully repaid by the Board, and such Owner shall pay the lender such proportion of the then outstanding indebtedness represented or secured thereby as the Common Interest of such Owner's Unit bears to the total Common Interests of all Owners who are responsible to repay the debt, such Owner shall be entitled to obtain from the lender, and such lender shall give said Owner,

a release and discharge of any judgment or other lien that the said lender shall have filed, or shall have the right to file, against such Owner's Unit, and the loan documentation shall so provide;

(s) to duly execute, acknowledge and deliver to a lender in connection with the permitted debt incurred by the Board, such instruments to securitize the debt pursuant to which (among other things) the Board, in its sole business judgment, may:

(s-1) mortgage and grant security interests in the Associations' Assets;

(s-2) grant, pledge, encumber and assign to the lender future revenue, including Common Charges, and the power, directly or through a lender's appointee, to levy and collect Common Charges and Special Assessments; and

(s-3) agree to increase Common Charges and Special Assessments in an amount sufficient to repay the debt, to enforce the timely payment of Common Charges and Special Assessments by the Board exercising the remedies for unpaid Common Charges in accordance with Section 5.1 and the Condominium Act, and to apply the net proceeds realized on a foreclosure sale or other remedy to repay the debt;

(t) to grant mortgages and other security interests and collateral in Units and assets acquired, purchased, leased or otherwise held by the Board, subject to obtaining the consent of Sponsor during the Sponsor Veto Control Period;

(u) to maintain books and records with respect to the finances and the operation of the General, Residential and Retail Common Elements, including:

(u-1) accounts of receipts and expenditures affecting the General, Residential and Retail Common Elements, the Association's Assets, the sidewalks, and the overall affairs and business of the Condominium Association, and expenditures undertaken on behalf and for the account of all Owners or a specified Owner or Owners (if and as applicable) in accordance with these By-Laws or the Declaration;

(u-2) books of account of the Condominium Board;

(u-3) other financial records, as well as other books of account of the Condominium Association as may be required to be kept pursuant to the terms of these By-Laws; and

(u-4) minutes, resolutions and other records of all meetings of the Board, committees appointed by the Board and Unit Owners held pursuant to the terms of these By-Laws;

(v) to open and maintain bank accounts on behalf of the Condominium Association and to designate the signatories required therefor;

(w) to obtain and maintain insurance pursuant to the terms of Section 3.9, including: property damage and liability coverage; fidelity bonds for Managers, Officers and employees handling funds of the Condominium Association; and directors and officers liability insurance;

(x) to adjust, compromise and settle claims under insurance policies obtained pursuant to the terms of Section 3.9, and to execute and deliver releases and discharges upon such adjustment, compromise and settlement on behalf and as agent of all Unit Owners, all holders of mortgages and other liens on Units, and all holders of any other interest or estate in the Property or the Association's Assets;

(y) to amend the Rules and Regulations from time to time, without recording an amendment to the Declaration or these By-Laws, as provided more fully in Section 3.16.5;

(z) to enforce the terms, covenants, conditions and provisions contained in the Declaration, these By-Laws and the Rules and Regulations and to exercise and implement the remedies for violations thereof contained in the Declaration or these By-Laws;

(aa) to organize the Condominium Board as a corporation as permitted in the Condominium Act; provided, however, that the organizational documents of such corporation shall conform as closely as practicable to the terms of the Declaration and these By-Laws, which shall prevail in the event of any ambiguity, inconsistency or conflict between the terms thereof and the terms of such organizational documents;

(bb) to organize corporations, limited liability companies and other entities to act as an affiliate of the Condominium Board to acquire title to or to lease or sublease:

(bb-1) Units pursuant to the permitted exercise of the Board's Right of First Refusal or as otherwise permitted under the Declaration or these By-Laws; and

(bb-2) rights, titles and interests in real and personal property for use in connection with the operation of the General Common Elements, the Residential Common Elements and the Association's Assets;

(cc) to execute, acknowledge or notarize (where applicable), record in the Kings County City Register's Office, the Kings County Clerk's office or elsewhere, and deliver any application, declaration, consent, assurance, restriction, document, agreement, contract, lease, easement or other instrument that the Condominium Board deems necessary or appropriate, including to comply with Laws (including a Zoning Resolution), or a requirement of a Governmental Authority having competent jurisdiction over the Board or the Property, or otherwise;

(dd) to exercise and implement all powers vested in the Condominium Board pursuant to a power of attorney granted to the Condominium Board in the Declaration or these By-Laws;

(ee) to do the following act on behalf and as agent of two or more Owners who have authorized the Board in writing to so act (subject to the right of any Owner to revoke such agency by notice to the Condominium Board, provided such notice is effective before the Condominium Board has commenced the applicable action):

(ee-1) to protest, complain or apply to the appropriate taxing authority to correct the tax assessments of the Units for any year by filing one or more complaints on behalf of such Owners;

(ee-2) to commence and prosecute a special proceeding for the review of assessments of real property as an aggrieved person under the Real Property Tax Law to seek administrative and judicial review of the tax assessments for any year;

(ee-3) to negotiate, compromise and settle with the taxing authority the tax assessments and any resulting litigation;

(ee-4) to execute and acknowledge in the name of each Owner for which it is acting on behalf and as agent, as such Owner's attorney-in-fact, all applications, certifications, petitions, complaints, compromise or settlement agreements, releases, discharges and other documents in furtherance of the foregoing; and

(ee-5) to retain legal counsel and other professionals and experts on behalf and as agent of the Owners for whom it is so acting to represent such Owners in connection with the foregoing;

(ff) to do the following on behalf and as agent of two or more Owners relating to the General or Residential Common Elements, or the affairs or business of the Condominium Association, or where required or permitted in carrying out the duties imposed upon the Condominium Board under these By-Laws, the Declaration or the Condominium Act:

(ff-1) to commence and prosecute as well as defend claims and litigations; to seek administrative and judicial review;

(ff-2) to conduct all depositions, trials, appeals, and to negotiate, compromise and settle any such claims and litigations;

(ff-3) to execute and acknowledge in the name of each of the affected Owners for which it is acting as agent, as such affected Owners' attorney-in-fact, all Litigation Documents in furtherance of the foregoing; and

(ff-4) to retain legal counsel and other professionals and experts on behalf and as agent of each of the affected Owners for whom it is so acting to represent such affected Owners in connection with the foregoing;

provided, however:

(ff-5) nothing herein will preclude an Owner from commencing, defending, compromising and settling any claim or litigation affecting only such Owner or such Owner's Unit; and

(ff-6) all expenses (including Legal Expenses), awards, judgments, compromise and settlement payments incurred or collected in connection with any claim or litigation by the Condominium Board, as agent of each of the affected Owners on whose behalf the Board is acting, shall be charged to, or the net amount collected (after deducting the expenses of collection, including Legal Expenses) shall be paid to, such affected Owners (all such amounts shall be charged or paid (as applicable) to such affected Owners pro rata to the respective economic impact on each of such affected Owners or (if speculative or not readily ascertainable) pro rata to the Common Interest appurtenant to the Unit of each of such affected Owner);

(gg) to prepare, execute and record on behalf of all Unit Owners, as their attorney-in-fact, coupled with an interest, a restatement of the Declaration and/or these By-Laws whenever, in the Condominium Board's business judgment, it is advisable to consolidate and restate all amendments, modifications, additions and deletions theretofore made to the Declaration and/or these By-Laws; provided, however, the restatement shall not impair, infringe, abridge, diminish or otherwise change the provisions of the Declaration or these By-Laws with respect to the Excess Development Rights, or the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of Sponsor;

(hh) to prepare execute and deliver in accordance with and on the terms contained in these By-Laws: certificates with respect to the status of payment of Common Charges and violations of the Declaration, these By-Laws or the Rules and Regulations by a Unit Owner; certificates with respect to the waiver of, or exemption from, the Board's Right of First Refusal on a sale or lease of a Unit; estoppel certificates; and subordination and non-disturbance agreements;

(ii) to control temporary power and utility service shutoffs, interruptions or reductions in the normal functioning of the Building Systems when necessary to facilitate the performance of work in, on or to a particular Unit and/or a General Common Element or a Residential Common Element (if and as applicable), which is permitted or required under the Declaration or these By-Laws; the Condominium Board is to endeavor to the extent commercially reasonable and economically practicable to minimize any disruption in the use and enjoyment of, and the business being conducted in, Units and the Common Elements serving Units;

(jj) to invest any excess funds held by the Board in obligations of federal, state and local governments, certificates of deposit or marketable instruments of a savings bank, a savings and loan association, a bank or trust company, a credit union, an insurance company, a real estate investment trust, a mortgage trust, a federal, state or municipal union or similar organization, or a welfare, pension or retirement fund or system (collectively, "**Institutional Lenders**"), and funds which invest in any such obligations, and similar investment-grade securities;

(kk) to cooperate with Owners and give assurances pursuant to Section 16.2 of the Declaration;

(ll) to the extent required to effectuate the rights of Sponsor or other Owner of the Excess Development Rights, to enter into a zoning lot merger or any declaration or other instruments necessary to acquire, purchase, allocate, sell, transfer or dispose of any Excess Development Rights now or in the future appurtenant to the Land or other zoning lot pursuant to the Zoning Resolution or to merge or subdivide a zoning lot;

(mm) to cause to be prepared and filed all requisite federal, state and city income tax, franchise tax, unincorporated business tax and any other tax returns, as provided in Section 3.16.8;

(nn) to cause to be prepared and distributed annually to Unit Owners an annual report of assets and liabilities and the operation of the Condominium Association, as provided more fully in Section 3.16.9; and

(oo) generally, to carry out any and all transactions that the Board determines to be in the best interests of Unit Owners or in furtherance of the purposes of the Condominium Association.

The Condominium Board shall be responsible for carrying out the duties imposed upon it under the Declaration, these By-Laws and the Rules and Regulations regardless of whether a Unit is vacant or occupied by its Owner or a tenant.

Section 2.2.5 Right to Delegate. Subject to Sections 2.2 6 and 2.2.7 and such additional exceptions, limitations and restrictions as the Board may deem appropriate, the Condominium Board shall have the unfettered right to delegate to:

(a) its employees, agents (including a managing agent), representatives, Construction Parties, designees and affiliates any act, work or matter to be undertaken by the Condominium Board in accordance with the Declaration or these By-Laws; and

(b) an executive and other committees to exercise and perform such powers and duties of the Condominium Board during the intervals between the meetings of the Condominium Board as the Condominium Board may direct.

Section 2.2.6 Non-Delegable Powers and Duties. The Condominium Board shall not delegate to any person or committee any of the powers or duties that are expressly prohibited from being delegated under the Condominium Act or other Laws, or by a board of directors of a corporation under the New York Business Corporation Law.

Section 2.2.7 Exception. The prohibitions in Section 2.2.6, however, do not apply to a person designated by the Condominium Board, to whom the powers and duties of the Board may be delegated under such terms and conditions approved and determined by the Condominium Board in connection with a loan (secured or unsecured) obtained by the Condominium Board in accordance with its authority under these By-Laws as agent for all Unit Owners.

Section 2.2.8 Number and Composition of Managers. Initially, the Condominium Board will consist of one Manager, who will be appointed exclusively by Sponsor and will conduct all business and affairs of the Condominium Association. Sponsor will cause the Condominium Board to call the first meeting of Unit Owners no later than approximately sixty (60) days after the second anniversary of the First Unit Closing or whenever the number and Common Interest of the Sold Residential, Parking and Storage Units constitute eighty percent (80%) or more in number and Common Interest of all Units, whichever is the first to occur. At such first meeting, the Unit Owners shall elect and appoint seven Managers to serve on the Condominium Board.

The composition of the seven Managers shall be as follows:

(a) during the first five years from the First Unit Closing or whenever the Unsold Residential, Parking and Storage Units owned by Sponsor constitute less than twenty-five percent (25%) of all Residential, Parking and Storage Units, in number and Common Interest, whichever is sooner to occur ("**Sponsor Board Control Period**"), the Board shall comprise four Sponsor Managers appointed exclusively by Sponsor, one Residential Manager elected by all Residential, Parking and Storage Owners,

(including Sponsor for so long as Sponsor owns at least one Unsold Residential, Parking or Storage Unit) who has no family (by blood, marriage or adoption), employment or business relationship or affiliation with Sponsor or a manager, member or principal of Sponsor or an Unsold Unit Owner ("**Independent Manager**"), and two Retail Managers, each of whom shall be appointed exclusively by a Retail Owner; or

(b) after the end of the Sponsor Board Control Period and for so long as Sponsor owns at least one Unsold Residential, Parking or Storage Unit, the Board shall comprise four Independent Managers elected by all Residential, Parking and Storage Owners (including Sponsor while it owns at least one Unsold Residential, Parking or Storage Unit), one Sponsor Manager appointed exclusively by Sponsor, and two Retail Managers, each of whom shall be appointed exclusively by a Retail Owner.

Sponsor will cause the Board to call a special meeting of Unit Owners to be held within approximately thirty (30) days after the end of the Sponsor Board Control Period to elect three additional Independent Managers to replace three Sponsor Managers, who will resign effective on the qualification and election of such Independent Managers.

Sponsor (at its exclusive option) may choose not to nominate or vote for the Independent Manager(s) to be elected at a meeting of Unit Owners without waiving or otherwise prejudicing Sponsor's right to nominate and vote to elect the Independent Manager(s) at future meetings of Unit Owners.

Section 2.2.9 Qualification. Each Independent Manager must be either:

(a) an individual whose primary or principal residence is in New York State and owns a Sold Residential Unit or an adult member of the immediate family of such Owner who resides in said Unit;

(b) an individual appointed by Sold Residential Unit mortgage lender;

(c) an officer, director, shareholder, partner, member, principal, employee, trustee, executor, administrator or beneficiary of a New York corporation, partnership, company, trust, estate or other entity that owns a Sold Residential Unit;

(d) an individual who resides in a Sold Residential Unit owned by:

(d-1) a Foreign Government or Diplomat that has complied with Article 14 of the Declaration; or

(d-2) a Foreign Person that has complied with Article 15 of the Declaration; or

(d-3) any entity that either shall have been organized under New York law or shall have designated the New York Secretary of State for service of process.

There is no qualification requirement for a Sponsor Manager or a Retail Manager, each of whom may be an entity (organized under New York law or shall have designated the New York Secretary of State for service of process) or individual at least 18 years old, and need not have any relationship with Sponsor or a Retail Owner. Sponsor, as Owner of Unsold Units, may appoint the same person to serve as the two or more Sponsor Managers during the Sponsor Board Control Period and be counted as a separate Manager for each Board seat held by such person for quorum and voting purposes. If the Retail Owner owns both

Retail Units, such Owner may appoint the same person to serve as the two Retail Managers and be counted as a separate Manager for each Board seat held by such person for quorum and voting purposes.

Section 2.2.10 Disqualification. A Manager shall automatically be disqualified and cease to serve on the Board when:

(a) such Manager ceases to qualify under Section 2.2.9; or

(b) if the Condominium Board perfects a lien against a Sold Unit (but not an Unsold Unit or a Retail Unit), the eligibility of an Independent Manager who is associated with the Owner of such Sold Unit will automatically be suspended, and unless the lien is satisfied or discharged by bond or otherwise of record thirty (30) days thereafter, such Board membership shall automatically cease; or

(c) the Retail Owner who appointed a Retail Manager ceases to own fee title to its Unit (in which case Section 2.2.14(d-2) shall apply).

Until a new Manager is elected who qualifies pursuant to Section 2.2.9 (in the case of clause (a) above), or the lien against the Unit is paid or discharged by bonding or otherwise (in the case of clause (b) above), or a new Retail Manager is appointed by the new Retail Owner (in the case of clause (c) above), the number of Managers for quorum and decisions (including conducting transactions) of the Board shall automatically be based on the remaining number of Managers then serving on the Board; provided, however, during the absence of a Retail Manager due to a change in ownership of a Retail Unit, no decision shall be made that would adversely affect the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of a Retail Unit or its Owner who appointed such absentee Retail Manager without the consent of such Owner.

Section 2.2.11 Term of Office. All Managers shall serve for a term of one year and until their respective successors are elected or appointed and qualified. There is no limit on the number of terms, successive or otherwise, a Manager may serve.

Section 2.2.12 Removal. An Independent Manager may be removed "with" or "without" cause, and a Sponsor Manager and Retail Manager may be removed solely for bad faith, breach of a fiduciary duty or obligation, self-dealing, dishonesty, fraud, theft, gross negligence, willful misconduct, illegality or similar misconduct (each, "**Malfeasance**"), by a vote of a majority in number and Common Interest of Owners of all Units cast at a duly constituted meeting of Unit Owners at which a quorum is present. In determining such majority vote, the Units and Common Interests owned by the Manager to be removed, or the Owner who appointed such Manager, or the Owner of the Unit in which such Manager resides, shall be excluded from the count of the base number of Unit Owners and Common Interests for quorum and voting purposes.

Any Independent Manager, Sponsor Manager or Retail Manager who is to be removed shall be given a written explanation of the basis of removal at least seven business days in advance of the meeting of Unit Owners and a reasonable opportunity to be heard at the meeting before the vote is taken.

A Sponsor Manager serves at the will of Sponsor or the Unsold Unit Owner or Owners (as applicable) who appointed such Sponsor Manager and may be removed "without" cause and without explanation by only Sponsor or said Unsold Unit Owner or Owners (as applicable).

A Retail Manager serves at the will of the Retail Owner who exclusively appointed such Retail Manager and may be removed without cause and without explanation by only said Retail Owner.

Section 2.2.13 Resignation. An Independent Manager may resign at any time by giving notice to the remaining Independent Managers or (if none) to a Sponsor Manager. A Sponsor Manager may resign by giving notice to the Sponsor or appropriate Unsold Unit Owner or Owners (as applicable) who appointed such Manager. A Retail Manager may resign by giving notice to the Retail Owner who exclusively appointed said Retail Manager.

An Independent Manager who shall cease to be qualified for membership pursuant to the terms of these By-Laws shall conclusively be deemed to have automatically resigned as a Manager effective as of the date upon which such qualification shall cease.

Section 2.2.14 Vacancy. A vacancy on the Condominium Board, whether resulting from removal, resignation, death, incompetency, incapacity or otherwise, will be filled as follows.

(a) in the case of a vacancy of an Independent Manager during the Sponsor Board Control Period, only the four Sponsor Managers shall have the right to appoint a new Independent Manager to fill such vacancy;

(b) in the case of a vacancy of an Independent Manager after the end of the Sponsor Board Control Period, only the remaining Independent Managers shall have the right to appoint a new Independent Manager to fill such vacancy;

(c) in the case of a vacancy of a Sponsor Manager, only Sponsor or other appropriate Unsold Unit Owner, whoever originally appointed the vacating Sponsor Manager, shall have the right to appoint a new Sponsor Manager to fill such vacancy;

(d) in the case of a vacancy of a Retail Manager:

(d-1) only the Retail Owner who appointed said vacating Retail Manager; or

(d-2) if the vacancy results from a change in ownership of a Retail Unit, only the new Owner of such Retail Unit,

shall have the right to appoint the new Retail Manager to fill such vacancy.

In the case of a removal of an Independent Manager, the Owners of Sold and Unsold Residential, Parking and Storage Units will have the right to pre-empt the Managers and elect the replacement at the same meeting the removal is voted upon or at a subsequent special or annual meeting of Unit Owners called for such purpose.

The person appointed or elected to fill the vacancy will serve as a Manager of the Condominium Board for the remainder of the term of the Manager being replaced.

Section 2.2.15 First Board Meeting. Upon recording of the Declaration in the City Register's Office, Sponsor, as Owner of all Units, shall appoint one Sponsor Manager, who shall then elect the Officers.

Section 2.2.16 Organizational Board Meetings. The first meeting of each Condominium Board elected and appointed annually by the Unit Owners may be held immediately after such annual meeting of Unit Owners and no notice of such Board meeting shall be necessary to the newly elected Managers in order to legally constitute the meeting, provided a quorum shall be present. Alternatively, such first Board meeting may convene at such place, date and time as shall be fixed by a majority of the Managers present at said annual meeting of Unit Owners or (if less than a quorum shall be present) those Managers present at such annual meeting, by notice thereof given to all Managers within five business days thereafter. In any event, however, such first meeting of each newly elected and appointed Board shall be held within approximately thirty (30) days following each annual meeting of Unit Owners.

Section 2.2.17 Regular Meetings of the Condominium Board. The Condominium Board is to hold at least four regular meetings each budget year, but a majority of the Managers may determine to meet more often. The date, time and place of each regular meeting will be fixed by a majority of the Managers.

Section 2.2.18 Special Meetings of the Condominium Board. The President may call a special meeting of the Condominium Board whenever determined by the President to be necessary or desirable. The President shall call a special meeting of the Board to be held within ten (10) business days after request therefor is given by two Managers; provided, however the same two Managers may not call for a special meeting of the Board more often than twice in any fiscal year of Condominium operation.

A notice of a special meeting of the Condominium Board to fill the vacancy of an Independent Manager shall be sent within three business days after any Manager learns of the vacancy and shall be held within five business days after sending the notice. The election held thereat shall be effective to fill such vacancy even if the number of Managers present at such meeting shall not constitute a quorum. Sponsor or the appropriate Unsold Unit Owner or Owners (as applicable) who appointed a vacating Sponsor Manager, or a Retail Owner who appointed a vacating Retail Manger, shall alone fill such vacancy by notice to the other Board Members or to the President, Vice President or Secretary of the Condominium Association without the need to hold a special or regular meeting of the Board.

Section 2.2.19 Date, Time and Place. All regular and special meetings of the Board shall be held on a business day and during business hours, unless a majority of the Managers otherwise agree, and may be held in a physical location reasonably convenient to a majority of the Managers in the borough of Brooklyn in the State of New York, or virtually (i.e., by means of conference telephone or mobile phone, or a video and audio telecommunication platform (such as Skype or ZOOM), or electronic communication, including email and text message to a mobile phone) in which all Managers attending the meeting can hear or otherwise effectively communicate with each other at the same time or concurrently, or any combination of the foregoing. Managers participating in a meeting electronically (i.e., email or text message) shall be afforded a reasonable opportunity to propose, object to, and vote upon a specific action to be taken by the Managers, and to see, read or hear the proceedings of the meeting substantially concurrently therewith.

Participating in a meeting by any of the foregoing means shall be considered attendance in person for all purposes.

Section 2.2.20 Notice of Board Meetings. Notice of all regular meetings and special meetings of the Condominium Board (except in case of an emergency):

(a) shall state the date, time, place and purpose of the meeting; and

(b) shall be sent to each Manager as follows and at least the following number of days prior to the day fixed for the meeting: five business days if sent by hand delivery, facsimile or email (with electronic confirmation of transmission) or text message to a mobile phone; or seven business days if sent by Federal Express or other nationally recognized overnight courier for next day delivery; or ten (10) business days if sent by ordinary first class mail.

Section 2.2.21 Waiver of Notice of Meetings. Any Manager may, at any time, waive notice of any meeting of the Board or any committee thereof in writing or by electronic communication. Such waiver shall be deemed equivalent to receiving the notice. Attendance by a Manager at any such meeting of the Board or any committee thereof shall constitute a binding and conclusive waiver by such Manager of notice of the meeting. If all Managers or committee members are present at any meeting of the Board or any committee of the Board, respectively, no notice of such meeting shall be required and any business authorized pursuant to these By-Laws may be transacted at such meeting.

Section 2.2.22 Quorum. Attendance at a duly convened regular or special meeting of the Board by:

(a) a majority of all Managers shall be necessary to constitute a quorum for any business to be transacted and all decisions to be made by the Board pursuant to Section 2.2.23.1; or:

(b) a majority of the Residential Managers only shall be necessary to constitute a quorum for any business to be transacted and all decisions to be made by only the Residential Managers in the name and on behalf of the Board, pursuant to Section 2.2.23.2; or

(c) both Retail Managers shall be necessary to constitute a quorum for any business to be transacted and all decisions to be made by only the Retail Managers in the name and on behalf of the Board, pursuant to Section 2.2.23.3.

No quorum or Board meeting requirements shall apply to any business to be transacted and any decisions to be made by only the Sponsor Manager or Managers, or only a Retail Manager, or (in the case of an emergency) any Manager pursuant to Section 2.2.23.

Section 2.2.23 Decisions.

Section 2.2.23.1 Condominium Board. A majority of all Managers attending a duly convened Board meeting at which a quorum is present, shall transact all business and make all decisions that relate solely to:

(a) the General Common Elements;

(b) the Association's Assets;

(c) the General Common Expenses, the Specially Allocated Expenses and the Administrative Expenses levied on a Retail Unit or its Owner;

(d) the General Common Charges;

(e) the Building Services to be provided to all Units or to all Residential and Retail Units and their respective Owners;

(f) the affairs of the entire Condominium Association; and

(g) impact both the General and Residential or Retail Common Elements, or booth the Residential and Retail Common Elements, or the Common Elements and a Residential or Retail Unit, or both a Residential and a Retail Unit.

Section 2.2.23.2 Residential Managers. A majority of:

(a) all Residential Managers attending a duly convened meeting of the Residential Managers at which a quorum is present, shall transact all business and make all decisions in the name and on behalf of the Board that relate solely to:

(a-1) the Residential Common Elements;

(a-2) the Residential Common Expenses and the Administrative Expenses levied on a Residential, Parking or Storage Unit or its Owner;

(a-3) the Building Services to be provided to only the Residential, Parking and Storage Units and their respective Owners; and

(a-4) the affairs of only the Residential, Parking and Storage Owners that do not, directly or indirectly, impact, infringe, or in any way diminish the Sponsor's Rights, or the operation or the business conducted in one or more portions of a Retail Unit, or the Building Systems serving a Retail Unit or a Retail Common Element, or the Building Services being provided to a Retail Unit or its Owner, or any of the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of a Retail Unit or its Owner.

Section 2.2.23.3 Retail Managers. Both Retail Managers attending a duly convened meeting of the Retail Managers at which a quorum is present, shall transact all business and make all decisions in the name and on behalf of the Board that relate solely to:

(a) the Retail Common Elements;

(b) the Retail Common Expenses and the Administrative Expenses levied on a Retail Unit or its Owner;

(c) the Building Services to be provided to only both Retail Units and their respective Owners; and

(d) the affairs of only both Retail Owners or both Retail Units and not affecting any other Unit or the General or Residential Common Elements.

Section 2.2.23.4 Sponsor Manager(s). The Sponsor Manager (or if there is more than one Sponsor Manager) a majority of the Sponsor Managers, shall have the right, without attending a Board meeting, to transact any business and make any decisions in the name and on behalf of the Board that relate solely to the operation or affairs of the Unsold Residential, Parking and Storage Units or their respective appurtenant Limited Common Elements or to implement Sponsor's Rights under the Condominium Documents.

Section 2.2.23.5 Retail Manager. A Retail Manager shall have the right, without attending a Board meeting, to transact any business and make any decisions in the name and on behalf of the Board that relate solely to the Retail Owner who appointed such Retail Manager or such Owner's Retail Unit and the Limited Common Elements restricted to its exclusive use, and to implement the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of such Owner or its Retail Unit and its appurtenant Limited Common Elements.

Section 2.2.23.6 Emergency. In the case of an emergency, any Manager shall have the right, in the name and on behalf of the Board, without holding a Board meeting, to temporarily remediate the condition causing the emergency, in which case such Manager shall endeavor, as soon as feasible, to explain to the other Mangers the condition causing such emergency, the efforts to temporarily remediate the emergency condition and the status of said condition.

Section 2.2.23.7 Required Recusal. In the case of an offending Owner who violates the provisions of the Declaration, these By-Laws or the Rules and Regulations, the Manager appointed by or who is related (by family, employment, business or otherwise) to such offending Owner shall be recused from the deliberations and the decision of the Board on the appropriate remedy. In such case, the other Managers or Manager (as applicable) shall make the decisions on behalf and in the name of the Board and the number of Managers for quorum, voting and decision requirements shall be reduced concomitantly.

Section 2.2.24 Decisions in Writing in Lieu of Meeting. Any decision to be made by the Condominium Board or only the Residential Managers may be made without a meeting if all Managers (in the case of the Board) or all Residential Managers (for any decision to be made solely by them) shall consent in writing to the decisions or transactions.

Section 2.2.25 Number of Votes. Each Manager shall have one vote on all matters and transactions to be determined and voted upon by the Condominium Board, except a person appointed to serve as two or more Sponsor Managers or the two Retail Managers shall have one vote for each such Board seat.

Section 2.2.26 Attendance Requirements. Attendance at a regular or special meeting of the Condominium Board or any committee thereof, or the Residential Managers or any committee thereof, shall be in person or virtually (i.e., by means of conference telephone or mobile phone, or a video and audio telecommunication platform (such as Skype or ZOOM), or electronic communication, including email and text message to a mobile phone,) permitting all individuals participating in the meeting to hear or otherwise

effectively communicate with each other at the same time or concurrently. Such participation shall constitute presence at such meeting for all purposes.

Section 2.2.27 Adjournment. If, at any meeting of the Condominium Board there shall be less than a quorum present, a majority of the Managers present may, at such meeting, or within one business day thereafter, adjourn the meeting to a new date, time and place in Brooklyn and give the absentee Manager(s) notice thereof as provided in Section 2.2.20 prior to the adjourned date, failing which the Board shall adjourn the meeting to a new date, time and place in Brooklyn in the manner provided in Section 2.2.20. The business to be transacted at the original meeting shall be the only business that may be transacted at the adjourned meeting.

Section 2.2.28 Conduct of Meetings. The President shall preside at the meetings of Managers and the Secretary shall faithfully record the minutes thereof, which minutes shall include the identity of the Managers present and how each attended the meeting, the items discussed, the full text of all resolutions duly adopted by the Managers, how each Manager voted, and a record of all transactions and proceedings occurring at the meeting.

Section 2.2.29 Robert's Rules of Order. Unless in conflict with the terms of the Declaration, these By-Laws or the Condominium Act, each meeting of the Condominium Board shall be conducted in accordance with the then current edition of Robert's Rules of Order or any other rules of procedure from time to time acceptable to a majority of the Managers attending the meeting.

Section 2.2.30 Restrictions on Board Powers. The Condominium Board:

(a) shall not have the power to enter into any agreement that would make an Owner a guarantor or surety;

(b) must obtain the consent of the impacted Owner in each instance to change:

(b-1) the Common Interest appurtenant to such Owner's Unit;

(b-2) the permitted use and enjoyment of, or the permitted business to be conducted in, such Owner's Unit;

(b-3) the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of such Owner contained in the Declaration or these By-Laws, including the right to sell, lease or mortgage its Unit or to securitize the holder of a Controlling Interest in an Unsold Unit Owner or Retail Owner, without a Right of First Refusal in favor of the Board or another Owner on the terms contained in these By-Laws;

(b-4) the rights or benefits of such Owner's mortgagee or a holder of a Controlling Interest in an entity-Owner contained in these By-Laws;

(b-5) the requirement to obtain the consent of such Owner where expressly provided in the Declaration or these By-Laws; or

(b-6) the non-recourse, pro rata and limited liability of an Owner set forth in Section 2.5.22;

(c) must contain the consent of Sponsor during the Sponsor Veto Control Period to do any of the following:

(c-1) to raise Common Charges or levy a Special Assessment in order to do any of the following:

(c-1.1) to alter the General Common Elements, the Residential Common Elements, the Association's Assets, including any Unit owned or held under a lease or otherwise by the Condominium Board or its affiliate, incorporated or otherwise, organized by the Board to act on behalf and for the account of the Condominium Board or the Condominium Association;

(c-1.2) to establish a fund for reserves for unanticipated expenses and/or contingencies (i.e., a Reserve for Contingencies) that exceeds five percent (5%) of the projected Common Expenses, excluding the Reserve for Capital Replacements;

(c-1.3) to change or eliminate the Reserve for Capital Replacements set forth in Schedule B in Part I of the Plan, as such Schedule B may last be amended before the First Unit Closing, except as permitted to be changed pursuant thereto, which is required to be included in each budget in accordance with these By-Laws and the Plan;

(c-1.4) to increase, decrease, eliminate or otherwise change the number, type, classification or working hours of the Building's service staff from those set forth in Schedule B in Part I of the Plan, as such Schedule B may last be amended before the First Unit Closing, except as permitted to be changed pursuant thereto;

(c-1.5) to increase, decrease, eliminate or otherwise change Building Services by (for example) entering into contracts for new or additional services or maintenance work not included in said First Year's Budget, or failing to provide any service or maintenance contracts set forth in such First Year's Budget, or otherwise;

(c-1.6) to increase, decrease, eliminate or otherwise change the amounts or types of insurance coverage from those provided in said First Year's Budget;

(c-2) to borrow money on behalf of the Condominium Association; or

(c-3) to exercise the Right of First Refusal to purchase or lease a Sold Residential, Parking or Storage Unit;

provided, however, Sponsor may not exercise veto control over: expenses included in said First Year's Budget; or expenses required to comply with applicable Laws, or to remedy a governmental notice of a violation of Laws, or to remedy an order of a Governmental Authority or an insurer of the Building; and

(d) must obtain the consent of a Registered Tenant, a Registered Mortgagee or a Registered Mezzanine Lender to change such party's rights and benefits under the Declaration or these By-Laws.

Section 2.2.31 Business Judgment Rule. The decisions and transactions of the Condominium Board, or the Residential Managers or the Sponsor Manager(s) or a Retail Manager (as to the decisions and

transaction to be made only by such Manager(s) as provided in these By-Laws) that are made in good faith, for the purposes set forth in the Condominium Documents and within the scope of its or their (as applicable) authority, and not in bad faith, breach of a fiduciary obligation, self-dealing, breach of contract or disparate treatment, shall have the equivalent status of the decisions and transactions of a cooperative housing corporation as to which the so-called "**Business Judgment Rule**" articulated in *Levandusky v. One Fifth Ave. Corp.* (75 NY2d 530 [1990]) shall apply, except the Business Judgment Rule shall not apply to any decisions or transactions affecting, directly or indirectly, the Sponsor or other Owner of an Unsold Unit, or the Owner of a Retail Unit, the Sponsor's Rights under the Plan or the Condominium Documents, or an Unsold Residential, Parking or Storage Unit, or a Retail Unit or its Owner or the business to be conducted in or the operation of a Retail Unit, or the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of an Owner of a Retail Unit, which shall be subject to scrutiny and determined solely on the merits by a court, arbitration panel or other forum having competent jurisdiction, without any deference, weight or favorable assumption being given to the Condominium Board, or the Residential Managers or the Sponsor Manager(s) or a Retail Manager.

Section 2.2.32 Compensation of Managers. No Manager or any committee member shall receive any compensation from the Condominium Board for acting as such.

Section 2.2.33 Standards for Fiduciary Responsibility and Self-Dealing. Each Manager shall act in the best interests of the Owner who appointed such Manager or the Owners who elected such Manager (as applicable), but owes a duty of loyalty to act in furtherance of the purposes of the Condominium Association, within the scope of the Manager's authority contained in the Declaration and these By-Laws, and in good faith.

Section 2.2.34 Annual Report for Interested Manager Contracts. In accordance with New York Business Corporation Law ("**BCL**") §727, within approximately ninety (90) days after the end of each fiscal year of Condominium operation, the Board shall give each Manager a copy of BCL §713 and shall submit an annual report to all Unit Owners, signed by each Manager, containing information on any contracts made, entered into, or otherwise voted on by the Board where one or more Managers or any corporation, company, organization, firm, association or other entity in which one or more Managers have a substantial financial interest. Such annual report shall include the following:

(a) a list of all contracts voted on by the Board, including information on the contract, the recipient, the contract amount, and the purpose of entering into the contract;

(b) the record of each meeting, including the names of the Manager in attendance, the voting records for contracts and how each Manager voted on such contracts; and

(c) the date of each vote on each contract, and the date the contract would be and remain valid.

If said annual report would contain no information required to be provided pursuant to the foregoing because of the absence of any actions taken by the Board, then the Board shall instead submit to the Unit Owners a document signed by each Manager stating: "No actions were taken by the Board were subject to the Annual Report required pursuant to BCL §727."

The expenses incurred in connection with the foregoing shall be included in the General Common Expense and charged to all Units pro rata to their respective Common Interests.

Section 2.3 Officers.

Section 2.3.1 Election. The principal Officers of the Condominium Association shall consist of a President, Vice President, Secretary and Treasurer, each of whom shall be elected by a majority of those Managers attending a duly constituted Board meeting at which a quorum is present. The Condominium Board shall also have the right to elect such other Officers and assistant Officers as it deems appropriate. The Sponsor Manager(s) and each Retail Manager shall have the exclusive right to elect a co-Vice President and a co-Secretary for the purpose only to implement the transactions (including to execute and notarize or acknowledge (if and as applicable) and deliver documents as duly elected Officers of the Board) that they alone may decide in the name and on behalf of the Condominium Board pursuant to Section 2.2.23.

Section 2.3.2 Powers and Duties. Generally, the Officers shall have all of the same powers and duties of the equivalent officer of a stock corporation organized under the BCL. Assistant Officers, in order of their seniority or in any other order determined by the Board, in the absence or disability of the applicable principal Officer, as the case may be, shall perform the duties and exercise the powers of said applicable principal Officer, and shall perform such other duties as the Board may prescribe.

Section 2.3.3 Execution of Documents. Except as otherwise provided in Section 2.3.1 or required by Laws, the Officer or Officers or other person to execute and deliver such agreements, contracts, deeds, mortgages, leases, easements, declarations, checks and other instruments and documents applicable to the:

(a) transactions and matters to be decided by the Board, shall be determined by the Board;

(b) transactions and matters to be decided exclusively by the Residential Managers on behalf and in the name of the Board, shall be determined by the Residential Managers;

(c) transactions and matters to be decided exclusively by the Sponsor Manager(s) on behalf and in the name of the Board, shall be determined by the Sponsor Manager(s); or

(d) transactions and matters to be decided exclusively by a Retail Manager on behalf and in the name of the Board, shall be determined exclusively by such Retail Manager.

Section 2.3.4 Authorization. The Condominium Board, the Residential Managers, a Sponsor Manager or a Retail Manager (as applicable) may, by resolution passed in accordance with the provisions hereof, authorize an Officer elected by the Board, the Residential Managers, the Sponsor Manager(s) or a Retail Manager (as applicable) to execute and deliver, on behalf and as the duly authorized Officer of the Board, such documents and instruments as the Board, the Residential Managers, the Sponsor Manager(s) or a Retail Manager (as applicable) directs and considers necessary or desirable to implement the transactions conducted, and the decisions made, respectively by Condominium Board or the Residential Managers or the Sponsor Manager(s) or a Retail Manager (as applicable) in accordance with the Declaration or these By-Laws.

Section 2.3.5 President. The President shall be the chief executive Officer of the Condominium Association, shall preside at meetings of Unit Owners and of the Condominium Board, shall sign as the duly authorized Officer of the Condominium Board all agreements, contracts, deeds, mortgages, leases, easements, declarations and other agreements, documents and instruments authorized by the Board, shall have general management and administration of the affairs and business of the Condominium Association that are governed by the Board, and in general, shall perform all of the general powers and duties that are incident to the office of a president of a stock corporation organized under the BCL, including the power to appoint the members of all committees created by the Board from among the Unit Owners, and other persons.

Section 2.3.6 Vice President. The Vice President shall take the place of the President and exercise and perform the President's powers and duties whenever the President shall be absent or unable to act or whenever authorized by the Board. If the President and the Vice President are unable to act, the Condominium Board shall appoint some other Manager (in the case of the President) or other individual (in the case of the Vice President) to act in the place of such absent or incapacitated Officer on an interim basis. The Vice President shall also perform such other powers and duties as shall be required from time to time by the Condominium Board or the President (as applicable).

Section 2.3.7 Secretary. The Secretary shall record the minutes of all meetings of the Unit Owners and the Condominium Board, including the full text of all resolutions duly adopted by the Condominium Board and all transactions and proceedings occurring thereat; shall give and serve all notices set forth in the Declaration or these By-Laws, unless otherwise expressly provided; shall be empowered to sign all statements, certifications and resolutions with respect to the actions of the Board or Unit Owners, and all other instruments and documents authorized by the Board; shall cause to be kept a list containing the names, in alphabetical order, of all Unit Owners and their contact information, and the date they became Unit Owners; shall have charge of such books and papers as the Condominium Board shall direct; and in general, shall have all of the powers and duties that are incident to the office of a secretary of a stock corporation organized under the BCL.

Section 2.3.8 Treasurer. The Treasurer: shall hold and have custody of the funds and securities of the Condominium Association; shall deposit such funds as the duly authorized Officer of the Condominium Board in such banks, trust companies or similar depositories as may from time-to-time be designated by the Board; shall be responsible for keeping full and accurate financial records and books of account thereof, showing all receipts and expenditures necessary for the preparation of all required financial data and tax returns; and in general, shall have all of the powers and duties incident to the office of a treasurer of a stock corporation organized under the BCL.

Section 2.3.9 Election and Term. Each of the Officers shall be elected annually by a majority of those Managers attending a duly constituted organizational meeting of each new Condominium Board at which a quorum is present and shall serve at the pleasure of the Condominium Board, except the Sponsor Manager(s) and each Retail Manager shall exclusively elect a co-Vice President and a co-Secretary, as provided in Section 2.3.1, and serve at the pleasure of the Sponsor Manager(s) and such Retail Manager, respectively.

Section 2.3.10 Qualifications. The President shall be elected from among the Managers. The other Officers need not be Managers or Unit Owners or have any interest in the Property or a Unit. Any single individual may hold any combination of offices, except that the offices of President, Vice President and Secretary shall be held by different individuals.

Section 2.3.11 Removal. An Officer elected by the Board may be removed at any time "with" or "without" cause, and a co-Vice President and a co-Secretary elected exclusively by the Sponsor Manager(s) or a Retail Manager may be removed at any time "with" cause only, by an affirmative vote of a majority of those Managers attending a duly constituted Board meeting at which a quorum is present. The Sponsor Manager(s) or a Retail Manager may remove the co-Vice President and co-Secretary exclusively elected by the Sponsor Manager(s) or a Retail Manager at any time "with" or "without" cause. The Officer who is to be removed with "cause" shall be given a written explanation of the basis of removal at least seven business days in advance of the meeting of Board at which the vote is to be taken and a reasonable opportunity to be heard thereat before the vote is taken.

Section 2.3.12 Resignation. An Officer may resign at any time by giving notice to the Condominium Board or (in the case of an Officer elected exclusively by the Sponsor Manager(s) or a Retail Manger) to the Sponsor Manager(s) or Retail Manager (as applicable). However, the President shall automatically be deemed to have resigned effective on the date such Officer ceases to be a Manager.

Section 2.3.13 Vacancies. A vacancy in an office shall be filled by a majority of those Managers attending a duly constituted regular meeting of the Condominium Board or at a special meeting thereof called for such purpose at which a quorum is present, except a vacancy in an office elected exclusively by the Sponsor Manager(s) or a Retail Manager shall be filled respectively by the Sponsor Manager(s) or Retail Manager without the necessity to hold a Board meeting for such purpose.

Section 2.3.14 Compensation of Officers. No Officer shall receive any compensation from the Condominium Association for acting as such.

Section 2.4 Liability of Managers and Officers.

Section 2.4.1 Standard for Liability. The Managers and Officers shall have no personal liability to the Unit Owners for errors of judgment, ordinary negligence or otherwise, except that each Manager and Officer shall be liable for his or her own Malfeasance.

Section 2.4.2 Interested Party Transaction. The Condominium Board may transact business in which a financial, beneficial or personal interest benefits a Manager, Officer or Owner, directly or indirectly through a party related to such Manager, Officer or Owner by family, employment, business or otherwise ("**Related Party**"), without the Board or such Manager, Officer or Owner incurring liability for self-dealing, if the terms of such transaction, including any compensation paid in respect thereof:

(a) shall be on no less favorable terms than those commercially reasonable and at competitive rates at the time such transaction is entered into and reasonable evidence or documentation thereof is given to the Board; and

(b) the financial, beneficial or personal interest in the transaction benefitting said Manager, Officer or Owner (as applicable), directly or indirectly through sad Related Party, is fully and fairly disclosed to all Managers.

A Manager who is the subject of the interested party transaction or who is a Related Party to an Owner who is the subject of the interested party transaction, shall be recused from the deliberations and the decision of the Board to transact the business in question, in which case the other disinterested Managers, on behalf and in the name of the Condominium Board, shall make the decision and the number of Managers for quorum, voting and decision requirements shall be reduced concomitantly.

A Manager, Officer or Owner (as applicable) who fails to disclose his or her financial or personal interest in the transaction, whether directly or indirectly through a Related Party, as provided above, shall be accountable and liable to the Board and Owners to disgorge any monetary benefit derived from such transaction.

Section 2.4.3 Immunity. The Managers and Officers shall have no personal liability for having acted in such capacities and such immunity from personal liability shall apply to all transactions of the Board authorized in these By-Laws or the Declaration, including each and every contract made, and other document or instrument executed, by or on behalf of the Condominium Board in accordance with these By-Laws or the Declaration, and each such contract, document and instrument shall so provide. However, the failure to so provide shall not, and shall not be construed to, in any way affect, change or waive such immunity from personal liability. Such contract or other document or instrument shall be regarded as being made or executed by or on behalf of the Board as agent of all Unit Owners and the liability thereunder of a Manager or Officer shall be to the extent only that such Manager or Officer is a Unit Owner and then only is limited to its interested in its Unit as provided in Section 2.5.22.

Section 2.4.4 Building Service Interruptions. Except to the extent covered by insurance maintained by the Condominium Board, the Condominium Board and the Managers and Officers (in their capacity as such) shall be not be responsible or accountable for any claims, liabilities, litigations, losses or damages attributable to the failure or interruption of any utility service or Building Service to be furnished to Units or Owners pursuant to the Declaration or these By-Laws that is due to:

(a) the inability to act or perform by reason of flood, earthquake, inclement weather, explosion, fire, or other casualty; labor strike, work stoppage or slowdown; unavailability of labor, materials or supplies; war, riots, insurrection, sabotage, emergency, national defense preemption; police power, governmental restriction, vacate order, lock down or other action of a Governmental Authority having competent jurisdiction over the Property; epidemic or pandemic; court ordered injunction; or any other cause or event beyond reasonable control and not attributable to bad faith or intentional misconduct (collectively, "**Unavoidable Causes**"); or

(b) the acts or omissions of any Owner or Unit User of a Unit or by any other person; or

(c) water that may leak or flow from a Unit or any portion of the Common Elements; or

(d) theft or other mischief.

Section 2.4.5 Indemnity. Subject to the limitation of liability contained in Section 2.5.22 and to the full extent permitted by Laws, only the Owner or Owners (severally and pro rata to their respective Common Interests) on whose behalf the Condominium Board acted or the transaction primarily benefits, shall indemnify each and every Manager and Officer, on the terms more fully set forth in Article 19 of the Declaration, from and against any and all claims, litigations, liabilities, losses and damages to other persons arising from the acts or omissions of the Board or a Manager or Officer (in the capacity as a Manager or Officer, respectively); provided, however, a Manager or Officer shall not be indemnified if and to the extent that such liability shall be due to such party's Malfeasance or negligence.

Section 2.5 Unit Owners.

Section 2.5.1 First Meeting of Unit Owners. Sponsor will call the first meeting of Unit Owners to be held within approximately sixty (60) days after the second anniversary of the First Unit Closing or whenever the number and Common Interest of the Sold Residential, Parking and Storage Units constitute eighty percent (80%) or more in number and Common Interest of all Residential, Parking and Storage Units, whichever is the first to occur.

At such first meeting, the incumbent Sponsor Manager shall conclusively be deemed to have resigned effective upon the election and qualification or appointment (as applicable) of the new seven Managers, composed of the Managers set forth in Section 2.2.8.

Section 2.5.2 Annual Meetings. Thereafter, annual meetings of Unit Owners shall be held within approximately thirty (30) days of the anniversary of the previous annual meeting of Unit Owners or on such other date as the Condominium Board (in its sole and absolute discretion) shall determine. At each annual meeting, the Residential, Parking and Storage Owners shall elect or appoint (as applicable) the five Residential Managers and each Retail Owner shall appoint one Retail Manager.

Section 2.5.3 Special Meetings. The President shall cause the Secretary to call a special meeting of the Unit Owners whenever so directed by a duly adopted resolution of the Condominium Board signed by any two Managers or upon receipt by the President of a petition or writing to call for such a meeting signed by Owners of not less than twenty-five (25%) percent of the Common Interests of all Units. The President shall call a special meeting of only the Residential, Parking and Storage Owners whenever so directed by a duly adopted resolution of the Residential Managers, or upon receipt by the Secretary of a petition calling for such a meeting signed by any two Residential Managers, or by the Owners of not less than twenty-five (25%) percent of the Common Interests of all Residential, Parking and Storage Units. However, the same Managers or the same Unit Owners shall not have the right to call for more than one special meeting of Unit Owners or only the Residential, Parking and Storage Owners for the same or a related purpose in any twelve (12)-month period.

Within ten (10) business days after receipt of such resolution or petition (as applicable), the President shall call such special meeting to be held within the next twenty (20) days, unless the purpose of a meeting (whether regular or special) is to consider an amendment to the Declaration or these By-Laws, or to remove an Independent Manager, in which case the following shall apply. Notice in writing of such meeting shall be given to all Unit Owners at least thirty (30) days prior to the date fixed for such meeting,

which notice shall be accompanied by a copy of the text of said proposed amendment or the alleged basis to remove the Independent Manager (as applicable). The President shall call such meeting to be held not sooner than thirty-one (31) days nor later than sixty (60) days following receipt by the Secretary of a Board resolution or a petition signed by the requisite percentage of Unit Owners. If the President fails to so timely call such special meeting, then any Manager who voted for such resolution or any Unit Owner who signed such petition (as applicable) may so call such meeting by a notice of meeting, except that such notice need not be given by the Secretary. No business shall be transacted at such special meeting except the business reasonably related to purposes stated in the notice of special meeting or said petition.

Notwithstanding the foregoing, after the expiration of the Sponsor Board Control Period, Sponsor will cause the Sponsor Managers to call a special meeting of the Unit Owners to elect three additional Independent Managers to replace three Sponsor Managers, who will resign or be deemed to have resigned automatically effective upon the election and qualification of such Independent Managers.

Section 2.5.4 Date, Time and Place of Meeting. The provisions of Section 2.2.19 shall apply to the date, time and place of annual or special meetings of Unit Owners. All references in said Section 2.2.19 to Managers shall mean Owners. Participating in a virtual meeting of Unit Owners by any of the means contained in Section 2.2.19 shall be considered attendance of Owners in person for all purposes. Owners participating by electronic communication or by telephone or mobile phone in a meeting shall be afforded a reasonable opportunity to propose, object to, and vote upon a specific action to be taken by the Unit Owners, and to see, read or hear the proceedings of the meeting substantially concurrently therewith.

Section 2.5.5 Notice of Meetings. The Secretary of the Condominium Association shall give notice of each annual and special meeting of Unit Owners to all Unit Owners then of record on the books of the Condominium Association entitled to vote at such meeting. The notice:

(a) shall set forth the date, time, place and purpose of such meeting; and

(b) shall be sent to all Owners by ordinary first class mail at least 10 days and no more than thirty (30) days before the date schedule for the meeting.

The foregoing shall also apply to notices of meetings of only the Residential, Parking and Storage Owners.

Section 2.5.6 Record Dates for Notices and Voting. For purposes of determining the Unit Owners entitled to notices and to vote at any meeting of Unit Owners or any adjournment and rescheduling thereof, or to express consent to or dissent from any proposal without a meeting of Unit Owners, or for the purpose of any other action, the record date on the books of the Condominium Association for giving notices shall be at the close of business of the day immediately preceding the day a notice is given of such meeting of Unit Owners or such adjourned meeting of Unit Owners, and the record date for voting shall be the day of the meeting. No additional notice of an annual or special meeting of Unit Owners need be given to a new Unit Owner who was not the record Owner on the books of the Condominium Association on the close of business of the day immediately preceding the day of giving such notice, and the failure of said new Unit

Owner to receive such notice shall not be the basis to object or otherwise affect the validity, effectiveness or enforceability of the votes cast by Unit Owners.

Section 2.5.7 Conduct of Meetings. The President shall preside at the meetings of Unit Owners and the Secretary shall faithfully record the minutes thereof, which minutes shall include the full text of all resolutions duly adopted by the Unit Owners and a record of all transactions and proceedings occurring thereat. All votes of the Unit Owners shall be tallied by the individual(s) appointed as inspectors by the presiding Officer of the meeting.

Section 2.5.8 Robert's Rules of Order. Unless in conflict with the terms of the Declaration, these By-Laws or the Condominium Act, each annual or special meeting of Unit Owners shall be conducted in accordance with the then current edition of Robert's Rules of Order, or any other rules of procedure acceptable to a majority in number and Common Interest of those Unit Owners present at such meeting, in person or virtually or by proxy.

Section 2.5.9 Order of Business. The order of business at all meetings of the Unit Owners shall be as follows: (a) roll call; (b) proof of notice of meeting; (c) reading of the minutes of the preceding meeting (unless waived); (d) reports of Officers of the Condominium Board; (e) reports of Managers; (f) reports of committees; (g) election of inspector(s) on matters to be voted (when so required); (h) the election and appointment of Managers (when so required); (i) the determination of how to apply the surplus of General Common Charges and/or Residential Common Charges generated in the previous year of Condominium operation (when so required); (j) unfinished business; (k) new business; and (l) adjournment (i.e., end of meeting).

Section 2.5.10 Voting. Subject to Section 2.5.11, each Unit Owner shall be entitled to cast one vote at all meetings of the Unit Owners for each percentage of Common Interest appurtenant to each Unit owned by such Owner, except Sponsor shall exclusively appoint one or more Managers and each Retail Owner shall exclusively appoint one Manager, as provided more fully in Sections 2.2.8.

Section 2.5.11 Disqualification. If the Condominium Board perfects its lien against a Sold Unit, then until the lien is paid or discharged by bonding or otherwise, the Owner of such Sold Unit shall not have the right to participate in the election of the Independent Managers or to serve or have a family member serve as a Manager of Officer, or to vote on any matter to be voted by the Residential Owners. The Sold Units and the appurtenant Common Interests of the Sold Unit Owner who is precluded from voting pursuant to the terms of this Section 2.5.11 shall be excluded when computing the aggregate number and/or Common Interests (as applicable) of all Units and Owners for quorum and voting purposes.

Section 2.5.12 Fiduciary. A fiduciary shall be the voting member with respect to a Unit owned in a fiduciary capacity.

Section 2.5.13 Co-Owners. If two or more persons own a Unit, they shall designate one person amongst them to cast the votes appurtenant to their Unit in a writing given to the Secretary, and the vote of such designee shall be binding upon all of such persons. If such designation is not made, all of such persons shall mutually cast such votes under one ballot without division, and the concurrence of all such persons shall conclusively be presumed if any one of them purports to cast such votes without protest being made

contemporaneously to the individual presiding over the meeting at which such vote is taken. If protest is made, the Common Interest appurtenant to such Unit shall be counted solely for the purpose of determining whether a quorum is present for such meeting.

Section 2.5.14 Proxy. An Owner may appoint any individual to act as a proxy on such Owner's behalf. The appointment of a proxy shall be made in a writing both signed and dated by the Unit Owner and delivered to the Secretary at or before the scheduled date and time for the meeting during which the same is to be effective, but in any event before the poll for voting is closed.

Section 2.5.15 Revocation of Proxy. Any proxy shall be revocable at any time upon notice given to the Secretary or by the Owner casting a ballot or voting, which automatically shall revoke a proxy given by such Owner; except a proxy that expressly states to be irrevocable may be given by an Owner to the holder of a Registered Mortgage encumbering such Owner's Retail Unit or to a Registered Tenant under a lease of such Owner's Retail Unit.

Section 2.5.16 Duration. Except with respect to an irrevocable proxy given to said holder of a Registered Mortgagee or a Registered Tenant of a Retail Unit, no proxy shall be effective for a period in excess of eleven (11) months after the date thereof. Photocopies, facsimiles, emails or other mechanical reproductions of proxies signed with actual or electronic signatures shall be valid and counted for all purposes.

Section 2.5.17 Quorum of Unit Owners. Except as otherwise provided in Section 2.5.19, Owners comprising a majority in number and Common Interest of all Units attending (in person or by proxy) a duly convened regular or special meeting of all Unit Owners shall constitute a quorum, and Owners comprising a majority in number and Common Interest of all Residential, Parking and Storage Units attending (in person or by proxy) a duly convened regular or special meeting of Residential, Parking and Storage Owners shall constitute a quorum.

Section 2.5.18 Adjournment. If, at any meeting of Owners or only Residential, Parking and Storage Owners, there shall be less than a quorum present, the meeting shall be adjourned by the Board or the Residential Managers (as applicable) to a new date, time and place determined by the Board or the Residential Managers (as applicable). Notice of the adjourned date shall be sent to all Owners or only all Residential, Parking and Storage Owners (as applicable) in accordance with Section 2.5.5.

Section 2.5.19 Reduced Quorum. The provisions of Section 2.5.17 to the contrary notwithstanding, if a meeting is adjourned two or more times for the failure to attain a quorum, then the Owners or only Residential, Parking and Storage Owners attending the next adjourned date for the meeting shall constitute a quorum for the transaction of business and the absentee Owners or the absentee Residential, Parking and Storage Owners (as applicable) shall conclusively be deemed to have irrevocably and unconditionally consented to or approved the transactions affirmatively voted upon by those Owners or those Residential, Parking and Storage Owners (as applicable) attending such next meeting comprising a majority in number of Units and/or Common Interest (as applicable), or a majority in Common Interest if not otherwise expressly stated; provided, however, that:

(a) all Owners or all Residential, Parking and Storage Owners (as applicable) are given advance notice of such adjourned date not less than five business days (if sent by hand delivery, facsimile or electronic communication) or seven business days (if sent by Federal Express or other nationally recognized overnight courier for next day delivery), or ten (10) business days (if sent by ordinary first class mail) prior to the adjourned date;

(b) the notice shall set forth in reasonable detail the actions or business proposed to be transacted and the reduced quorum set forth herein for the transaction to be voted upon at the meeting;

(c) the transaction shall not involve a matter that:

(c-1) impairs, infringes or otherwise affects Sponsor's Rights or the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of a Retail Owner;

(c-2) requires the consent or vote of an absentee Owner; or

(c-3) the failure of an Unsold Unit Owner (including Sponsor) or a Retail Owner to attend on such adjourned date shall not be caused by Unavoidable Causes.

Section 2.5.20 Decisions. At any duly convened meeting of all Unit Owners at which a quorum is present, the vote of a majority in number and Common Interest of those Unit Owners attending the meeting (in person or by proxy) will constitute the decision of the Unit Owners, unless a different number and/or percentage is required by the Declaration or these By-Laws or the Condominium Act.

At any duly convened meeting of only the Residential, Parking and Storage Owners at which a quorum is present, the vote of a majority in number and Common Interest of those Residential, Parking and Storage Owners attending the meeting (in person or by proxy) will constitute the decision of the Residential, Parking and Storage Owners, unless a different number and/or percentage is required by the Declaration or these By-Laws or the Condominium Act.

The Condominium Board and its affiliate shall have no voting rights with respect to any Units owned by each of them and such parties and Units shall be excluded from the base number of Owners, Units and Common Interests for quorum and voting purposes in determining any matter to be voted upon by Unit Owners.

Section 2.5.21 Action Without a Meeting. Any vote or action required or permitted to be taken by all Owners or only the Residential, Parking and Storage Owners at a duly constituted meeting of such Owners at which a quorum is present may be taken without such a meeting if the required Owners, in number and/or Common Interest (as applicable), vote or consent to or approve such action in writing. The notice of such proposal or action shall be given by the Secretary to all Owners or only the Residential, Parking and Storage Owners (as applicable) then of record on the books of the Condominium Association. The record date to determine whether the required Owners, in number and/or Common Interest (as applicable), voted for, or consented to or approved, such proposal or action in writing shall be the date such tally is made. No additional notice of such vote or action need to be given to a new Owner who was not the record Owner on the books of the Condominium Association on the date of giving the original notice,

and the failure of a new Owner to receive such notice shall not be the basis of an objection or otherwise affect the validity, effectiveness or enforceability of the written votes, consents or approvals given by Owners. All written votes, consents or approvals given by such Owners pursuant to this Section 2.5.21 shall be retained in the records of the Condominium Association for at least three years together with a true copy of the resolutions to which they relate.

Section 2.5.22 Title to Units. Title to any Unit may be taken by two or more persons as joint tenants, tenants in common or tenants by the entirety, as may be appropriate, but not as tenants in severalty.

Section 2.5.23 Non-Recourse, Pro Rata and Limited Liability of Unit Owners. The liability of each Unit Owner to a judgment creditor solely by reason of being a Unit Owner, whether for torts relating to the Common Elements, or for contracts entered into, or documents executed or transactions conducted by the Condominium Board on behalf and as agent of one or more Unit Owners, or by the Residential Managers in the name and on behalf of the Board in accordance with these By-Laws, shall be without recourse for personal liability, pro rata to the Common Interest appurtenant to its Unit, and limited to its interest in its Unit, and shall be further limited to only the applicable Unit Owner or Owners on whose behalf the Board is actin, or the Residential Managers are acting, or the transaction primarily benefits and (if more than one Unit Owner), each of whom shall be liable severally to such portion of the total liability as the Common Interest appurtenant to such Owner's Unit bears to the total Common Interests of all such applicable Unit Owners on whose behalf the Board is acting, or the Residential Managers are acting, or the transaction primarily benefits (e.g., all Unit Owners in the case of an act affecting, or primarily benefiting, the General Common Elements or all Owners; or only all Residential, Parking and Storage Owners in the case of an act affecting, or primarily benefiting, the Residential Common Elements or the Residential, Parking and Storage Owners), as determined in the sole business judgment of the Board or the Residential Managers (as applicable); provided, however, each Owner shall be personally liable for:

(a) the payment of Common Charges levied or imposed by the Condominium Board;

(b) claims, litigations, liabilities, losses and damages attributable to:

(b-1) torts relating to the Owner's Unit (if any);

(b-2) contracts entered into, or transactions conducted by, such Unit Owner with respect such Owner's Unit; and

(b-3) acts or omissions of said Owner or a person for whom such Owner is responsible or accountable, as provided in Section 1.2.12 of the Declaration.

Each contract made by, or on behalf of, the Condominium Board shall expressly provide that the liability of each Unit Owner thereunder shall be nonrecourse for personal liability, pro rata to the Common Interest appurtenant to its Unit, and limited to such Owner's interest in its Unit in accordance with the foregoing. However, the failure to so expressly provide shall not, and shall not be construed to, in any way affect, change or waive the non-recourse, pro rata and limited liability of Unit Owners as set forth herein.

ARTICLE 3
OPERATION OF THE PROPERTY

Section 3.1 Use and Occupancy. The Property, including the General Common Elements, the Residential Common Elements and the Units, and the sidewalks, shall be used and occupied in accordance with the provisions of the Declaration, including in particular (but not limited to) Article 9 thereof, which is paramount and shall govern any provision of these By-Laws inconsistent therewith.

Section 3.2 Budget of Condominium Operation.

Section 3.2.1 Adoption. The Condominium Board shall determine the twelve (12)-month fiscal or calendar period to constitute the budget year of Condominium operation. The budget shall contain the projected General Common Charges any other sources of revenue to pay the projected General Common Expenses (as determined by the Board) and the projected Residential Common Charges and any other sources of revenue to pay the projected Residential Common Expenses for each budget year (as determined by the Residential Managers in the name and on behalf of the Board). If a budget of Condominium operation is not timely adopted before the start of a budget year, the last duly adopted budget shall remain in effect. If a dispute prevents the required majority of Managers or Residential Managers (as applicable) present at a duly convened Board meeting at which a quorum is present to adopt a budget of Condominium operation, any Manager (in the case of a Board dispute) or any Residential Manager (in the case of a dispute among the Residential Managers) may submit the dispute to Baseball Arbitration pursuant to Article 6 of these By-Laws. If the dispute is to increase the General Common Charges or the Residential Common Charges and the final, non-appealable award in arbitration upholds an increase in the General Common Charges or the Residential Common Charges (as applicable), then such increase shall be retroactive to the date it would have commenced had there been no such failure to agree or dispute and shall be payable in full on the first day of the month immediately succeeding the date of such final, non-appealable award, unless otherwise determined by the Board or the Residential Managers (as applicable).

Section 3.2.2 Budget Items. The budget items generally shall consist of recurring annual expenses:

(a) applicable to the General Common Elements, the Residential Common Elements, the Retail Common Elements and the sidewalks;

(b) to provide Building Services to all or certain Units or their Owners;

(c) to govern, control, conduct, administer, manage and otherwise transact the affairs and business of the Condominium Association; and

(d) to implement the Board's rights, powers, easements, obligations and duties.

The budget items applicable to the Residential Common Expenses or the Retail Common Expenses shall be determined respectively by the Residential Managers or the Retail Manager son behalf of the Board. All other budget items shall be determined by the Board.

Section 3.2.3 RPL Section 339-m. The Board shall adopt a budget each year strictly in accordance with RPL §339-m and First Year's Budget (Schedule B) in Section F of Part I of the Plan, which

is hereby incorporated herein with the same force and effect as if set forth at length. Accordingly, the budget adopted each year by the Condominium Board shall reflect the Common Expenses fairly attributable to:

(a) all Residential, Parking and Storage Units based upon their exclusive use of the Residential Common Elements and their share of the General Common Expenses as set forth in said First Year's Budget (which apportions to the Residential, Parking and Storage Units those Building Services, Building Systems and amenities that exclusively or substantially benefit such Units or their respective Owners); and

(b) both Retail Units in accordance with their share of the General Common Expenses as set forth in said First Year's Budget (which apportions to both Retail Units their fair share of only those General Common Expenses that benefit such Units or their respective Owners).

The percentage share of the budget items comprising the General Common Expenses that are allocated to the Residential, Parking and Storage Units or both Retail Units each budget year shall not change unless necessary to reflect a different amount or a new budget item that is fairly and demonstrably attributable to each such group of Units (such as separate metering or submetering, or an electrical consumption survey conducted by an independent electrical engineer).

The Common Interests of the Residential, Parking and Storage Units or both Retail Units are factored, in part, on each such group of Units always sharing the same Common Expenses pro rata to their respective Common Interests. In no event shall the Common Expenses be separately apportioned among the Residential, Parking and Stored Units or between both Retail Units in any manner other than pro rata to their respective Common Interests.

In accordance with the First Year's Budget, during the Sponsor Veto Control Period, the budget adopted by the Board shall include a reserve for capital replacements of major components of the General Common Elements and/or the Residential Common Elements ("**Reserve for Capital Replacements**") in an amount equal to not less than ten percent (10%) of all other budgeted expenses and a separate reserve for unanticipated Common Expenses or an allowance for an increase in one or more items of Common Expenses or for potential new or additional Common Expenses, or other contingencies (collectively, "**Reserve for Contingencies**") in an amount that exceeds five percent (5%) of the projected Common Expenses, excluding the Reserve for Capital Replacements. Each budget shall also include such additional budget items and amounts required to comply with Section 3.2.2, subject to obtaining Sponsor's consent for the expenses listed in Section 2.2.30(c) during the Sponsor Veto Control Period.

Section 3.2.4 Reserve for Capital Replacements. The Reserve for Capital Replacements shall be segregated in a separate account of the Condominium Association and may be invested from time to time by the Board in investment-grade securities. The Condominium Board shall have the right to apply the funds collected for the Reserve for Capital Replacements to pay for capital replacements of major components of the General Common Elements and/or the Residential Common Elements in accordance with Section 3.2.3 foregoing without the consent of Unit Owners.

Section 3.2.5 Real Estate Taxes. Until the Units are separately assessed and billed for real estate taxes (including any business improvement district assessments), the budget shall initially include

this item as a General Common Expense, which shall be allocated to each Unit pro rata to its Common Interest ("**Tax Share**"). At the exclusive option of the Condominium Board, the Tax Share of each Owner may be payable in one lump sum or in monthly installments, each installment to be in a sum sufficient to pay the real estate taxes one month prior to the date same become due and payable before the imposition by the taxing authority of interest or penalties for late payment. All amounts collected by the Board from each Owner as its Tax Share shall be segregated from other monies of the Condominium Association and used solely to pay the real estate taxes for which such Tax Share was levied. The amount collected by the Board shall be forwarded to the appropriate taxing authority on behalf of the Unit Owners when due and payable before the imposition of interest or penalties for late payment.

Each Unit Owner shall pay to the Condominium Board, within ten (10) days of written demand therefor, an amount equal to such Owner's Tax Share of real estate taxes. Once a Unit is separately assessed and billed directly by the taxing authority for the real estate taxes assessed against the Owner's Unit, the Owner shall pay the real estate taxes assessed to the Owner's Unit directly to the taxing authority and Condominium Board and such Unit Owner shall have the right, within a deadline of only sixty (60) days after the Owner's Unit is separately assessed and billed for real estate taxes, to adjust any overpayment or underpayment of real estate taxes based on Owner's Tax Share being higher or lower than the ratio that the initial actual separate assessed valuation of such Owner's Unit bears to the aggregate initial actual separate assessed valuations of all Units, and the tax rate applicable to the Unit at closing of title.

The amount of the overpayment or underpayment (as applicable) is required to be paid within ten (10) days after notice is sent by the Board or a Unit Owner, as applicable, detailing the calculation of the amount owed, provided such notice is sent within such sixty (60)-day deadline period. The notice shall be accompanied by suitable proof of the initial separate assessed valuation of the Unit and the aggregate initial separate assessed valuations of all Units (such as a real estate tax bill(s) and/or a title report). The Payment and Collection Terms shall apply to all amounts owed the aggrieved party hereunder. Any amounts payable to Condominium Board pursuant to this Section 3.2.5 shall constitute Additional Common Charges of the applicable Unit.

From and after the date a Unit is separately assessed and billed by the taxing authority for real estate taxes, the Owner of such Unit shall have the exclusive right, at said Owner's sole cost and expense, without the consent of the Board and/or any other Unit Owners, to apply for: (a) a tax remission and tax refund with respect to such Owner's Unit; and (b) an exemption and/or abatement from real estate taxes with respect to such Owner's Unit or Units.

The approval, consent and signatures of the other Unit Owners and/or the Board shall not be required in connection with any such application or other document necessary or convenient to the exercise by a Unit Owner of any of its rights or powers under this Section 3.2.5, including any application or document required by a Governmental Authority. Nonetheless, at the request of such Unit Owner, the Board on behalf of all other Unit Owners shall promptly execute and return any such applications or other documents in accordance with Article 16 of the Declaration.

Section 3.2.6 Board Certification. For so long as the Condominium Board is paying real estate taxes for all Units, the Condominium Board or an Officer of the Board shall sign on behalf of the Board and deliver to a Unit Owner, within ten (10) days after written request therefor is given by such Unit Owner, a certification as to the obligation and agreement of the Board to pay the real estate taxes assessed to the Property (including the Units). Such certification shall be addressed to such Unit Owner and/or the proposed purchaser (grantee), tenant or mortgagee, and any title insurer, as directed by such Unit Owner, and shall be conclusive upon the Condominium Board and Unit Owners in favor of all persons who rely thereupon in good faith.

Section 3.2.7 Façade Inspection Safety Program. The costs and expenses to perform the Façade Inspection Safety Program, formerly known as Local Law 11, and the related costs and expenses to erect, maintain, disassemble and remove a sidewalk bridge and scaffold, and to repair any damage to the sidewalk and Building caused by its installation, existence, disassembly or removal, or the work performed thereon, and restore the damaged elements to as near as commercially reasonable and economically practicable to the condition existing immediately before being damaged, shall be included in the General Common Expenses and assessed to all Residential, Parking and Storage Units and to the Retail Units in the proportion that the square footage of the areas of the façade and exterior walls of the Building (excluding windows and storefronts) that enclose the Residential, Parking and Storage Units or the Retail Units bear to the aggregate square footage of all areas of the façade and exterior walls of the Building (excluding windows and storefronts).

Section 3.2.8 Distribution to Owners. Each Unit Owner shall be given a copy of the budget of Condominium operation adopted by the Board at least thirty (30) days before the start of the budget year to which it pertains; however, failure to timely give such budget shall not be regarded as a waiver of Common Charges, or in any way excuse a Unit Owner from the obligation to timely pay the full amount of the Common Charges, which shall continue to be paid on the basis of the last duly adopted budget until a new budget is adopted.

Section 3.2.9 Budget Revision. During a budget year, the Condominium Board shall have the right to increase or decrease the General Common Charges to pay the General Common Expenses and the Residential Managers shall have the right to increase or decrease the Residential Common Charges to pay the Residential Common Expenses of the previously adopted budget for such budget year, except that any increase in General Common Charges or Residential Common Charges (as applicable) in such revised budget shall not be applied retroactively. Each Unit Owner shall be given a copy of the revised budget of Condominium operation adopted by the Board at least thirty (30) days before revised budget becomes effective, but the failure to do so shall not nullify or otherwise affect the validity and enforceability of such revision.

Section 3.2.10 Budget Reconciliation. Within a deadline of sixty (60) days after the audit of the Common Expenses for each budget year is completed and distributed to the Unit Owners, the Condominium Board and each Retail Owner shall have the right to require a true-up or reconciliation of the audited General Common Expenses fairly attributable to such Retail Owner. Any net underpayment by a Retail Owner shall be included in such Retail Owner's Common Charges next due and payable and any net

overpayment shall be credited to (and reduce) such Retail Owner's Common Charges next due and payable or (at the exclusive option of said Retail Owner) refunded immediately to such Retail Owner.

Section 3.2.11 Budget Surplus. If in any completed budget year the General Common Charges shall exceed the actual General Common Expenses or the Residential Common Charges shall exceed the actual Residential Common Expenses, all Owners (in the case of a surplus in the General Common Charges) or all Residential Owners (in the case of a surplus in the Residential Common Charges) shall affirmatively determine by affirmative vote at the annual meeting of Unit Owners held the year immediately after the budget year in which such surplus was generated, whether to apply the surplus to defray the projected General Common Expenses or Residential Common Expenses (as applicable) of such immediately succeeding budget year or to refund the surplus to all then existing Owners (in the case of a surplus in the General Common Charges) or Residential, Parking and Storage Owners (in the case of a surplus in the Residential Common Charges). The Board or the Residential Managers (as applicable) shall apply the surplus as determined by said Owners or Residential Owners (as applicable).

Section 3.3 Payment of Common Charges and Special Assessments.

Section 3.3.1 Payment. Unless otherwise determined by the Board (in the case of the General Common Charges) or the Residential Managers in the name and on behalf of the Board (in the case of the Residential Common Charges), the General Common Charges shall be payable by all Owners, and the Residential Common Charges shall be payable by all Residential, Parking and Storage Owners, in equal monthly installments in advance on the first day of every month. Special Assessments to pay a General Common Expense or a Residential Common Expense (as applicable) shall be payable in one or more installments, with multiple installments payable monthly, quarterly or otherwise, and over such period, with or without interest, as shall be determined in the sole business judgment by the Board or the Residential Managers (as applicable). Statements of the payment due date of a monthly Common Charge or a Special Assessment may be sent by ordinary first class mail, but are only reminders thereof and shall not excuse their timely payment if such statement is delayed or not sent. The Board or the Residential Managers (as applicable) may require said monthly Common Charges and Special Assessments to be paid by ACH from an Owner's account in a bank or other Institutional Lender. Common Charges shall be paid without set-off, credit or abatement, except as otherwise expressly provided in these By-Laws or the Declaration, and shall be paid without defense, and any right to assert a defense shall conclusively, automatically, irrevocably and unconditionally be deemed to have been waived.

Section 3.3.2 Late Charge. A Sold Unit Owner (but not an Unsold Unit Owner or a Retail Owner) who fails to timely pay a Common Charge or Special Assessment levied against the Owner's Unit, shall be obligated to pay, as an Administrative Expense:

(a) a late charge in an amount determined and assessed by the Board or the Residential Managers (as applicable), but not to exceed $0.05 on each overdue dollar (non-compounded) and/or Per Diem Interest on the amount overdue, computed from the date due to the date payment is received by the Condominium Board or its managing agent (if and as applicable), which shall be due and payable within ten (10) days following written demand therefor; and

(b) a charge of $250 for each notice of said violation that is given by counsel engaged by Board in order to reimburse the Board for the Legal Expenses incurred, which charge shall constitute liquidated or agreed upon damages incurred by the Board in connection with such notice.

Section 3.3.3 Security Deposit. If a Sold Unit Owner (but not an Unsold Unit Owner or a Retail Owner) fails to pay the Common Charges assessed to the Owner's Unit within thirty (30) days from the date due for two or more times within any consecutive twelve (12)-month period, the Board shall have the right, in addition to all other rights and remedies under these By-Laws and at law and in equity, to require the delinquent Sold Unit Owner to deposit with the Board as security for the payment of Common Charges assessed to its Unit, a sum equal to up to one year's Common Charges then payable by such delinquent Sold Unit Owner for such Unit, as determined in sole business judgment of the Board. Such security deposit shall be paid to the Board within thirty (30) days after written demand therefor is given to the delinquent Owner. The security deposit shall be maintained in a segregated interest or (at the exclusive option of the Board) non-interest bearing bank or other similar depository account designated by the Board. Any interest earned thereon shall be added to the security deposit.

The Board shall have the right, in its business judgment, to apply the security deposit to pay the Common Charges and any Additional Common Charges (including late charge and Per Diem Interest for any late payment of Common Charges set forth above) that are not paid by said delinquent Sold Unit Owner within ten (10) calendar days of the due date and to pay or reimburse the Board (as directed by the Board) for any other unpaid amounts due and owing by said delinquent Owner beyond any applicable payment or cure period under the Declaration or these By-Laws, as each may be amended from time to time.

If the Board applies the security deposit as provided above, the Board shall give said delinquent Sold Unit Owner, within a commercially reasonable period thereafter, a reasonably detailed notice thereof. Within a deadline of ten (10) days from giving such notice, said delinquent Sold Unit Owner shall pay the Board a sum equal to the amount so applied. At all times, the security deposit shall be an amount equal to the Common Charges then assessed to each Unit owned by said delinquent Sold Unit Owner for the ensuing twelve (12) months. In the event of a deficiency due to an application of the security deposit, said delinquent Owner shall pay the Board the shortfall within a deadline of ten (10) days after giving notice thereof to said delinquent Sold Unit Owner.

The failure of said Sold Unit Owner to pay or replenish the security deposit in accordance with the foregoing shall be a material default hereunder entitling the Board, in addition to all other rights and remedies available at law or in equity, to all of the same remedies as in the case of nonpayment of Common Charges under these By-Laws and the Condominium Act. The Payment and Collection Terms shall apply to the amounts payable by a delinquent Unit Owner under this Section 3.3.2.

The remaining amount of the security deposit, including any interest earned thereon, shall be refunded to said delinquent Owner:

(a) upon the good faith sale and conveyance of the Owner's Unit to a purchaser who and whose Related Parties have no family, employment, economic or business relationship to, such Owner or its Related Parties; or

(b) within five business days after the end of twelve (12) consecutive months during which said delinquent Owner shall remain current and in good standing in timely paying all Common Charges and any Additional Common Charges, and timely performing, observing, fulfilling and meeting all other obligations of such Sold Unit Owner under the Declaration, these By-Laws and the Rules and Regulations, as each may be duly amended from time to time.

Nothing herein shall excuse the obligation, or extend the time period, to pay when due the Common Charges, Additional Common Charges and other indebtedness owed to the Condominium Board.

Section 3.3.4 Lien. The Board shall have the lien for nonpayment of Common Charges in accordance with in RPL §339-z, together with Per Diem Interest thereon, and the right to foreclose such lien as provided in RPL §339-aa. Such lien shall be subordinate to any liens for unpaid real estate taxes assessed against such Unit (to the extent required by Laws) and to the lien of a recorded first mortgage with respect to all unpaid Common Charges accruing from and after the date such first mortgage is recorded in the City Register's Office. The Board shall have the right to bring suit to foreclose such lien or to bring a suit to recover a money judgment for unpaid Common Charges without foreclosing or waiving said lien and may foreclose said lien notwithstanding the pendency of a suit to recover a money judgment.

Section 3.3.5 Lien Foreclosure Sale. In the event the Board brings suit to foreclose its lien and the net proceeds received by the Board at the foreclosure sale, after first paying all amounts owed under said prior recorded first mortgage encumbering said Unit and thereafter deducting all Legal Expenses, advertising costs, brokerage commissions, receiver's fees and expenses, court costs and other costs and expenses paid or incurred in connection therewith:

(a) shall be insufficient to satisfy the indebtedness owed by the defaulting Owner to the Condominium Board, such Owner shall remain personally liable for the deficiency; or

(b) shall exceed indebtedness owed by the defaulting Owner to the Condominium Board, the remaining surplus shall be paid to such defaulting Owner after first paying all other liens on such Owner's Unit in the order of priority of such liens.

Each succeeding Owner of a Unit, other than an Owner who is the holder of a prior recorded first mortgage or its designee or nominee that acquired the Unit at a mortgage foreclosure sale or by deed given in lieu thereof, or a purchaser at such first mortgage foreclosure sale, shall be liable for the payment of all unpaid Common Charges and any other unpaid indebtedness owing to the Condominium Board with respect to such Unit prior to such new Owner's acquisition thereof.

Any deficit resulting from unpaid Common Charges that are not collected from such defaulting Unit Owner shall be deemed a General Common Expense and/or a Residential Common Expense (as applicable) collectible from all other Owners and/or all other Residential, Parking and Storage Owners (as applicable) at the time that the same is levied, and assessed to them pro rata to their respective Common Interests. Any defaulted amounts collected from such defaulting Unit Owner shall be credited to the next due Common Charges payable by said other Owners and/or all other Residential, Parking and Storage Owners (as applicable) who paid their share of such deficit, pro rata to their respective Common Interests.

Section 3.3.6 Rental for Use; Receiver. In any suit to foreclose the Board's lien, the defaulting Owner shall be required to pay a reasonable rental for the use of such Owner's Unit and the Board shall be entitled to the appointment of a receiver to collect the same. The defaulting Unit Owner shall conclusively be deemed to have automatically and irrevocably consented to such appointment of the receiver and to all of the following powers of the receiver, and to have conclusively be deemed to have waived all defenses thereto and to also have automatically and irrevocably waived the right to oppose any application for such appointment or further powers:

(a) the power to determine a reasonable monthly rental for such defaulting Owner's Unit, which shall be payable monthly in advance on the first day of each month, except the first monthly payment shall be appropriately prorated based on the actual number of days in such month, and shall equal not less than the aggregate of the following amounts, as each may change from time to time:

(a-1) the monthly Common Charges and any Special Assessment or an installment thereof and other Additional Common Charges levied by the Board against the Unit; plus

(a-2) the estimated expenses to insure, maintain and repair the defaulting Owner's Unit in accordance with these By-Laws; plus

(a-3) a sum equal to one-twelfth (1/12th) of the then current annual real estate taxes levied against the Unit; plus

(a-4) the monthly debt service due under each loan secured by a mortgage lien against the Unit; plus

(a-5) the individually metered or sub-metered utility charges;

(b) if such defaulting Owner shall fail to pay to the receiver, said monthly rental within a deadline of ten (10) days after the payment due date, the power to commence and prosecute an appropriate action or proceeding to evict, eject or otherwise remove such defaulting Owner, including by means of a summary proceeding or otherwise, and (at the discretion of the receiver) any tenant from such Owner's Unit (but subject to any non-disturbance and attornment agreement given by the Board to a tenant of a Retail Unit); and

(c) upon gaining vacant possession of such defaulting Owner's Unit pursuant to the preceding clause (b) or otherwise, the power:

(c-1) (if the Unit is occupied) to collect the rent or other occupancy fee from a tenant of such Unit who is permitted to remain in possession of the Unit; or

(c-2) (if the Unit is vacant) to lease such defaulting Owner's Unit for its permitted use to a tenant chosen by the receiver with approval or consent of the Board, and at such rent and on such terms as shall be acceptable to the Board, in its sole business judgment, and to perform all obligations of the landlord/owner under such lease; and

(c-3) the power to apply all rental income collected by the receiver, whether from such defaulting Owner or an existing tenant of the Unit or a new tenant of such defaulting Owner's Unit

(as applicable), in the following order of priority, unless otherwise required by Laws or a final, non-appealable order or judgment of a court having competent jurisdiction:

(c-4) first, to the receiver to pay for the receiver's reasonable costs and expenses to:

(c-4.1) collect the rent;

(c-4.2) (if applicable) the expenses to lease the Unit and perform the obligations of the landlord/owner under any said lease of such Owner's Unit; and

(c-4.3) pursue, uphold, protect, defend and enforce its powers;

(c-5) second, to the holder of said prior recorded first mortgage (if any) to pay the unpaid debt service under its first mortgage and thereafter to pay said debt service on a current basis;

(c-6) third, to the Condominium Board to pay all amounts owed and thereafter coming due for Common Charges until the conveyance of such Owner's Unit following the enforcement of the Board's remedies;

(c-7) fourth, to the holders of all other mortgages encumbering the Unit, in the order of their lien priority; and

(c-8) fifth, to such defaulting Owner any amount remaining after said enforcement of the Board's remedies.

The Condominium Board, in its sole business judgment, shall have the right, for the account and at the expense of such defaulting Unit Owner, to pay the expenses of the receiver, which shall constitute Additional Common Charges and shall be payable by such defaulting Owner to the Board in accordance with the Payment and Collection Terms. All rent owed by the defaulting Unit Owner in this Section 3.3.5 shall be added to, and shall constitute, Additional Common Charges payable by such defaulting Unit Owner.

Section 3.3.7 Purchase of Unit. In any litigation brought by the Condominium Board to pursue and enforce its remedies against a Unit because of unpaid Common Charges or other indebtedness owed to the Board by such delinquent Owner, the Condominium Board shall have the power, on behalf and as agent of all Unit Owners, in the name of the Condominium Board or in the name of its affiliate, to purchase such Unit. All expenses paid or incurred in connection therewith and to own, mortgage, lease, license, maintain, repair, alter, operate and convey such Unit shall:

(a) in the case of a Retail Unit, be part of the Retail Common Expenses assessed to the other Retail Unit (or if divided into two or more Subdivided Retail Units) the other Subdivided Retail Unit(s) pro rata to their respective Common Interests and all net revenues derived from the rental, operation, sale, mortgaging or other disposition of such Unit (after deducting said expenses) shall be used to defray the Retail Common Expenses payable by such other Retail Unit or Subdivided Retail Unit(s), as applicable, or for such other appropriate purposes as shall be determined by the Retail Managers; or

(b) in the case of a Residential, Parking and/or Storage Unit, be part of the Residential Common Expenses assessed to the other Residential, Parking and Storage Units pro rata to their respective Common Interests and all net revenues derived from the rental, operation, sale, mortgaging or other disposition of

such Unit (after deducting said expenses) shall be used to defray the Residential Common Expenses payable by such other Residential, Parking and Storage Units, or for such other appropriate purposes as shall be determined by the Residential Managers on behalf of the Board.

Each Unit so acquired by the Condominium Board or its affiliate shall constitute part of the Association's Assets and shall be held by the Condominium Board or its affiliate on behalf and as agent of the Unit Owners. While a Unit is owned by the Condominium Board or its affiliate, it shall be deemed held on behalf of the Unit Owners, as tenants-in-common, and all Owners shall conclusively be deemed to have irrevocably and unconditionally waived any right to bring an action for partition, or to use or occupy, said Unit.

Section 3.3.8 Sales, Use or Occupancy Tax Exemptions. The Condominium Board will adopt and follow such procedures as may be available, without additional cost or expense to the Condominium Board (unless the applicable Unit Owner pays same), to enable any Unit Owner eligible for exemption from New York State and/or New York City sales, use and/or occupancy taxes to enjoy such exemption with respect to such Unit Owner's share of the Common Expenses. Any benefits obtained by the Condominium Board as a result thereof shall be passed through to and shall belong exclusively to the Unit Owner(s) entitled to such benefits and if more than one Unit Owner is entitled thereto, such benefits shall be apportioned between or among said Unit Owners as provided in the benefits or (if not provided) pro rata to the Common Expenses allocable to the Units of said Unit Owners entitled to such benefits.

Section 3.3.9 Prohibition. The Condominium Board shall not charge an Owner or the Owner's Unit Users any separate fee, rental, charge, imposition or payment of any kind for the mere use and enjoyment of the Common Elements, apart from regular General Common Charges and Special Assessments, if any, levied on all Unit Owners, or the Residential Common Charges and Special Assessments, if any, levied on all Residential, Parking and Storage Owners.

Section 3.3.10 Disputes. Any disputes under this Section 3.3 shall be resolved by court action or proceeding, unless the Board (in its sole discretion) consents to, or initiates, arbitration pursuant to Article 6.

Section 3.3.11 Statement of Common Charges. Subject to Section 3.13.12.14, the Condominium Board shall furnish to an Owner, within ten (10) days after receipt of a written request therefor, a written statement of all unpaid Common Charges and any other indebtedness due from such Owner ("**Statement of Common Charges and Indebtedness**"). Such Statement of Common Charges and Indebtedness shall be conclusive upon the Condominium Board and all Unit Owners in favor of all persons who rely thereupon in good faith.

Section 3.3.12 Notices and Statements. Except as otherwise provided, all notices and statements to Owners by or on behalf of the Board in this Section 3.3 may be sent by hand delivery, facsimile or email (with electronic confirmation of transmission), or Federal Express or other nationally recognized overnight courier for next day delivery, or ordinary first class mail in a properly addressed postage prepaid wrapper deposited in any post office or branch post office regularly maintained by the United States Postal Service.

Section 3.4 Utilities.

Section 3.4.1 Electricity. The costs to provide electricity to each Residential and Retail Unit is separately metered and will be paid by its Owner directly to the appropriate utility provider as measured by the Unit's meter.

The share of the electricity provided to the General Common Elements that is attributable to the Retail Units is negligible. Accordingly, all costs to provide electricity to the General and Residential Common Elements shall be included in the Residential Common Expenses and assessed to all Residential, Parking and Storage Units pro rata to their respective Common Interests in accordance with the First Year's Budget.

Section 3.4.2 Gas. Gas service is provided to the Residential Units for cooking and to the residential corridors and the Residential Units for hot water. The costs to provide such gas services, as measured by two separate meters and the rates of the utility provider, together with sales tax (if an), shall be included in the Residential Common Expenses and assessed to all Residential, Parking and Storage Units pro rata to their respective Common Interests in accordance with the First Year's Budget.

No gas service is provided to the Retail Units.

The General Common Elements are not provided with hot water and the cost of gas to provide heat to the gas room (a General Common Element) is negligible and shall be included in the Residential Common Expenses in accordance with the First Year's Budget.

Section 3.4.3 Water and Sewer: Each Retail Unit is sub-metered for water service and shall be billed separately by the Condominium Board for water and sewer services based on its consumption of water as measured by said submeter, the then applicable water and sewer rates paid by the Board and sales tax (if any). The cost of submeter readings shall also be borne by such Retail Unit.

Water and sewer services are provided to the Residential Common Elements and the Residential Units for domestic hot and cold water, lavatories and sanitary sewerage. The costs to provide such water and sewer services shall be included in the Residential Common Expenses and assessed to all Residential, Parking and Storage Units pro rata to their respective Common Interests in accordance with the First Year's Budget.

The General Common Elements use water service in connection with only the Building's fire protection systems, which do not consume water, except in the cases of testing and an emergency. The share of the costs for this water service that is attributable to the Retail Units is negligible and shall be included in the Residential Common Expenses and assessed to all Residential, Parking and Storage Units pro rata to their respective Common Interests in accordance with the First Year's Budget.

Section 3.5 Maintenance and Repairs.

Section 3.5.1 Unit and Limited Common Element. Each Residential and Retail Owner, at its sole cost and expense, shall:

(a) maintain and repair its Unit and the Limited Common Elements restricted to its exclusive use in accordance with the Building Standard;

(b) wash and dry all indoor and outdoor glass surfaces of all storefronts, windows, Unit entrance doors (whether leading to a street or the Unit's its terrace, if any);

(c) keep in good, clean, neat and orderly appearance and condition all areas of its Unit (including its terrace, if any) visible to the public; and

(d) correct and properly remediate, with prompt diligence and continuity to completion (subject to delays caused by Unavoidable Causes), all conditions in or on its Unit constituting an emergency or a governmental violation, or as to which a governmental violation is noted or issued against the Building that is attributable thereto, and thereafter endeavor in good faith to promptly and diligently remove such governmental violation of record.

The Residential Managers, in the name and on behalf of the Condominium Board, shall keep the Parking and Storage Units in good, clean, neat and orderly appearance and condition as a Residential Common Expense assessed to only all Residential, Parking and Storage Units pro rata to their respective Common Interests.

Section 3.5.2 Common Elements and Sidewalks. The Condominium Board, as a General Common Expense (in the case of the General Common Elements and the sidewalks), or the Residential Managers (in the name and on behalf of the Board), as a Residential Common Expense (in the case of the Residential Common Elements), or the Retail Managers (in the name and on behalf of the Board), as a Retail Common Expense (in the case of the Retail Common Elements) shall:

(a) maintain and repair such Common Elements and sidewalks (subject to Section 9.4.2 of the Declaration) in accordance with the Building Standard;

(b) wash and dry all indoor and outdoor glass surfaces of such Common Elements;

(c) keep in good, clean, neat and orderly appearance and condition all areas of such Common Elements, the sidewalks (subject to Section 9.4.2 of the Declaration), that are visible to the public; and

(d) correct and properly remediate, with prompt diligence and continuity to completion (subject to delays caused by Unavoidable Causes), all conditions in or on such Common Elements and sidewalk (subject to Section 9.4.2 of the Declaration) constituting an emergency or a governmental violation, or as to which a governmental violation is noted or issued against the Building attributable thereto, and thereafter endeavor in good faith to promptly and diligently remove such governmental violation of record.

Section 3.5.3 Misuse, Negligence, Neglect or Abuse. If due to misuse, negligence, neglect, abuse or other failure to comply with Section 3.5.1 or Section 3.5.2, a Unit, a Common Element or sidewalk is damaged or destroyed, the offending party shall reimburse the aggrieved party for the commercially reasonable costs and expenses paid or incurred by the aggrieved party to repair and restore the impacted Unit, or the impacted General Common Element, Residential Common Element, Retail Common Element or sidewalk (as applicable), to as near as commercially reasonable and economically practicable to its former condition, appearance and finish immediately before being destroyed or damaged. The Payment

and Collection Terms shall apply to the amounts owed by the offending party to the aggrieved party under this Section 3.5.3.

If the offending party is the:

(a) Board, all amounts payable pursuant to this Section 3.5.3 shall be shall be assessed as Additional Common Charges to all Owners pro rata to their respective Common Interests; or

(b) the Residential Managers, all amounts payable pursuant to this Section 3.5.3 shall be shall be assessed as Additional Common Charges to all Residential, Parking and Storage Owners pro rata to their respective Common Interests; or

(c) the Retail Managers, all amounts payable pursuant to this Section 3.5.3 shall be shall be assessed as Additional Common Charges to both Retail Owners pro rata to their respective Common Interests.

All amounts payable by an Owner to the Board pursuant to this Section 3.5.3 shall constitute Additional Common Charges.

Section 3.5.4 Indemnity. The party responsible to maintain and repair a Unit, Common Element, or sidewalk shall indemnify all other parties, and their respective Related Parties, on the terms more fully set forth in Article 19 of the Declaration, from and against all manner of claims, litigations, liabilities, losses and damages suffered or incurred by the indemnified party due to the indemnifying party's violation of the terms of this Section 3.5 or the work undertaken by the indemnifying party to maintain and repair such party's Unit or Common Element or sidewalk (as applicable) and any defects in such work. The Payment and Collection Terms shall apply to the amounts owed by the indemnifying party to the indemnified party under this Section 3.5.5.

Section 3.5.5 Report of Defects. Any defect or need for repairs for which the Condominium Board is responsible to maintain and repair pursuant to the terms of these By-Laws or the Declaration shall be reported to the Condominium Board or to its managing agent or property manager (if and as applicable) by an Owner promptly upon learning thereof.

Section 3.6 Alterations.

Section 3.6.1 Retail Units. Each Retail Owner shall have the unfettered right to alter its Unit, other than the requirement to comply with the Work Requirements applicable to all Units (but not those applicable to only Sold Residential Units) and until the FCO for the Building issues, to obtain the consent of Sponsor for any alteration that requires an application to a Governmental Authority or the Landmarks Preservation Commission or the issuance of a Governmental Work Permit or a certificate of no effect or a certificate of appropriateness from the Landmarks Preservation Commission.

The alterations and all related installations and work to be performed pursuant to this Section 3.6.1 are exempt from the approvals, consents and other requirements of the Condominium Board applicable to alterations of Sold Residential Units. The Condominium Board, other Unit Owners and their Unit mortgage lenders do not have the right to approve or consent to or to review the plans and specifications of the proposed alterations to a Retail Unit or the proposed installations of facilities and Lines and Conduits to

exclusively serve a Retail Unit in, on and along said General Common Elements and the Residential Common Elements, or the right of an Owner or its authorized tenant to access such Common Elements in order to maintain, repair, replace, alter and operate such facilities and to transport materials, supplies and equipment to, from, on and across said Common Elements.

A Retail Owner and its authorized tenant, and the respective agents, employees and contractors of each of the foregoing, will not be required to enter into any agreement or comply with any requirements or work rules of the Condominium Board or pay any charge or other fee, including those (if any) that may be imposed or adopted by the Condominium Board for alterations to Sold Residential Units. However, all such alterations of a Retail Unit and said installations, connections and operation of any existing or newly installed facilities exclusively serving a Retail Unit shall be performed in accordance with the Work Requirements applicable to all Units.

The right of a Retail Owner to make Unit Changes to its Retail Unit shall be governed by Section 3.7.

Section 3.6.2 Sold Residential, Parking and Storage Units. The rights of a Sold Residential Owner to alter his or her Sold Residential Unit and its Limited Common Elements are set forth below. No alterations may be made to Sold Parking or Storage Units.

Section 3.6.2.1 Ordinary Work. A Sold Residential Owner shall have the right to make the following alterations without obtaining the consents of the Condominium Board or Sponsor:

(a) furnish, paint, wallpaper or otherwise decorate the indoor portions of a Residential Unit; and

(b) any other alteration, addition and improvement to a Residential Unit that does not:

(b-1) require an application to a Governmental Authority or the issuance of a Governmental Work Permit;

(b-2) affect the aesthetics, architectural integrity or exterior appearance of the Building;

(b-3) affect the structural components of the Building;

(b-4) affect any Building Systems or Building Services impacting another Unit or the Common Elements serving another Unit;

(b-5) affect any interior or exterior waterproofing of the Building; or

(b-6) have an acoustical impact on another Unit or the Common Elements.

Section 3.6.2.2 Obligations. All alterations to Sold Residential Units and their respective Limited Common Elements shall be performed:

(a) in accordance with the Building Standard and all applicable Work Requirements;

(b) with commercially reasonable diligence and continuity to completion; and

(c) with facilities that shall be consistent in design, compatibility, aesthetics and architectural integrity and appearance to the original items being altered.

Section 3.6.2.3 Alterations Requiring Board Consent. All other alterations to a Sold Residential Unit (but not an Unsold Residential Unit, which shall not be subject to the following requirements) and its Limited Common Elements shall require the consent of the Condominium Board and if given, the Condominium Board shall have the right to condition its consent on the applicable Sold Residential Owner entering into an alteration agreement, on the form adopted by the Board, with such modifications as may be required by the Board, in its sole business judgment, setting forth the terms and conditions to be met and performed by such Owner, including the following (among others):

(a) the requirement to comply with the Board's customary work rules (as to staging, construction worker access, wall and floor protection, construction noise mitigation, loading of construction materials, debris removal, construction personnel access to the Building and Residential Unit, security, hours and days of work, containment of dust and dirt, and the like);

(b) insurance requirements;

(c) an indemnity in favor of the Condominium Board and all other Unit Owners;

(d) a security deposit to be given to the Board;

(e) submission of plans and specifications of the alteration, which are to be acceptable to the Board's architect and/or engineer and prepared by an architect/engineer acceptable to the Board;

(f) a period within which the alteration may begin and are must be completed or substantially completed, and fines if the work is not completed within the required time period;

(g) the requirements to perform the alteration:

(g-1) in accordance with Building Standard and all applicable Work Requirements;

(g-2) by duly licensed contractors and subcontractors to the extent required by Laws and prosecuted with commercially reasonable diligence and continuity to completion; and

(g-3) using new or replacement Facilities that shall be consistent in design, compatibility, aesthetics and architectural integrity and appearance to the original items being altered;

(h) rights and remedies of the Board to (among others) suspend the work and perform corrective work at the expense of the Owner who or whose tenant is undertaking the work, and to enjoin a violation of the alteration agreement;

(i) the requirement to pay all governmental and other fees and charges; and

(j) the requirement to pay or reimburse (as directed by the Board) for the reasonable costs and expenses incurred by the Board in connection with the preparation, review and execution of the alteration agreement, including the fees and charges of any architect, engineer, consultant or other expert engaged by the Board to review the proposed plans and specifications of the alteration and to monitor the alteration work, and the fees and charges of the managing agent and any attorney retained by the Board in connection with such alteration agreement and the performance of the work (all such costs and expenses shall be added to and constitute Additional Common Charges payable by such Sold Residential Owner).

No approvals or consents of the Condominium Board or Sold Unit Owners are required for alterations, additions and improvements to Unsold Residential Units or the Retail Units, or their respective Limited Common Elements, which may be made freely, other than the requirement to comply with applicable Work Requirements.

Section 3.6.3 Alterations by the Condominium Board. The Condominium Board shall have the right to alter the General Common Elements, the Residential Common Elements, the Association's Assets (if any) and the sidewalks, the Residential Managers (in the name and on behalf of the Board) shall have the right to alter the Residential Common Elements, and the Retail Managers (in the name and on behalf of the Board) shall have the right to alter the Retail Common Elements, in each case subject to the obligations:

(a) to obtain the consent of Sponsor to the extent required in Section 3.6.4:

(b) to perform the alterations:

(b-1) in accordance with the Building Standard and all applicable Work Requirements;

(b-2) by duly licensed contractors and subcontractors to the extent required by Laws;

(b-3) with commercially reasonable diligence and continuity to completion; and

(b-4) using new or replacement facilities that shall be consistent in design, compatibility, aesthetics and architectural integrity and appearance to the original items being altered.

Section 3.6.3.1 Costs and Expenses. The costs and expenses to alter:

(a) General Common Elements, the Association's Assets (if any) and the sidewalks shall be included in the General Common Expenses and charged to all Unit Owners pro rata to their respective Common Interests;

(b) Residential Common Elements shall be included in the Residential Common Expenses and charged to all Residential, Parking and Storage Unit Owners pro rata to their respective Common Interests; or

(c) the Retail Common Elements shall be included in the Retail Common Expenses and charged to the Retail Owners pro rata to their respective Common Interests.

Section 3.6.4 Alterations Requiring the Consent of Sponsor. Until the FCO of the Building is issued authorizing the use of the Units for their intended purposes as set forth in the Declaration, the Condominium Board and the Owners of Sold Residential Units and Retail Units shall not undertake any of the following alterations or other work without obtaining the consent of Sponsor in each instance:

(a) any work that requires an application to a Governmental Authority for a Governmental Work Permit from the DOB, or a certificate of no effect or a certificate of appropriateness (as applicable) from the Landmarks Preservation Commission (if applicable), or other governmental license or authorization;

(b) any work or decoration affecting a Sold Residential Unit's windows (other than window shades, blinds, curtains and other window treatments that are light colored and have light colored backings

facing the outdoors in conformity with the Rules and Regulations, as they may be duly amended from time to time by the Condominium Board) or other portion of a Sold Residential Unit exposed to public view; and

(c) any work affecting all or a portion of a Building System serving one or more other Units, or serving the Common Elements.

Section 3.6.4.1 Requirements for Sponsor's Consent. Sponsor shall have the right to condition giving its consent on requiring the applicable Sold Residential Owner (at such Owner's sole cost and expense) or the` Condominium Board (as a General Common Expense charged to all Unit Owner's pro rata to their respective Common Interests or a Residential Common Expense charged to all Residential, Parking and Storage Units pro rata to their respective Common Interests, as the case may be), giving Sponsor, at least twenty (20) business days before the work is scheduled to begin:

(a) a reasonably detailed written notice of the work, copies of the proposed plans and specifications of the work, which shall be acceptable to Sponsor and prepared by an architect and/or engineer acceptable to Sponsor, together with such further documents and information as Sponsor may require;

(b) copies of the DOB approved plans and specifications, which shall be consistent in all material respects to the plan and specifications acceptable to Sponsor, all required Governmental Work Permits of Governmental Authorities having jurisdiction of the work and a certificate of no effect or a certificate of appropriateness from the Landmarks Preservation Commission;

(c) a policy or original certificate of insurance for such insurance coverage and amounts, and issued by such insurer, as shall be reasonably acceptable to Sponsor (any dispute as to such insurance shall be resolved by arbitration pursuant to the By-Laws), and providing that Sponsor shall be given at least thirty (30) days' advance written notice by the insurer before such insurance coverage is terminated, cancelled or expires; and

(d) if requested by Sponsor, said Sold Residential Owner or the Condominium Board (as applicable) shall post a bond or other security acceptable to Sponsor, in such amount and issued by such insurer or other issuer acceptable to Sponsor, in order to secure the diligent and lien-free completion of such work and compliance with all applicable Laws.

Section 3.6.4.2 Requirements for Work. If Sponsor consents to the work:

(a) any revision to the DOB approved plans and specifications shall be subject to obtaining the consent of Sponsor and, if given, Sponsor receiving a copy of the revision to the DOB approved plans and specifications before implementing the work contained in the revision;

(b) the work shall be performed by duly licensed contractors and subcontractors to the extent required by Laws, and shall be prosecuted with commercially reasonable diligence and continuity to completion in compliance with all DOB approved plans and specifications and any revisions thereto as to which Sponsor gave its consent, and in conformity with all Governmental Work Permits and the certificate of no effect or the certificate of appropriateness (as applicable);

(c) Sponsor and its representatives, upon oral or written demand, shall be given reasonable access to the applicable Unit or the Common Elements (as applicable), from time to time, to inspect and monitor such work as it progresses;

(d) after the completion of the work, the party undertaking the work shall promptly and diligently endeavor to obtain from the appropriate Governmental Authorities and give to Sponsor and (for work undertaken by an Owner) the Board, all required governmental approvals, sign-offs and certificates, including (if applicable) a letter of completion from the DOB and (if applicable) an amended or new Certificate of Occupancy of the Building (i.e., Governmental Approvals), and promptly and diligently endeavor to close all related open applications;

(e) the Sold Residential Owner or the Condominium Board (as applicable) undertaking the work shall indemnify Sponsor, on the terms more fully set forth in the Declaration, from and against any and all claims, litigations, liabilities and losses arising, directly or indirectly, from work or the failure to comply with any of the requirements set forth in this Section 3.6.4.2, including:

(e-1) any violation of Laws;

(e-2) any delay in obtaining a Temporary Certificate of Occupancy or an extension of a previously issued Temporary Certificate of Occupancy or the Final Certificate of Occupancy of the Building; or

(e-3) the failure to make all appropriate filings with Governmental Authorities in connection with the work; and

(f) the Owner or the Condominium Board (as applicable) undertaking the work shall pay or reimburse Sponsor (as directed by Sponsor), within a deadline of ten (10) days after a reasonably detailed and itemized written demand, accompanied by copies of supporting bills or statements from Sponsor's Construction Parties and counsel, for the reasonable costs and expenses incurred or paid by Sponsor to Sponsor's Construction Parties to:

(f-1) review the plans and specifications of the work, the related Governmental Work Permits, certificate of no effect or certificate of appropriateness (as applicable), and Governmental Approvals; and

(f-2) inspect and monitor the work.

If Sponsor is not reimbursed with said ten (10)-day deadline period, the Owner or the Condominium Board (as applicable) shall reimburse Sponsor for the reasonable costs and expenses, together with, if contested and awarded in a final non-appealable order or judgment of a court having competent jurisdiction, Legal Expenses and Per Diem Interest thereon to enforce or defend this right and to collect the amounts owed.

Section 3.6.4.3 Revocation. If the Sold Residential Owner or Condominium Board (as applicable) fails to comply with any of the requirements contained in this Section 3.6.4 or if the continuance of the work or any condition arising therefrom would (in Sponsor's sole and absolute discretion) delay the extension of a previously issued Temporary Certificate of Occupancy or the issuance of a Final Certificate

of Occupancy, Sponsor reserves the right at any time to revoke its consent in writing, without any manner of recourse against Sponsor by reason thereof. If Sponsor revokes its consent, immediately after being given the revocation notice, said Unit Owner or the Condominium Board (as applicable) shall cease all work, remove any such condition and restore such Owner's Unit or the Common Elements (as applicable) to the condition existing before commencing the work, all as and to the extent required by Sponsor.

Section 3.6.4.4 Disputes. Any disputes under this Section 3.6.4 shall be resolved by court action or proceeding, unless Sponsor (in its sole discretion) consents to, or initiates, arbitration pursuant to Article 6.

Section 3.6.5 Alterations Not Requiring Consents. The consents of the Condominium Board, the Residential Managers, the Retail Managers and Sponsor shall not be required:

(a) to furnish, paint, wallpaper or otherwise decorate the indoor portions of a Residential or Retail Unit; and

(b) for any alteration to a Residential or Retail Unit that does not:

(b-1) require an application to a Governmental Authority or the issuance of a Governmental Work Permit;

(b-2) affect the aesthetics, architectural integrity or exterior appearance of the Building;

(b-3) affect the structural components of the Building;

(b-4) affect any Building Systems or Building Services affecting another Unit or the Common Elements serving another Unit;

(b-5) affect any interior or exterior waterproofing of the Building; or

(b-6) have an acoustical or vibration or odor impact on another Unit or the Common Elements; or

(c) for any alteration to an Unsold Residential Unit.

Section 3.7 Unit Changes.

Section 3.7.1 Unit Changes. Each Owner of a Residential Unit or a Retail Unit shall have the right, on the terms set forth in Section 3.7.2, to make the following changes to such Owner's Unit (each, "**Unit Change**"):

(a) divide such Residential or Retail Unit ("**Unit Division**") into two or more Units ("**Subdivided Units**") and in connection therewith: to erect new boundary walls enclosing or separating, the Units established on such Unit Division and to alter the facilities of the original Unit being divided and construct new facilities to serve each Subdivided Unit;

(b) combine two or more of Residential Units or Subdivided Units or both Retail Units ("**Unit Combination**"), horizontally and (in the case of Residential Units) vertically, into one integrated Unit ("**Combined Unit**") and in connection therewith: to remove the party wall separating the Units being combined horizontally; to pierce, remove and leave openings in the structural floors separating the

Residential Units being combined vertically; to alter the facilities of the original Units being combined and construct new facilities to serve the Combined Unit; or

(c) reconfigure portions of two or more of Residential Units or Subdivided Units or both Retail Units ("**Unit Reconfiguration**"), horizontally and (in the case of Residential Units or Subdivided Units) vertically, into reconfigured Units ("**Reconfigured Units**") and in connection therewith: to raze, remove and relocate the party wall separating the Units being reconfigured horizontally; (in the case of Residential Units or Subdivided Units) to pierce, remove and leave openings in the structural floors separating the Units being reconfigured vertically; to alter the facilities that are part of the original Units being reconfigured and construct new facilities to serve each Reconfigured Unit.

The facilities affected by a Unit Change shall automatically become part of a Unit involved in the Unit Change if they are accessible from within the interior of the Unit or part of the Residential Common Elements or the Retail Common Elements (as applicable) if they are inaccessible from within the interior of a Residential Unit or Retail Unit, respectively.

Section 3.7.2 Terms of Unit Changes. Each Owner making a Unit Change to such Owner's Residential Unit or Retail Unit must comply with the following requirements:

(a) until the issuance of the FCO of the Building, no Unit Change to a Sold Residential Unit or a Retail Unit or any Subdivided Unit or Combined Unit resulting therefrom, shall be undertaken without first obtaining the consent of Sponsor (including, if given, such terms and conditions as Sponsor may require in its sole and absolute discretion);

(b) all permitted Unit Changes shall comply with the applicable Work Requirements;

(c) each permitted Unit Division, Unit Combination and Unit Reconfiguration shall be implemented pursuant to duly executed and acknowledged amendments to the Declaration and the Floor Plans of the Unit or Units involved in the Unit Change, which amendments:

(c-1) shall be prepared, recorded and filed in the Kings County City Register's Office by, and at the sole cost and expense of, the Owner making the Unit Change; and

(c-2) (in the case of only a Sold Residential Unit only, but not an Unsold Residential Unit or a Retail Unit) shall be in form and content acceptable to the Board and the Board's counsel and architect or engineer, whose reasonable fees and expenses shall be borne by said Sold Residential Owner as Additional Common Charges;

(d) the Common Interest of a Unit involved in a Unit Division or a Unit Reconfiguration shall be apportioned between or among the resulting Subdivided Units or Reconfigured Units pro rata to the square footages of the Subdivided Units involved in such Unit Division or the Reconfigured Units involved in such Unit Reconfiguration; provided, however, that the aggregate Common Interests of all Subdivided Units or all Reconfigured Units shall equal exactly the Common Interest of the Unit being divided or the aggregate of the Units being reconfigured;

(e) the Common Interest of a Unit involved in a Unit Combination shall equal exactly the aggregate of the Common Interests of the Units being combined;

(f) the Common Interests of all Units following a Unit Division, Unit Combination or Unit Reconfiguration shall total one hundred percent (100%);

(g) no Unit Change shall:

(g-1) change or affect the floor area or size of another Unit or penetrate the interior of another Unit (that is, the space within the Unit's enclosing façade or exterior Building walls, party walls, structural floors and structural ceilings) without obtaining the consent of the Owner of such affected Unit, duly executed, acknowledged and recorded with the amendment to the Declaration implementing the Unit Change;

(g-2) change or affect a Building Service to another Unit by more than a *de minimis* extent or the Common Elements serving another Unit for their intended purposes without obtaining the consent of the Owner of such affected Unit, duly executed, acknowledged and recorded with the amendment to the Declaration implementing the Unit Change;

(g-3) change or affect the Common Interest of another Unit without obtaining the consent of the Owner and any mortgagee of such affected Unit, duly executed, acknowledged and recorded with the amendment to the Declaration implementing the Unit Change;

(g-4) use, impair, infringe or otherwise affect the Excess Development Rights without obtaining the consent of Sponsor and (if any) Development Rights Owner, duly executed, acknowledged and recorded with the amendment to the Declaration implementing the Unit Change; or

(g-5) prevent or unlawfully impair legal access by another Unit to fire-safety egress stairs, the elevator, lobby or street entrance;

(h) no license or use fee or rental or other charge (other than the regular Common Charges and Special Assessments, if any, levied on all Unit Owners or only all Residential, Parking and Storage Owners only, as applicable) may be levied or imposed by the Condominium Board in connection with any wall, space, structural component of the Building or other portion of the Common Elements affected by a Unit Change;

(i) each Unit Change shall be made at the sole cost and expense of the Owner or Owners undertaking the Unit Change;

(j) the obligations, requirements, limitations and restrictions applicable to the use, occupancy, maintenance, repair, restoration and alteration of a Unit involved in a Unit Combination or Unit Reconfiguration shall likewise apply to a Common Area (e.g., the area occupied by a party wall) permitted to be enclosed within the interior of a Unit;

(k) the Owner implementing a Unit Change shall indemnify the Condominium Board and all other Unit Owners, and their respective Related Parties, on the terms set forth in Article 19 of the Declaration, from and against all manner claims, litigations, liabilities, losses and damages arising from such Unit Change, the work in performing such Unit Change and/or any defects in such work;

(l) the Condominium Board shall reasonably cooperate with the Owner or Owners making a Unit Change;

(m) any Unit Change requiring an application to a Governmental Authority for the issuance of a Governmental Work Permit or other document required by a Governmental Authority shall be signed by only the following:

(m-1) in the case of a Sold Residential Unit, the Owner of such Sold Unit and an Officer of the Condominium Board;

(m-2) in the case of an Unsold Unit, Sponsor or other Owner of such Sold Unit (as applicable) and an Officer appointed by a Sponsor Manager, in the name and as an authorized signatory of the Board; or

(m-3) in the case of a Retail Unit, the Owner of such Retail Unit and an Officer appointed by a Retail Manager, in the name and as an authorized signatory of the Board;

(n) all Unit Changes made by Sponsor to its Unsold Units shall require the reasonable consent of Sponsor's construction lender (if Sponsor's contraction loan is still in effect), but shall not require:

(n-1) the consent of the Condominium Board or any Unit Owners or their respective mortgagees or lienors;

(n-2) complying with any regulations, rules or other requirements of the Condominium Board for Unit alterations or other Unit Changes;

(n-3) paying any kind of fee, charge or imposition of the Condominium Board or its managing agent or attorneys or other professionals or consultants; and

(n-4) the plans or specifications of the proposed Unit Change being submitted to or reviewed by, or the work being supervised or monitored by, the Condominium Board or an architect, engineer or other professional or consultant chosen by the Condominium Board; and

(o) no Unit Change to a Sold Residential Unit shall be undertaken without the Owner thereof complying with Section 3.6.2, including executing and delivering the Board's alteration agreement, as more fully provided therein.

No Unit Change shall be made to a Parking Unit or a Storage Unit.

All amounts owing to the Board under this Section 3.7.2 shall constitute Additional Common Charges and shall be payable to the Board in accordance with Payment and Collection Terms.

Section 3.8 Work Requirements. Any work requiring an application to a Governmental Authority or the issuance of a Governmental Work Permit, or affecting the aesthetics, architectural integrity or exterior appearance of the Building, or a structural component of the Building, or any Building System or Building Service serving a Residential, Parking, Storage or Retail Unit or the Common Elements, or any interior or exterior waterproofing of the Building, or the acoustics of a Residential Unit or a Retail Unit or the Common Elements, shall comply with the requirements ("**Work Requirements**") contained in this

Section 3.8, whether undertaken by or on behalf of, and to the extent applicable to, Sponsor, the Condominium Board, an Owner or a tenant of a Unit, a utility provider or other party legally bound by the Declaration or these By-Laws. No work may be undertaken on a Parking Unit or a Storage Unit by the Owner thereof or its tenant.

Section 3.8.1 Performance Requirements. The work shall be performed on all Residential and Retail Units, except as otherwise expressly provided below:

(a) with a quality of the workmanship and materials that shall meet or exceed any relevant specific standards required by Laws as well as the standards of locally accepted building practices for high quality, mixed use primarily residential buildings with retail, parking and/or storage components in the locale of the Building and comparable to the construction and amenities of the Building;

(b) with commercially reasonable diligence, or (in the case of an emergency condition or governmental violation) prompt diligence, and continuity to completion, subject to delays caused by Unavoidable Causes;

(c) in accordance with all Laws, Governmental Work Permits issued therefor and the plans and specifications approved by Governmental Authorities having competent jurisdiction and accepted by Sponsor (until the FCO issues) and (in the case of a Sold Residential Unit only) the Board's Construction Parties;

(d) using materials and facilities compatible with, and of at least substantially equal or better in quality, design, function and utility than those then existing in the Building that impact a Common Element or a Unit or are exposed to public view;

(e) with functioning fire extinguishers and smoke alarms throughout the prosecution of the work if and to the extent required by Laws; and

(f) in a manner that shall not:

(f-1) permanently prevent or diminish by more than a *de minimis* extent the permitted use and enjoyment of a Unit (including the use, occupancy, operation and business of an Owner or tenant), other than the Unit whose Owner or tenant is undertaking the work;

(f-2) overload or materially impair the proper and efficient performance, function, capacity or utility of the Common Elements or a Unit, other than the Unit whose Owner or tenant is undertaking the work;

(f-3) invade or penetrate any portion of the Common Elements or a Unit, without obtaining the consent of the Board or the applicable Managers (with respect to the General, Residential and Retail Common Elements) or the Owner of such affected Unit, other than the Unit whose Owner or tenant is undertaking the work;

(f-4) change the dimensions or floor areas of the Common Elements or a Unit, other than the Unit whose Owner or tenant is undertaking the work;

(f-5) impair or jeopardize the structural integrity, soundness or air and water tightness and weather protection of any portion of the Building;

(f-6) disrupt or interfere with a Building System or Building Service being provided to one or more Units or the Common Elements, other than the Unit whose Owner or tenant is undertaking the work, except in the case of an emergency or a permitted temporary shutdown, interruption or reduction;

(f-7) reduce, impair or jeopardize the acoustical performance of the boundary walls, floors or ceilings enclosing a Common Element or a Unit, other than the Unit whose Owner or tenant is undertaking the work;

(f-8) prevent or impair legal access to a street or to a Common Element;

(f-9) interfere with, or cause any labor strike, disturbance or stoppage in, the work being performed by the Board's employees or Construction Parties; or

(f-10) (in the case of work by a Sold Residential Owner or its tenant, but not Sponsor or an Unsold Unit Owner or a Retail Owner) impact the General, Residential or Retail Common Elements (including a Building System or Building Service being provided to one or more Units) without obtaining the consent of the Board or the applicable Managers (as the case may be).

If any water, gas or other valves shall be affected by the work undertaken by the Owner or a tenant of a Sold Residential (but not an Unsold Residential Unit or a Retail Unit), all such valves shall remain accessible to the DOB and the employees, agents and Construction Parties of the Condominium Board and (until issuance of the FCO) Sponsor during the performance of, and after the completion of, the work. If any valve is enclosed in violation of this Work Requirement, then the Board and/or Sponsor (until the FCO issues) shall have the right (but not the obligation) to require the Owner of the Unit that is the subject of the work, at such Owner's sole cost and expense, to remove such enclosure with commercially prompt diligence.

Section 3.8.2 Plans and Specifications. No Owner of a Sold Residential Unit shall apply for a Governmental Work Permit unless the Condominium Board signs and delivers the governmental application or other documents required by applicable Laws, which shall be subject to the consent of the Board. A Sponsor Manager or a Retail Manager shall have the right to sign in the name and on behalf of the Board an application for a Governmental Work Permit for work permitted to be undertaken by the Sponsor or the Owner of a Retail Unit who appointed such Retail Manager, or such Owner's tenant, without the consent or approval of the other Managers or other Owners.

The Sold Residential Owner who is undertaking the work shall deliver to the Condominium Board the completed application and/or other documents required to be signed by the Board for a Governmental Work Permit accompanied by the proposed plans and specifications of the work and such additional documents and information as the Board and/or Sponsor (until the FCO issues), or their respective Construction Parties may request in order to determine whether the work complies with the requirements of Section 3.8.1. The Board's and/or (if applicable) the Sponsor's Construction Parties are to endeavor in

good faith to make such determination in writing within twenty (20) business days after receiving the plans and specifications and any additional documents and information requested, unless delayed by Unavoidable Causes, in which case said twenty (20)-business day period shall be extended for a period equal in length to the period of delay. The Board and/or (if applicable) Sponsor shall give the Owner a copy of the determination of its Construction Parties promptly after it is received by the Board or Sponsor.

If the Board's and/or (if applicable) Sponsor's Construction Parties determine that the work does not comply with the requirements of Section 3.8.1 beyond *de minimis* extent, such Owner shall cause the plans and specifications to be appropriately revised to the satisfaction of the Board's and/or (if applicable) Sponsor's Construction Parties. The foregoing procedure shall be repeated each time the plans and specifications accepted by the Board's and/or (if applicable) Sponsor's Construction Parties are revised or changed beyond a *de minimis* extent.

A Sold Residential Owner, but not an Unsold Residential Owner or a Retail Owner (each of whom shall be exempt from the following requirement) shall pay or reimburse the Board and (if applicable) Sponsor, as directed by each, for the fees, charges and other expenses paid or incurred by the Board and (if applicable) Sponsor to its Construction Parties in connection with the foregoing. The Payment and Collection Terms shall apply to all amounts to be reimbursed to the Board and (if applicable) Sponsor under this Section 3.8.2.

Section 3.8.3 Access for Inspection. The Condominium Board and (until the FCO issues) Sponsor, and their respective agents, employees and Construction Parties, shall have the right, without the consent of the Sold Residential Owner or such Owner's tenant undertaking the work, and without restriction or limitation (other than to not unreasonably interfere with the work), to access the applicable Sold Residential Unit to inspect, observe and monitor the work as it progresses in order to assure the work is being performed in accordance with Section 3.8.1, the DOB approved plans and specifications of the work, and the related Governmental Work Permits issued for the work. Sponsor and other Unsold Residential Owners and Retail Owners shall be exempt from the provisions of this Section 3.8.3.

Section 3.8.4 Deliveries. If the work by a Sold Residential Owner or such Owner's tenant requires a Governmental Work Permit, such Owner shall deliver to the Board or its managing agent (as directed by either) and (until the FCO issues) Sponsor, at least five business days before the application for a Governmental Work Permit is to be submitted to the applicable Governmental Authority, copies of the plans and specifications of the work and (if requested) shop drawings of the work.

At least five business days before the work to be undertaken by such Sold Residential Owner or such Owner's tenant is to begin, said Sold Residential Owner shall deliver to the Board or its managing agent (as directed by either) and (until the FCO issues) Sponsor:

(a) copies of all required Governmental Work Permits for the work; and

(b) a policy or original certificates of insurance (as directed by the Board or its managing agent and (until the FCO issues) Sponsor) for such insurance coverage and amounts, and issued by such insurer, as required in Section 3.9, and naming the Board, Unit Owners and Registered Mortgagees as additional insureds, as their interests may appear, and shall maintain such insurance in full force and effect at the start

and until the work is completed as evidenced by giving the Board or its managing agent (as directed by either) and (until the FCO issues) Sponsor copies of a letter of completion from the DOB and any other required Governmental Approvals of the work.

Upon completion of the work in question, whether undertaken by said Sold Residential Owner or said Owner's tenant, said Sold Residential Owner shall cause all contractors and subcontractors involved in the work to diligently pursue closing all open applications, failing which the Board and (until the FCO issues) Sponsor shall each have the right (but not the obligation), for the account and at the expense of said Sold Residential Owner, to implement the rights and remedies in these By-Laws (including the right of self-help) and at law and in equity. The Payment and Collection Terms shall apply to all amounts owed the Board or Sponsor hereunder. All amounts owed to the Board shall constitute Additional Common Charges.

Sponsor and other Unsold Residential Owners and Retail Owners shall be exempt from the provisions of this Section 3.8.4.

Section 3.8.5 Construction Parties. Each architect, engineer, structural engineer (in the case of structural work), contractor and subcontractor involved in the work undertaken by a Sold Residential Owner or such Owner's tenant shall be duly licensed and shall have, or its manager, member, director, partner, principal or shareholder shall have, not less than ten (10) years' recent experience in Brooklyn or Manhattan in the nature of the work to be undertaken, and shall otherwise be acceptable to the Board and (until the FCO issues) Sponsor. Sponsor and other Unsold Residential Owners and Retail Owners shall be exempt from the provisions of this Section 3.8.5.

Section 3.8.6 Lines and Conduits. All Lines and Conduits in connection with the work by an Owner or a tenant of a Residential or Retail Unit shall be installed in:

(a) areas concealed from view that do not impact the structural components or weather tightness of the Building or the acoustical performance of a Unit or a Common Element;

(b) unutilized or underutilized areas of existing chases, chase walls, shafts, shelves, coves, ducts, dropped ceilings or the like that can accommodate such Lines and Conduits without impairing or interfering with the performance, function, efficiency or operation other existing Lines and Conduits, or other facilities located therein; and

(c) exposed indoor areas of the Common Elements located in the cellar and the public stairs if appropriately boxed-in or otherwise covered to the satisfaction of the Condominium Board.

Section 3.8.7 Mechanic's Liens. If due to the work undertaken by an Owner Residential or Retail Unit, or its tenant, a mechanic's lien for labor or material is filed against such Unit or the Building, such Owner shall, or shall cause its tenant (as applicable) to, discharge such lien by payment, bonding or otherwise (as provided by applicable Laws) within thirty (30) days thereafter, failing which the Condominium Board and (until the FCO issue) Sponsor shall each have the right (but not the obligation), for the account and at the expense of said Owner, to discharge such lien by payment, bonding or otherwise, without investigation as to the validity thereof or any defenses thereto, and to defend or intervene in an action to foreclose a mechanic's lien. The Condominium Board or (if applicable) Sponsor shall first give

such Owner a deadline of not less than ten (10) business days' notice of its intention to exercise such right if the Owner does not so discharge such lien, and may thereafter proceed without further notice if said Owner shall fail to discharge the lien of record within said ten (10)-business day deadline period. Said Owner shall reimburse the Board or Sponsor (as applicable), in accordance with the Payment and Collection Terms, for all costs and expenses (including Legal Expenses) paid or incurred by or on behalf of the Board or Sponsor (as applicable) in connection with the foregoing. All amounts owed the Board hereunder shall constitute Additional Common Charges.

Section 3.8.8 Temporary Interruptions or Reductions in Building Systems. The Condominium Board, Sponsor and each Owner shall have the right to temporarily interrupt or reduce one or more Building Systems on the following terms in order to perform work in accordance with its rights, powers and easements under the Declaration or these By-Law:

(a) except in the case of an emergency:

(a-1) if Sponsor or a Retail Owner is undertaking the work:

(a-1.1) Sponsor or such Retail Owner (as applicable) shall give the Condominium Board, at least five business days before the work is to begin, a reasonably detailed notice of the work, the contemplated Building System to be temporarily interrupted or reduced, and the planned duration of the work; and

(a-1.2) Sponsor or such Retail Owner (as applicable) shall have the right, freely and without fee, charge or payment to the Board or the affected Owners or their respective tenants, to determine and coordinate with the Board as to the date, time and daily duration of said temporary interruption or reduction in a Building System, but not sooner than seven business days after the day Sponsor or a Retail Owner notifies the Board of the proposed temporary interruption or reduction in a Building System, and shall implement such interruption or reduction in such Building System with contractors chosen by Sponsor or such Retail Owner (as applicable);

(a-2) if a Sold Residential Owner (but not Sponsor, other Unsold Residential Owners and Retail Owners, who shall be exempt from the following provision) who or whose tenant is undertaking permitted work:

(a-2.1) such Owner shall give, or cause its tenant to give, the Condominium Board, at least five business days before the work is to begin, a reasonably detailed notice of the work, the contemplated Building System to be temporarily interrupted or reduced, and the planned duration of the work; and

(a-2.2) the Condominium Board shall determine and coordinate with such Owner and/or tenant (as applicable) as to the date, time and daily duration of said temporary interruption or reduction in said Building System and shall implement such interruption or reduction in said Building System for the account, and at the expense, of said Owner using Building staff or contractors chosen by the Board (the Payment and Collection Terms shall

apply to all amounts owed the Board hereunder, which amounts shall constitute Additional Common Charges);

(b) whether the permitted work is being undertaken by the Board, Sponsor or other Owner or its tenant, the Condominium Board shall give all Owners and Registered Tenants to be impacted by an interruption or reduction in a Building System, at least three business days before the interruption or reduction is scheduled to occur, a reasonably detailed notice (by messenger service, or by first class mail or email (with electronic confirmation of delivery), Building link (if any) or FedEx or other nationally recognized courier service for next day delivery) of the Building System to be affected and the scheduled date(s), time period and duration thereof;

(c) the interruption or reduction in a Building System shall not prevent and, to the extent commercially reasonable and economically practicable, shall minimize interfering with the use, occupancy and operation of, and the business being conducted in, a Unit, other than the Unit of the Owner who or whose tenant is undertaking the work;

(d) the work shall be performed with commercially reasonable diligence and continuity to completion;

(e) upon a Manager or the Board's managing agent or property manager being notified (orally or otherwise), or becoming aware, of an emergency, the interruption or reduction in a Building System may be immediate, such Manager or the Board, without advance notice, other than to the extent feasible to endeavor to notify by telephone or mobile phone, or (if unsuccessful) by email (with electronic confirmation of delivery), the Owners and Registered Tenants to be impacted of the emergency condition and the Building System to be affected thereby;

(f) except as otherwise provided in clause (a) above, the interruption or reduction in a Building System shall be performed by or on behalf of the Condominium Board, to the extent commercially feasible, with commercially prompt diligence and continuity to completion;

(g) no Owner or tenant incurring losses or damages due to a temporary interruption or reduction in, a Building System, shall have any manner of recourse by reason thereof against the party (and its Related Parties) causing such temporary interruption or reduction in a Building System, or the Condominium Board (and its Related Parties) implementing the temporary interruption or reduction in a Building System; and

(h) any interruption or reduction in a Building System pursuant to this Section 3.8.8 shall not entitle an Owner to any set-off or credit against, or abatement in, or diminution of, Common Charges.

Section 3.8.9 Sidewalk Structure. If the work on the façade or exterior Building walls requires the erection or use of a sidewalk bridge, scaffolding or other structure, or a scaffold hanging from the Building's roof, the Condominium Board shall exclusively control and determine the timing, duration, specifications and manner of performance of the work to stage, erect, disassemble and remove the sidewalk bridge and scaffold, including the design, fabrication and composition thereof and all work incidental thereto; the Construction Parties to perform the work; the plans and specifications (including the height and

design) of the sidewalk bridge and scaffold; and the commencement date and duration of the work, except as otherwise provided below.

The erection, disassembly and removal of the sidewalk bridge and scaffold, including a scaffold to hang from a roof, shall be performed with commercially reasonable diligence and continuity to completion in accordance with all applicable Laws.

Any bridge or scaffold to be erected or installed by or on behalf of the Condominium Board in front of a Retail Unit:

(a) shall be double height and shall clear and not obstruct a Retail Unit's storefronts and street entrance door(s);

(b) shall not block or interfere with access to a Retail Unit's street entrance;

(c) to the extent practicable, shall not diminish the visibility of any storefronts and signs of a Retail Unit's Owner or tenant, except on a temporary basis;

(d) shall not be erected without first giving the affected Retail Owner, at least twenty (20) business days' advance notice stating in reasonable detail the purpose and anticipated start date and estimated duration of the bridge or (if applicable) scaffold; provided, however, in the case of an emergency, no advance notice shall be required and, to the extent commercially feasible and economically practicable, the Condominium Board will endeavor to contact each affected Retail Owner by telephone or mobile phone, or (if unsuccessful) by email (with electronic confirmation of delivery) of the emergency and the forthcoming erection of the bridge and (if applicable) scaffold;

(e) shall not be erected or (if feasible and economically reasonable) remain during the months of November, December and January, unless required by Laws or to remediate an emergency condition, or necessary to continue to completion with work in progress;

(f) shall have all exposed bolts protected and bridge supporting poles wrapped with bright yellow or luminous tape to prevent pedestrian accidents;

(g) shall have lighting below the scaffolding as required by applicable Laws;

(h) if reasonably possible, shall not affect or interfere with exhaust ducts or vents (if any); and

(i) shall be disassembled and removed with commercially prompt diligence as soon as practicable when the work is completed.

Each affected Retail Owner shall have the right, on the following terms and at its sole expense, to install on and under the bridge appropriate signs at or opposite the Unit's storefront or street entrance to identify the Unit's tenant or occupant. At least ten (10) business days before a sign is to be installed, the Retail Owner or its tenant shall submit to the Condominium Board, for acceptance by the Board's Construction Parties, without fee or charge by the Condominium Board, the proposed plans and specifications for each sign, detailing its size, fabrication, material and weight. Each sign must comply Laws, cannot contain lighting or impair pedestrian passage on and across the sidewalk, or impact the structural integrity or soundness of the bridge or scaffold. Such Owner, at its sole cost and expense, shall

be responsible to maintain, or to cause its tenant to maintain, each sign in good condition and appearance, and to remove the sign with prompt diligence when notified that the bridge is ready to be disassembled. All notices to be given under this Section 3.8.9 that do not involve an emergency may be sent by hand delivery, first class mail, email (with electronic confirmation of delivery) or by FedEx or other nationally recognized courier service for overnight delivery.

Section 3.8.10 Access Requirements. Except in the case of an emergency, a party having an easement and right to access a Unit or Common Element under the Declaration (including Article 10 thereof) or these By-Laws ("**Access Party**"), whether to install, maintain, repair, restore, alter or operate its facilities or otherwise, shall give at least five business days' advance notice ("**Access Notice**") to an Owner to access such Owner's Unit, or to the Board to access a General or Residential Common Element. The Access Notice shall state the reason to, and the projected duration of, access.

Access to a Unit or a Common Element shall be on such business day and during such business hours as shall be mutually convenient to the Access Party and the affected Owner or the Condominium Board (as applicable). If they shall be unable or fail to agree thereon within said five-business-day period from giving the Access Notice, then access to the Unit or the Common Element in question (as applicable) shall be on such business day and during such business hours as the Access Party shall determine upon giving the affected Owner or the Condominium Board (as applicable) not less than five business days' notice thereof.

The Access Party and its Construction Parties shall comply with all commercially reasonable security and protection procedures and requirements (including protecting walls, floors and other surfaces against damage) as may be required by the affected Owner or the Condominium Board (as applicable); provided, however, such procedures and requirements shall not impede or unreasonably delay, impair or interfere with such access. The affected Owner or the Condominium Board (as applicable) shall also have the right for its representative to be present at all times during the period of access.

In the case of an emergency, access by the Condominium Board and its Construction Parties to the affected Unit may be immediate, at any time, without advance notice (written or vocal), without meeting any security or protection procedures and without the affected Owner or its representative or any tenant being present. In such case, the Board and Unit Owners, and their respective Related Parties, and Construction Parties shall not be guilty or liable in any manner for trespass or otherwise, and the affected Owner and its tenant (if any) shall have no recourse against them by reason thereof, except for any property damage caused by access to the Unit and the work to remediate the condition causing the emergency. To the extent commercially feasible and economically practicable, the Condominium Board will endeavor to promptly notify the affected Owner by telephone or mobile phone, or (if unsuccessful) by email (with electronic confirmation of delivery) of the emergency condition and the Building Services affected thereby. The Board shall perform the remedial work to correct the emergency condition, to the extent commercially feasible, with commercially prompt diligence and continuity to completion.

The provisions of this Section 3.8.10 do not apply to access a Unit of an offending Owner, which shall be governed by Section 5.1.2.

Section 3.8.11 Board Consent. Whenever a Sold Residential Owner (but not Sponsor, an Unsold Residential Owner or a Retail Owner, who shall be exempt from the provisions of this Section 3.8.11) or such Owner's tenant is required to obtain the discretionary or reasonable consent of the Board before undertaking any work, the Board shall have the unfettered right to condition its consent on said Sold Residential Owner entering into an alteration agreement containing the terms and conditions outlined in Section 3.6.2.

Section 3.8.12 Sponsor's Consent. Until issuance of the FCO of the Building authorizing the use of the Units for their intended purposes as set forth in the Declaration, any work to be undertaken by an Owner or its tenant, or the Board that requires the consent of Sponsor under the Declaration or these By-Laws shall be governed by, and shall comply with, Section 3.6.4.

Section 3.8.13 Sponsor's Priority Rights. The rights of Sponsor under a Work Requirement shall be paramount and take preference and priority over the rights of the Board hereunder. In the event of any conflict, inconsistency or ambiguity between the rights of Sponsor and the rights of the Board under the Work Requirements, the rights of Sponsor shall govern and control.

Section 3.8.14 Board Remedies. If an Owner or an Owner's tenant, or their respective Construction Parties, violates any of the Work Requirements and such Owner fails to commence to cure the violation at issue within two business days after being given notice thereof and thereafter to diligently and in good faith prosecute the curative work with continuity to completion, the Condominium Board shall have the right (but not the obligation), in addition to all rights and remedies set forth in Article 5 and at law and in equity, without recourse against the Board or Unit Owners, or their respective Related Parties or Construction Parties for any losses or damages:

(a) to impose fines;

(b) to suspend, prohibit and enjoin the work;

(c) to deny access to the Building by the Construction Parties, including their respective workers, involved in the work, other than to permit the Construction Parties to remove their tools and equipment accompanied at all times by a representative designated by the Board;

(d) to stop and bar deliveries of equipment, supplies and material to the Building related to the work;

(e) to bar future work by such Owner and its tenant, other than work to remediate an emergency condition in such Owner's Unit until the violation of the applicable Work Requirement is corrected to the satisfaction of the Board; and

(f) to access such Owner's Unit, without the Board or its Construction Parties being guilty or liable for trespass or otherwise, and, at the sole cost and expense of said Owner:

(f-1) to perform or cause to be performed all work necessary to remedy the violation of the Work Requirements, whether or not such work shall comply with the plans and specifications for the work theretofore performed by, or on behalf of, such Owner or its tenant (as applicable); and

(f-2) to cause the offending work to be removed and to restore the affected elements to as near as commercially reasonable and economically practicable to their respective former conditions immediately before undertaking the work.

Any dispute hereunder shall be resolved by court action or proceeding, unless the Board (in its sole discretion) consents to, or initiates, arbitration pursuant to Article 6.

Section 3.8.15 Assumption of Obligation and Liability. The Owner or the Condominium Board (as applicable) undertaking the work or is responsible and accountable for the party undertaking the work pursuant to Section 1.3.12 of the Declaration or these By-Laws:

(a) shall assume the obligation to:

(a-1) obtain all required Governmental Work Permits and any other authorizations for the work required by Governmental Authorities having competent jurisdiction;

(a-2) diligently obtain all Governmental Approvals and diligently pursue to close all open applications upon completion of the work;

(a-3) perform the work or cause the work to be performed in accordance with all applicable Work Requirements; and

(a-4) timely pay or cause to be timely paid the Construction Parties, vendors and suppliers of equipment, supplies or material and others engaged in the work in accordance with all contractual requirements; and

(b) shall be liable and accountable for:

(b-1) damage to property (including a Unit and the Common Elements, and the personal property contained in each), bodily injury or death, and damages attributable to the work, the performance of the work and defects therein;

(b-2) the accuracy, suitability and soundness of the work and any plans and specification of the work;

(b-3) a failure of the proper and efficient performance, function, capacity, utility and operation of any facilities affected by the work (excluding permitted temporary interruptions or reductions in a Building Service);

(b-4) the failure in the air and water tightness and weather protection of the Building structure (including the Building walls, windows, storefronts, roofs and/or bulkheads, as applicable) attributable to the work;

(b-5) plumbing leaks attributable to the work;

(b-6) the costs and expenses incurred or paid by an aggrieved party to properly correct such defects; and

(b-7) all claims, litigations, liabilities, losses and damages attributable to:

(b-7.1) the work or the performance of the work (unless attributable to the negligence or intentional wrongdoing of a party seeking recovery, which is excluded from this liability); or

(b-7.2) said plans and specifications of the work; or

(b-7.3) defects (latent and patent, structural and non-structural, extraordinary and ordinary) attributable to the work.

The Payment and Collection Terms shall apply to all amounts to be reimbursed to an aggrieved party under this Section 3.8.16.

Section 3.8.16 Disclaimer. The acceptance or consent of Sponsor or the Condominium Board, or their respective Construction Parties, to the proposed work by or on behalf of an Owner or tenant, or the plans and specifications of the work or any changes thereto, and the Board's executing and/or delivering any applications, forms or other documents of Governmental Authorities having competent jurisdiction with respect to the work, shall not constitute nor be construed to constitute:

(a) an approval, acknowledgement, admission or representation by Sponsor or the Condominium Board, or their respective Construction Parties, of:

(a-1) the proper design, feasibility, suitability, efficiency, accuracy or soundness of: the work or any portion thereof;

(a-2) the compliance of the accepted plans and specifications of the work, or the accepted changes thereto, with or conformity to applicable Laws or Governmental Work Permits; or

(a-3) the ability to obtain any or all required Governmental Work Permits or Governmental Approvals with respect to the work; or

(b) an assumption of liability by Sponsor or the Board, or their respective Construction Parties, for the work or any portion thereof or for the failure of the proper or efficient operation, capacity or utility of:

(b-1) the equipment, fixtures, apparatus, devices, systems or other items involved in the work; or

(b-2) the Building Systems serving the Unit that is the subject of the work, it being understood and agreed that Sponsor and the Condominium Board, and their respective Related Parties and Construction Parties, shall have no such liability.

The foregoing disclaimer shall apply equally to any consent or acceptance of Sponsor given to the Board for any work undertaken by the Board that requires Sponsor's consent or acceptance.

Section 3.8.17 Indemnity. The Owner or the Board undertaking the work or the person undertaking the work for whom the Owner or the Board is responsible or accountable pursuant to Section 1.3.12 of the Declaration, shall indemnify all other Owners and (if the Owner is the indemnitor) the Board, and their respective Related Parties, on the terms set forth in Article 19 of the Declaration, from and

against any and all claims, litigations, liabilities, losses and damages attributable to said work, the performance of the work, any defects in the work, and any violation of the applicable Work Requirements.

If the work being undertaken by the Condominium Board primarily benefits:

(a) all Owners, the amounts payable by the Board under this indemnity shall be included in the General Common Expenses and charged to all Owners pro rata to their respective Common Interests; or

(b) fewer than all Owners, the amounts payable by the Board under this indemnity shall be charged to only the Owner (or if more than one Owner) the Owners (pro rata to their respective Common Interests) for whom the work primarily benefits, as determined by the Board in its sole business judgment.

Section 3.8.18 Damage or Destruction. In the event the work damages or destroys a Unit (including its contents) or a Common Element or an Association's Asset, the party responsible to maintain and repair the damaged or destroyed item, at the expense of the offending party who is undertaking or is accountable for the work, shall with commercially reasonable diligence and continuity to completion, and in accordance with all applicable Work Requirements, repair and restore the impacted areas and facilities to as near as commercially reasonable and economically practicable to its former condition and finish immediately before being destroyed or damaged. The Payment and Collection Terms shall apply to the amounts owed by the offending party to the aggrieved party hereunder.

Section 3.8.19 Limitation on Damages. Notwithstanding anything to the contrary contained herein or elsewhere in these By-Laws or the Declaration, Sponsor, the Board and Owners shall not be accountable or liable for consequential, indirect, incidental, special or punitive damages with respect to violations of the Declaration or these By-Laws (including violations of the Work Requirements or otherwise), other than liability for consequential, indirect, incidental, special and punitive damages owed or paid to unrelated third parties as to which:

(a) a Unit Owner is otherwise responsible to indemnify another Unit Owner or the Board; or

(b) the Board is otherwise responsible to indemnify a Unit Owner; or

(c) Sponsor is otherwise responsible to indemnify an Owner or the Owner's Related Parties or the Board or the Board's Related Parties, which are expressly reserved.

Section 3.9 Insurance.

Section 3.9.1 Requirements for the Condominium Board. From and after the date of recording the Declaration, the Condominium Board shall obtain and maintain the insurance coverages in such amounts and with such deductibles as the Condominium Board may determine from time to time, in its sole business judgment, provided that the insurance coverages shall minimally include such coverage as may be required by any mortgage encumbering a Unit owned by Sponsor existing on the date the Declaration is recorded in the City Register's Office, and shall initially include insurance as set forth in the following Sections 3.9.2 through 3.9.7.

Section 3.9.2 Fire and Casualty Insurance. The Board shall obtain and maintain:

(a) fire and casualty insurance with all risk coverage, vandalism and malicious mischief endorsements, insuring the Common Elements, and covering the interests of the Condominium Board and all Owners and their respective mortgagees, as their respective interests may appear, in an amount equal to one hundred percent (100%) of the full replacement value of the Building (exclusive of foundations, footings and permitted excludible soft costs, such as architect fees, and the build-out of the interior of Units, including trade and other fixtures, appliances, built-ins and other personal property), without deduction for depreciation; but not less than an amount that shall be sufficient for the insurer to waive any co-insurance requirement or is based on an "Agreed Amount" replacement cost (or comparable term), and shall contain (if obtainable):

(a-1) waivers of:

(a-1.1) subrogation in favor of Owners and designated tenants of Units;

(a-1.2) any defense based on co-insurance or other insurance;

(a-1.3) invalidity arising out of the acts of an insured party; and

(a-1.4) pro rata reduction of liability;

(b) a provision that any adjustment of loss will be made by the Condominium Board and that all proceeds will be paid to the Condominium Board or (at the option of the Board) an Insurance Trustee (defined below) appointed pursuant to these By-Laws where the Board is to repair the damaged or destroyed elements in accordance with these By-Laws;

(c) a New York Standard Mortgagee provision in favor of each Registered Mortgagee, subject however to the preceding loss payment provisions in favor of the Condominium Board or (at the option of the Board) Insurance Trustee; and

(d) a provision preventing the policy from being canceled or substantially modified unless at least ten (10) days' prior notice is given to the Condominium Board;

(e) flood and earthquake coverage in amounts, terms and rates to be determined by the Board to be commercially reasonable, adequate and available; and

(f) insurance covering Acts of Terrorism (as defined in the Terrorism Risk Insurance Act of 2002), including any extensions and changes thereof ("**TRIA**"), but only so long as TRIA is in effect or such insurance is available at reasonable commercial rates and terms; it being understood that if such insurance is not available at reasonable commercial rates and terms, any Unit Owner may nonetheless require the Condominium Board to carry such terrorism insurance if such Unit Owner assumes and pays all expenses thereof.

An "**Insurance Trustee**" shall mean an Institutional Lender having both an office in the City and State of New York and a capital surplus and undivided profits of $100,000,000.00 or more.

Before obtaining any policy of property casualty insurance or any renewal thereof, the Condominium Board may, at its option, obtain an appraisal from a property insurance company or otherwise of the full replacement value of the Property for the purposes of determining the amount of such property

casualty insurance to be obtained pursuant to this Section 3.9.2. Any such appraisal of the Building obtained within twelve (12) months preceding the date of issuance of said property casualty insurance policy or a renewal thereof shall suffice for this purpose.

Duplicate originals of all policies of property casualty insurance and of all renewals thereof, together with proof of payment of the premiums, shall be delivered to Sponsor and a Registered Mortgagee of a Unit owned by Sponsor at least thirty (30) days prior to the expiration of the then current policies.

The property casualty insurance shall not cover the decorations or finishes of walls, floors or ceilings of the General Common Elements or the Residential Common Elements or of any Unit not owned, leased or otherwise held by the Board (or its affiliate), or the contents of any such Unit (including its appliances, kitchen and bathroom fixtures (electric, electronic, plumbing, heating, cooling or otherwise), furniture, furnishings, cabinets, countertops, decorations and other personal property).

Section 3.9.3 Liability Insurance. The Condominium Board shall obtain and maintain Commercial General Liability coverage written on the Insurance Services Office form - 1986 or later (containing the so-called "occurrence clause"), or equivalent comprehensive general liability coverage, with respect to ownership, operation, maintenance, use and control, insuring against liability for injury or damage to persons or property in or upon the Common Elements, the sidewalks, and the Association's Assets (including all Units or other property (if any) owned, leased or otherwise held by the Condominium Board, or its affiliate). The Condominium Board may, in its discretion, obtain umbrella liability insurance in such amounts as the Condominium Board may determine from time to time.

The liability coverage shall initially be not less than a combined single limit in the minimum amount of $10,000,000.00 per occurrence/general aggregate, which can be met with a combination of the primary liability and excess liability. The Condominium Board shall review the amounts of liability coverage at least once each budget year.

The liability policies shall list as co-insureds:

(a) the Condominium Board and each and every Manager and Officer thereof;

(b) the managing agent or property manager (if and as applicable);

(c) each agent and employee of the Condominium Board;

(d) each Unit Owner; and

(e) (if required by the terms of a Registered Mortgage of a Unit) the holder of such Registered Mortgage, as their respective interests may appear.

The insurance provided under this Section 3.9.3 shall not cover liability of a Unit Owner arising from occurrences within or on the Owner's Unit, which includes a terrace (if any). This exception shall not apply to any Unit owned, leased or otherwise held by the Condominium Board or its affiliate.

Duplicate originals of all policies of liability insurance and of all renewals thereof, together with proof of payment of premiums for such liability coverage, shall be given to Sponsor, so long as it owns a Unit, within ten (10) days after being requested therefor.

Section 3.9.4 Boiler and Machinery Insurance. The Condominium Board shall obtain and maintain boiler and machinery insurance on facilities constituting part of the Common Elements in an amount not less than $500,000 per accident or the replacement cost; but not any facilities that are part of a Unit (which may be separately insured by the Owner of such Unit).

Section 3.9.5 Workmen's Compensation. The Condominium Board shall obtain and maintain worker's compensation insurance, New York State disability benefits insurance and employer's liability coverage covering any employees hired by the Condominium Board. Each Unit Owner shall be solely responsible to obtain and maintain, at its sole cost and expense, the foregoing insurance for its own employees or contractors.

Section 3.9.6 Other Insurance. The Condominium Board shall also obtain and maintain the following insurance to the extent available at reasonable rates and not otherwise part of any coverage required hereunder:

(a) business interruption insurance, including loss of rents in an amount equal to the Common Charges for at least eighteen (18) months;

(b) water damage legal liability insurance;

(c) elevator liability and collision insurance;

(d) non-owned and hired automobile liability insurance;

(e) combination crime insurance, including blanket employee dishonesty, forgery or alteration, covering the Managers and Officers of the Condominium Board, the managing agent or property manager (if and as applicable) and employees (if any) handling funds of the Condominium Board;

(f) directors and officers liability insurance for Managers and Officers of the Condominium Board, including Employment Practices liability insurance and third party discrimination;

(g) such other or additional insurance as the Condominium Board shall determine from time to time, in its sole business judgment; and

(h) such insurance with respect to the Units, the Common Elements and the Condominium Association as would be reasonably required and which are commonly insured against for such properties most similar to the Property, similarly situated to a prudent lender originating commercial mortgage loans for securitization similar to a then existing mortgage on a Unit owned by Sponsor at the time in question, which insurance shall in all cases comply in all respects with the insurance requirements expressly contained in said then existing mortgage for so long as it encumbers a Unit owned by Sponsor.

Section 3.9.7 Insurance Covering Work Performed by Board. If not covered by insurance policies then maintained by the Condominium Board when it is performing work in or on the Property, the Condominium Board shall also obtain and maintain installation floater coverage in an amount equal to the cost of the contract for such work or shall cause its contractors to maintain equivalent insurance, naming the Condominium Board, all Unit Owners and the Registered Mortgagees as additional insureds as their

interests may appear, except that such insurance shall not be required if the estimated cost of such work is less than One Hundred Thousand Dollars ($100,000) (Adjusted for Inflation, as defined in Section 3.9.9).

Section 3.9.8 Insurance Amounts and Deductibility. To the extent not specified above, all such insurance shall be in such amounts and may provide for such deductible amounts as the Condominium Board may determine from time to time in its sole and absolute discretion to be reasonable and customary for buildings in the vicinity of the Building that are similar in use, size, facilities and amenities of the Building.

Section 3.9.9 Adjustment. All of the above policies shall provide that adjustment of loss shall be made by the Condominium Board and all policies of property casualty insurance shall provide that the proceeds of insurance shall be paid as follows, unless otherwise provided in said loan instruments of a then existing mortgage encumbering a Unit owned by Sponsor (whose provisions shall govern and be followed):

(a) to the Condominium Board, if $1,000,000.00 (Adjusted for Inflation, as defined below) or less; or

(b) (at the sole option and business judgment of the Board) to the Insurance Trustee, which shall be an Institutional Lender chosen and appointed by the Condominium Board, if in excess of $1,000,000.00 (Adjusted for Inflation).

The term "**Adjusted for Inflation**" (or words of similar import) shall mean to adjust the specified dollar amount by multiplying such amount by a fraction, the numerator of which shall be the Consumer Price Index (defined below) for the full calendar month immediately preceding the date of such adjustment, and the denominator of which shall be the Consumer Price Index for the calendar month December of the year immediately preceding the year the Declaration is recorded in the City Register's Office. The "**Consumer Price Index**" shall mean the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor for New York, New York (or the smallest measured area including New York, New York), All Items (1982 84 = 100), or any successor index thereto, appropriately adjusted. If the Consumer Price Index ceases to be published, and there is no successor thereto, such other reasonably similar index as is designated by the Condominium Board shall be substituted for the Consumer Price Index. If the Consumer Price Index is not immediately available, payments to be calculated in accordance with such Index shall be made based on a reasonable estimate of such Consumer Price Index, and any deficiency shall be paid, and any overpayment credited, against the next installment of funds due, immediately after such Consumer Price Index is available.

Section 3.9.10 Payments. In either instance, all such insurance proceeds actually received by the Board or Insurance Trustee (as applicable) shall be held in trust for the benefit of the following and shall be disbursed as provided in Section 3.10:

(a) the Owner and Registered Mortgagees of a Unit in the case of a loss to all or a portion of the Owner's Unit and/or the Limited Common Elements restricted to its exclusive use; or

(b) all Owners and their respective Registered Mortgagees in the case of a loss to the General Common Elements; or

(c) the Owners of the Residential, Parking and Storage Units and their respective Registered Mortgagees in the case of a loss to the Residential Common Elements.

Section 3.9.11 Insurance Trustee's Fees and Disbursements. The fees and expenses of any Insurance Trustee shall be paid by the Condominium Board as a General Common Expense and charged to all Unit Owners pro rata to their respective Common Interests, unless the funds held by the Insurance Trustee benefit only one or more, but not all, Owners, in which case the fees and expenses of the Insurance Trustee shall be charged to only such Owner or Owners (pro rata to their respective Common Interests), as applicable, as a Specially Allocated Expense. The Insurance Trustee shall hold said proceeds as trust funds until paid over or applied as provided in the Declaration and these By-Laws.

Section 3.9.12 Allocation of Insurance Premiums. Unless otherwise expressly provided elsewhere in the Declaration or these By-Laws, the premiums for insurance maintained by the Condominium Board in accordance with this Section 3.9 shall be a General Common Expense and charged to all Unit Owners pro rata to their respective Common Interests**.**

Section 3.9.13 Insurance Requirements for Unit Owners.

Section 3.9.13.1 General Prohibitions. A Unit Owner shall:

(a) not do, permit or suffer any act or omission to occur in or to such Owner's Unit or the Limited Common Elements restricted to its exclusive use that will, with reasonable likelihood, invalidate, or invalidates, or be in conflict with, any public liability, property or other policy of insurance at any time carried by the Condominium Board with respect to the Property, except no such policy maintained by the Condominium Board shall conflict with or prohibit any use of a Unit permitted under the Declaration;

(b) not keep anything in its Unit that is prohibited by the New York City Fire Department, the Board of Fire Underwriters, or a fire insurance rating organization or other Governmental Authority having competent jurisdiction;

(c) not do, permit or suffer a Unit or the Limited Common Elements restricted to its exclusive use to be used in any manner that will, with reasonable likelihood, increase, or increases, the insurance rate for the Property over that in effect on the date of recording the Declaration, unless the Unit's Owner responsible for such increase pays the additional cost thereof as provided below; and

(d) not perform or cause to be performed, or suffer, any permitted work affecting the General or Residential Common Elements without first obtaining and continuously maintaining until the work is completed, at the sole cost and expense of such Unit Owner, the insurance required below.

Section 3.9.13.2 Owner Liability for Default or Higher Rate. Any expenses which shall be imposed upon the Condominium Board by reason of a violation by a Unit Owner in performing or observing its obligations under this Section 3.9.13 or by reason of any increase in the premium charged for insurance carried by the Condominium Board resulting from a higher insurance rate for the Property attributable to a use or occupancy of an Owner's Unit or a portion thereof, but not attributable to a Unit caused merely by the normal use of such Unit permitted by the Declaration, shall be assessed as a Specially Allocated Expense to only such Unit and shall be payable solely by the Owner of such Unit. For all purposes

hereunder, a schedule or "make-up" of rate for the Property issued by the New York Fire Insurance Exchange or other body making fire insurance rates applicable to the Property shall be conclusive evidence of the facts therein stated and of the several items and charges in the fire insurance rate or rates then applicable to the Property.

Section 3.9.13.3 Work by a Unit Owner. A Unit Owner, at such Owner's sole cost and expense, shall maintain, or cause to be maintained by its contractor or otherwise, the following insurance during its performance of any work, other than work not required to comply with the Work Requirements (or such alternate amounts as may be required by the Board based upon the type of work) during its performance of any work:

(a) Workmen's Compensation and Disability Benefits Insurance as required by the Laws of the State of New York and Employer's Liability Insurance;

(b) Commercial General Liability and Products/Completed Operations Coverage to the extent such insurance coverage is not included in a policy maintained by the Condominium Board, including the Condominium Board, its agents, successors and assigns, and any tenant of the Unit as additional insureds with a minimum limit of $5,000,000.00 per occurrence;

(c) Additional Commercial General Liability coverage extensions required: This Insurance is Primary and Non-Contributory as respect to coverage afforded the additional insurance and will be applicable to both the premises and completed operations coverage; Contractual Liability; and Waiver of Subrogation in favor of the Condominium Board and its Related Parties and Unit Owners; and

(d) Installation Floater coverage in an amount equal to the cost of the contract for any work performed in the Common Elements, naming as additional insureds the Unit Owners, the Condominium Board, and any mortgagee of the Unit Owner performing such work, as their interests may appear, except that such insurance shall not be required if the estimated cost of the work in the Common Elements is less than One Hundred Thousand Dollars ($100,000) and is covered by insurance policies maintained by the Condominium Board.

Section 3.9.13.4 Insurance Requirement for Sold Residential Units and Retail Units. Each Owner of a Sold Residential Unit or Retail Unit is to obtain and maintain the following insurance while owning such Unit: Personal Property in the amount of $150,000; Alterations & Additions in the amount of: $150,000; and Personal Liability in the amount of $1,000,000. Such Owner's Property and Liability coverage is to be endorsed to provide a waiver of subrogation in favor of the Condominium Board. These insurance requirements do not apply to Owners of Unsold Residential Units, or Owners of Parking Units or Storage Units.

Section 3.9.14 Waiver of Subrogation. Except for New York Statutory Disability Insurance coverages, all insurance maintained by the Condominium Board, Unit Owners and future tenants under leases of Units entered into after the Declaration is recorded in the Kings County City Register's Office shall contain waivers of subrogation. The Condominium Board and the Unit Owners each hereby waive and agree, and each such future tenant shall conclusively be deemed to have automatically, irrevocably and unconditionally waived and agreed, that it shall make no claim for recovery against each other or against

Owners or tenants of other Units, for damages to, or loss of, the Common Elements and/or any Unit, or any improvements and betterments or personal property thereon or therein, or for recovery of any other injury or damage, to the extent that such damage, injury or loss is covered by any insurance carried by or on behalf of the waiving party. Such waiver of subrogation shall apply to all insurance coverages required to be maintained under these By-Laws, and to any other coverages carried by the parties that waive rights under the immediately preceding sentence, except that this waiver of subrogation will not apply to persons other than the Condominium Board, the Unit Owners, or future tenants under any lease to the extent an insurer will not permit this waiver in favor of any of the foregoing on a commercially reasonable basis. A waiver of subrogation will be effective as to a waiving party even though that waiving party would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and (with respect to property insurance waivers) whether or not the waiving party had an insurable interest in the property damaged. If an insurance policy implicated by the waiver in this Section 3.9.14 does not allow the insured to waive rights of recovery against others prior to a loss, the insured shall cause the policy to be endorsed to provide for this waiver.

Section 3.9.15 General Policy Requirements. The policies of insurance required to be maintained under this Section 3.9 shall meet the following criteria:

(a) the policies of insurance shall be from a company rated in the A.M. Best Key Rating Guide with ratings of at least A- and of at least VI and such company shall be licensed to do business in the State of New York;

(b) the policies shall contain a provision that before any change or cancellation of a policy, at least thirty (30) days' advance notice by certified mail, return receipt requested, shall be given:

(b-1) in the case of insurance maintained by the Condominium Board under Sections 3.9.2 to 3.9.7, to the Condominium Board and (if and to the extent obtainable at reasonable rates) to all Unit Owners and Registered Mortgagees; and

(b-2) in the case of insurance maintained by a Unit Owner under Sections 3.9.13, to the Condominium Board;

(c) all policies required to be obtained by the Condominium Board pursuant to this Section 3.9 shall be renewed or replaced at least ten (10) days prior to the expiration of the then current term;

(d) all policies for property insurance maintained by the Condominium Board under Section 3.9.2 shall contain (if and to the extent obtainable) waivers of subrogation and generally all policies maintained by the Condominium Board shall also cover cross-liability claims of one insured against another insured;

(e) all policies shall acknowledge that all Unit Owners and Registered Mortgagees are deemed additional insureds for any liability insurance and loss payees for property insurance although not individually named, and that the Condominium Board is authorized to sign all checks for payment of proceeds or other instruments required in connection with the processing, payment and settlement of claims and litigations on such Unit Owner's behalf (other than the Unit Owner owning the policy under which

such proceeds are paid, who alone shall have the right to sign said checks and instruments and settle claims and litigation under its policy, subject to the rights of its Registered Mortgagee);

(f) each liability policy shall be endorsed (if obtainable) with a severability of interest endorsement, if not otherwise included, stating that if a claim or litigation is brought by one insured against another insured under such policy, or by an employee of one insured against another insured under such policy, each insured shall be considered a separate insured for purposes of the insurance and shall meet the following additional criteria (if obtainable):

(f-1) the policies shall be written with a contractual liability endorsement, if not otherwise included, providing coverage for bodily injury or property damage assumed under any type of written contract, except any contract under which the insured assumes liability for the sole negligence of an indemnitee; and

(f-2) the policies shall be written to specifically include coverage for legal liability for damage of any part of the Property by fire;

(g) any policies required to be furnished by a Unit Owner pursuant to Section 3.9.13:

(g-1) may be maintained by the Unit Owner under a blanket policy or policies; provided, however, that the minimum amount of the total insurance afforded by such blanket policy which shall be allocable to the Owner's Unit(s) and the work to be performed and any sublimits of such policy allocable to the Unit(s) shall be in amounts which shall not be less than the amounts of the insurance required hereunder and the protection afforded under such policy shall be not less than what would have been afforded under a separate policy or policies;

(g-2) the certificate evidencing such insurance shall contain provisions confirming the foregoing;

(g-3) certificate(s) evidencing the existence of any policy required to be maintained by a Unit Owner under Section 3.9.13 shall be delivered to the Condominium Board with evidence of the payment of the premiums therefor not less than fifteen (15) days prior to the commencement of the work; and

(g-4) at least ten (10) days prior to the expiration or termination date of any policy, the Unit Owner shall deliver a renewal or replacement policy, or (at the option of the Board) certificate(s) evidencing the existence thereof, to the Condominium Board together with proof of the payment of the premium therefor; and

(h) all of the conditions contained in Section 3.9.15 (b) above (other than those contained in Section 3.9.2) are required only to the extent obtainable at reasonable rates from any insurance company meeting the requirements set forth in Section 3.9.15(a) above.

Section 3.9.16 General Insurance Matters. The Condominium Board may amend or waive any of the insurance requirements contained in Section 3.9.13 or Section 3.9.15 from time to time and/or adopt different or additional requirements in lieu thereof without recording an amendment to these By-Laws.

Without limiting the remedies of the Condominium Board for a Unit Owner's violation, in the event that any Unit Owner fails to provide evidence of insurance required to be provided by such Unit Owner hereunder and does not cure such violation within three business days after request therefor is given by or on behalf of the Condominium Board, the Condominium Board shall be authorized (but not required) to procure such coverage in the amounts stated, with all costs thereof to be assessed against such offending Owner's Unit as a Specially Allocated Expense.

Neither the issuance of any insurance policy hereunder, nor the minimum limits specified herein with respect to a Unit Owner's insurance coverage, shall be deemed to limit or restrict in any way such Unit Owner's liability in connection with or arising out of work by such Owner or for whom such Owner is responsible and accountable pursuant to the Declaration or these By-Laws, and the indemnity obligations set forth in the Declaration and these By-Laws.

Each Unit Owner may carry for such Owner's own benefit insurance which is in addition or supplemental to that required herein; provided, however, that the insurance coverage for the Condominium Board and other Unit Owners pursuant to this Section 3.9 shall not be diminished or otherwise adversely affected by reason of any such additional or supplemental insurance carried by such Unit Owner.

The coverages required under this Section 3.9 shall be increased upon the reasonable request of a Registered Mortgagee from time to time; provided, however, that the entire amount of the increase in premiums resulting from such increased coverages shall be charged as a Specially Allocated Expense to only the Owner of the Unit encumbered by the Registered Mortgage held by such Registered Mortgagee.

Section 3.10 Destruction or Damage.

Section 3.10.1 Substantial Destruction or Damage. In the event three-fourths or more of the Units, the Building's structural components and the Building Services comprising the General, Residential and Retail Common Elements, or the rentable square footage of the Units, are destroyed or substantially damaged so as to require re-construction ("**Substantial Destruction or Damage**"), the Unit Owners shall conclusively be deemed to have irrevocably and unconditionally duly resolved to proceed with the repair, regardless of the adequacy of the Net Insurance Trust Funds (defined below) to repair the destruction or damage, unless not less than eighty percent (80%) of all Unit Owners (including both Retail Owners), in number and Common Interest, authorize to withdraw the Property from the Condominium Act within a deadline of sixty (60) days thereafter, in which case Section 3.12 shall apply. In all other cases, the Board shall repair the destruction or damage to the Common Elements in accordance with the terms of this Section 3.10.

The term "**Net Insurance Trust Funds**" means the proceeds of insurance policies received by the Condominium Board from the insurers issuing insurance policies maintained by the Board by reason of a casualty, after deducting all commercially reasonable fees and expenses incurred by the Condominium Board to collect said insurance proceeds.

Section 3.10.2 Board Authority. All Owners hereby irrevocably appoint and designate the Condominium Board having the sole and exclusive power and duty to arrange and make all decisions to

repair the destroyed or damaged General, Residential and Retail Common Elements in accordance with this Section 3.10, including:

(a) to engage all Construction Parties and to monitor all work;

(b) to have all powers and duties of a board of directors of a New York corporation that owns a building located in the vicinity of Building which is most similar in use, size, facilities and amenities of the Building; and

(c) to implement said powers and duties on behalf of all Owners without their further consent.

The Condominium Board shall perform its duties under this Section 3.10 with ordinary prudence and in a manner characteristic of business persons in similar circumstances, but the Condominium Board and the Board's Related Parties shall not be responsible or accountable to the Unit Owners for any claims, liabilities, litigations, losses or damages (including Legal Expenses) due to, or caused by, any act or omission arising from a mistake in business judgment, or any act or omission which is believed in good faith and fair dealing to be in the best interests of the Condominium Association. Nothing herein shall excuse a Manager or Officer from liability for his or her Malfeasance.

Section 3.10.3 General, Residential and Retail Common Elements. In all cases in which the destruction or damage to the Building is to be repaired, the Condominium Board, with commercially prompt diligence and continuity to completion in accordance with the Work Requirements, shall have the exclusive authority to act on behalf of all Owners to implement all repairs to the destroyed or damaged General, Residential and Retail Common Elements necessary to provide all Building Services to each affected Unit and to restore the impacted General, Residential and Retail Common Elements to as near as commercially reasonable and economically practicable to their respective conditions existing immediately prior to the destruction or damage, except to the extent limited by any changes in Laws or otherwise mutually agreed to by all affected Owners.

Section 3.10.4 Order of Priority of Repairs to General, Residential and Retail Common Elements. All work to repair the destroyed or damaged General or Residential Common Elements shall be performed to the extent reasonable and economically practicable in the following order of priority and in appropriate progress payments to contractors, vendors and suppliers engaged to repair said destruction or damage, as determined in the sole business judgment of by the Condominium Board:

(a) first, in or to those General, Residential and Retail Common Elements that provide structural support to any one or more Units;

(b) second, in or to those General, Residential and Retail Common Elements that provide air and water tightness and weather protection to all Units;

(c) third, in or to those General, Residential and Retail Common Elements that provide Building Systems and Building Services to all Units;

(d) fourth, in or to those General, Residential and Retail Common Elements that provide legal access of each Unit to the street or to the General, Residential and Retail Common Elements that lead to a street;

(e) fifth, in or to those General, Residential and Retail Common Elements that are required to legally use and occupy all Units for the purpose set forth in the Declaration; and

(f) sixth, in or to the Association's Assets (if any).

Section 3.10.5 Construction Parties. The Construction Parties engaged by or on behalf of the Condominium Board to perform the repair and restoration shall be duly licensed and who, or one or more of whose principals, have at least ten (10) years recent experience in the construction or repair of Brooklyn or Manhattan buildings similar in use, size, facilities and amenities to the Building.

Section 3.10.6 Plans and Specifications. The plans and specifications to repair and to restore the impacted General, Residential and Retail Common Elements, as provided in Section 3.10.4, shall be prepared by the architect chosen by the Board in accordance with the instructions given by the Condominium Board.

Section 3.10.7 Insurance. During the course of the work, the Board may maintain builder's risk insurance and such other insurance as the Board considers appropriate. The Condominium Board shall adjust, compromise and settle all claims and litigations with the insurers under the insurance policies maintained by the Board. If the casualty involves only one Unit and does not involve or affect or impact another Unit or the General, Residential or Retail Common Elements, the Owner of such Unit shall have the exclusive power to adjust, compromise and settle the claims and litigations with said insurers.

The Net Insurance Trust Funds received by the Condominium Board shall be held in trust for the benefit of all Owners and their respective Registered Mortgagees, and shall be disbursed pursuant to the terms of this Section 3.10.

Section 3.10.8 Cooperation. The Condominium Board and all Owners shall reasonably cooperate with the Construction Parties engaged in the work, including allowing commercially prompt and continuous access to the General, Residential and Retail Common Elements and each Unit on an emergency basis in order to perform and complete the work to repair and restore the impacted General, Residential and Retail Common Elements expeditiously.

Each Owner whose Unit, or any portion thereof, shall be impacted by any work to be performed by the Board, shall be kept reasonably informed as to the scheduling and progress of the work, but may not supervise, observe, monitor or otherwise impair or interfere with the performance of such work.

Section 3.10.9 Units and Limited Common Elements. In the case of destruction or damage to a Unit and/or the Limited Common Elements restricted to its exclusive use, the affected Owner of such Unit, at its sole cost and expense, with commercially prompt diligence and continuity to completion, and with Construction Parties chosen and engaged by it, shall do as follows in accordance with the applicable Work Requirements and the requirements of its Registered Mortgage (if any) to the extent not inconsistent with this Section 3.10.9:

(a) remove any rubble and debris resulting from such casualty, and implement and perform all work to the Unit and/or said Limited Common Elements necessary to avoid damage to another Unit or the General, Residential and Retail Common Elements, or bodily injury or death;

(b) thereafter, at its election, either:

(b-1) repair its Unit and/or said Limited Common Elements so destroyed or damaged to tenantable and usable condition in compliance and conformity with applicable Laws and standards generally applicable to high end mixed-use residential and retail buildings in the vicinity of the Building and most similar in use, size, facilities and amenities to those of the Building, and the provisions of the then existing leases of its Unit (if any); or

(b-2) repair its Unit and/or said Limited Common Elements to a safe and secure condition in compliance with applicable Laws and with complete and neat interior walls, partitions, doors and windows that are visible from the street, or another Unit or the General, Residential and Retail Common Elements, including any appropriate alterations that shall be consistent with the aesthetics, architectural integrity and appearance that existed prior to such destruction or damage; and

(c) implement and perform such other work to repair its Unit and/or said Limited Common Elements as shall be required to avoid or eliminate any other adverse effect on the use and enjoyment of another Unit and the General, Residential and Retail Common Elements beyond a *de minimis* extent.

Section 3.10.10 Allocation of Net Insurance Trust Funds. The Condominium Board shall allocate the Net Insurance Trust Funds in proportion to the costs estimated by the Construction Parties engaged by the Board to repair the elements comprising:

(a) the General, Residential and Retail Common Elements, and the Association's Assets; and

(b) (to the extent insured and insurable by the Board) the Units (other than removable furniture, furnishings, cabinets, decoration and other personal property of the Owners and tenants of the Units).

During the progress of the work, these estimates may be adjusted from time to time by the Board as necessary to correspond to the actual total costs to repair and restore said damaged or destroyed General, Residential and Retail Common Elements and (if insured and insurable) Units. Any increase in these estimates caused by Unavoidable Causes shall be allocated to the affected General, Residential and Retail Common Elements, and (if applicable) the affected Units in proportion to their respective estimated costs to repair and restore, as they may be adjusted. However, any increase in these estimates caused by changes requested by an Owner or the acts or omissions of an Owner or for whom the Owner is responsible or accountable pursuant to Section 1.3.12 of the Declaration or these By-Laws, shall be borne by, and assessed by the Condominium Board as Additional Common Charges to, such Owner.

Section 3.10.11 Insufficient Net Insurance Trust Funds. If the Net Insurance Trust Funds shall be insufficient to pay the expenses to repair and restore the destroyed or damaged items (including the fees and expenses of the Construction Parties, the expenses of equipment, materials and supplies, and Legal Expenses) the deficit shall allocated in proportion to the their estimated costs to repair and restore, as they may be adjusted, as determined pursuant to Section 3.10.10. The deficit allocated to a destroyed or damaged:

(a) General Common Element or Association's Asset, shall be assessed to all Owners, pro rata to their respective Common Interests;

(b) Residential Common Elements, shall be assessed to all Residential, Parking and Storage Owners only, pro rata to their respective Common Interests;

(c) Retail Common Element, shall be assessed to the Retail Owners only, pro rata to their respective Common Interests; or

(d) Unit and/or its Limited Common Element, shall be assessed to only the applicable Owner thereof.

Section 3.10.12 Surplus Net Insurance Trust Funds. If upon completion of the work and payment in full of all expenses thereof, any surplus Net Insurance Trust Funds shall be distributed in the following order of priority:

(a) first, to the Owners (pro rata to their respective contributions) who contributed to a deficiency in the Net Insurance Trust Funds allocable to the destroyed or damaged General Common Elements and/or Association's Assets caused by the failure of one or more other Owners to pay the amount of such deficiency assessed to such Owner or Owners (if and as applicable);

(b) second, to the Residential Owners (pro rata to their respective contributions) who contributed to a deficiency in the Net Insurance Trust Funds allocable to the destroyed or damaged Residential Common Elements caused by the failure of one or more other Residential Owners to pay the amount of such deficiency assessed to such other Residential Owner or Owners;

(c) third, to the Retail Owner who contributed to a deficiency in the Net Insurance Trust Funds allocable to the destroyed or damaged Retail Common Elements caused by the failure of the other Retail Owner to pay the amount of such deficiency assessed to such other Retail Owner; and

(d) fourth, any remaining balance thereof shall be allocated in proportion to the actual costs to repair and restore the destroyed or damaged General Common Elements, Association's Assets, Residential Common Elements, Retail Common Element and (if applicable) Units, and paid in the following order of priority:

(d-1) first, the amount allocated to the affected General Common Elements and/or affected Association's Assets shall be paid to all Owners pro rata to their respective Common Interests;

(d-2) second, the amount allocated to an affected Residential Common Element shall be paid to all Residential Owners pro rata to their respective Common Interests;

(d-3) third, the amount allocated to an affected Retail Common Elements shall be paid to the Retail Owners pro rata to their respective Common Interests; and

(d-4) fourth, the amount allocated to an affected Unit shall be paid to the Owner thereof, subject however to claims by holders of liens on each such Owner's Unit in the order priority of such liens.

Section 3.10.13 Abatement in Common Charges. If, through no fault of a Unit Owner or for whom a Unit Owner is responsible or accountable pursuant to Section 1.3.12 of the Declaration or these By-Laws, a destruction or damage to the General Common Elements and/or the Residential Common

Elements and/or the Retail Common Element renders a Unit wholly or partially unusable or non-tenantable for the purposes permitted in the Declaration, or the means of reasonable access thereto is prevented, the Common Charges otherwise payable by the Owner thereof shall proportionately abate until such Unit shall again be rendered useable or tenantable for the purposes permitted in the Declaration and/or until the means of reasonable access thereto shall be restored, as the case may be. The amount of abatement shall be determined by the Condominium Board based on:

(a) the net amount not recovered by the Board and the affected Owner from insurance maintained by each;

(b) the resulting increase in Common Charges assessed to other Owners by reason thereof not being unduly economically burdensome; and

(c) equitable considerations, as determined by the Board in its sole discretion.

The foregoing notwithstanding, if the destruction or damage shall be caused by an act or omission of the impacted Unit Owner or for whom a Unit Owner is responsible or accountable pursuant to Section 1.3.12 of the Declaration or these By-Laws, the Common Charges otherwise payable by such Owner shall abate to the extent only of any net proceeds of business interruption or similar insurance actually collected by the Condominium Board with respect to such Owner's affected Unit, after deducting all expenses of collection thereof.

If the Common Charges of a Unit is abated, such abatement shall not excuse the other Unit Owners from the obligation to pay the full amount of the Common Expenses assessed by the Board to such other Unit Owners, including their respective pro rata share of the amount abated to the affected Unit.

Section 3.10.14 Disputes. Any dispute under this Section 3.10 shall be resolved by court action or proceeding, unless the Board (in its sole discretion) consents to, or initiates, arbitration pursuant to Article 6.

Section 3.11 Condemnation or Eminent Domain.

Section 3.11.1 Taking Generally. If an Owner or the Board receives notice that all or any part of the Property has been taken or is to be condemned or taken through the exercise of the power of eminent domain by a Governmental Authority ("**Taking Authority**"), whether temporarily or permanently (herein called "**Taken**" or a "**Taking**"), such Owner (if it receives said notice) shall so notify the Board (which shall notify the other Owners), or the Board (if it receives said notice) shall so notify all Owners.

Section 3.11.2 Substantial Taking. A "**Substantial Taking**" is a:

(a) Taking of such portion of the Property that would leave the balance of the Property economically impracticable to accommodate a new or reconstructed building most similar in use, size, facilities and amenities to the Building existing at the date of the Taking due to then existing economic conditions, zoning Laws, and the codes, regulations and requirements of Governmental Authorities having competent jurisdiction or otherwise; or

(b) Taking of seventy-five percent (75%) or more of the rentable square footages of the aggregate square footages of all Units.

In the event of a Substantial Taking of the Property, the award for damages or compensation given by the Taking Authority payable as a result of the Taking ("**Award**"), after deducting the commercially reasonable fees and expenses incurred by the Condominium Board and all Owners in determining and collecting the Award ("**Net Award**"), shall be distributed to each Owner in the proportion that the then existing fair market value of its Unit together with its appurtenant Common Interests bears to the aggregate of the then existing fair market values of all Units together with their respective Common Interests, as determined by the Taking Authority. Each Unit Owner shall have the right to pursue a separate claim against the Taking Authority for its share of the Net Award, which may include an Award for all individual facilities and customized changes and improvements that are appurtenant to the Owner's Unit, as well as for relocation and moving expenses and similar allowances designed to facilitate relocation of a displaced business concern.

Section 3.11.3 Withdrawal from Condominium Ownership. In the event of a Substantial Taking and not less than eighty percent (80%) of all Owners (including both Retail Owners), in number and Common Interest, of the remaining Units not Taken authorize to withdraw the remaining portion of the Property from the Condominium Act, then the provisions of Sections 3.12.2 and 3.12.3 shall apply to the portions of the Property not Taken, it being understood and agreed that the fair market value of each Unit and its appurtenant Common Interest shall be based on the fair market values of said remaining portion of the Units not Taken and their respective appurtenant Common Interests, as adjusted pursuant to Section 3.11.6.

Section 3.11.4 Destruction or Damage. In the event of a Taking that is not a Substantial Taking, the Condominium Board and the Unit Owners shall fully cooperate with each other and cause the portion of the Property not Taken that is destroyed or damaged by reason of such Taking to be repaired and restored with prompt diligence and continuity to completion to as near as commercially reasonable and economically practicable to the condition existing immediately before the Taking. Such destruction or damage to the portion of the Property not Taken shall be repaired on all of the same terms applicable to repair the destruction or damage to the General, Residential and Retail Common Elements following a casualty set forth in Section 3.10 above, except all references therein to the Net Insurance Trust Funds shall mean the Net Award and any insurance proceeds collected by the Board from insurance policies maintained by the Board by reason of the destruction or damage caused by the Taking. Similarly, the abatement in Common Charges set forth in Section 3.10.13 shall apply to the Owner of a Unit that, through no fault of such Owner or for whom such Owner is responsible or accountable, is rendered wholly or partially unusable or non-tenantable for the purposes permitted in the Declaration, or the means of reasonable access thereto is prevented, by reason of said destruction or damage. Nothing contained herein shall impair the right of a Unit Owner to pursue a separate claim against the Taking Authority for its share of the Net Award as provided in Section 3.11.2.

Section 3.11.5 Lien Priority. Any payment to an Owner of any Net Award for a Taking shall first be applied to pay off all unpaid liens on the Owner's Unit (including the liens of mortgages and the

lien of the Condominium Board) in the order of priority of such liens, except if such Owner paid an assessment levied by the Board for a projected deficiency in the amount of the Net Award available to fully repair and restore the destroyed or damaged General, Residential and Retail Common Elements, any portion of the Net Award that remains unspent after paying all expenses incurred to complete the repair and restoration, shall be deemed to be, and shall constitute, an excessive assessment and shall be refunded to such Owner in proportion to the amount so assessed, free of any claim of any lienor, other than the lien of the Condominium Board and subject to the rights of a Registered Mortgagee set forth in its Registered Mortgage.

Section 3.11.6 Adjustment of Common Interests. If a portion of the Property Taken is no longer subject to the Declaration or these By-Laws and the Property shall not be subject to a partition action as provided in Section 3.12.2, then the Common Interest of each Unit affected by such Taking shall be eliminated (if an entire Unit is Taken) or proportionately reduced (if only a portion of a Unit is Taken) and the Common Interests appurtenant to all other Units shall proportionately be increased by the amount of change in Common Interest of the affected Unit so that the total Common Interests of all remaining Units shall equal 100%. All such proportionate changes in Common Interests shall be based on the same factors used originally to determine the Common Interests as set forth in Article 8 of the Declaration. Any dispute that may arise hereunder shall be resolved by court action or proceeding, unless the Board (in its sole discretion) consents to, or initiates, arbitration pursuant to Article 6 below.

All changes in Common Interests to the Units shall be reflected in a duly recorded amendment to the Declaration prepared by an attorney chosen by the Condominium Board. The change to the floor area of each Unit affected by a Taking shall be reflected in an amendment to the Floor Plan of such Unit prepared by an architect or engineer chosen by the Condominium Board. The amendment to the Declaration shall be executed and acknowledged in recordable form by the required Officers together with the remaining Unit Owners and holders of recorded liens on such Units in accordance with Article 4. In lieu of executing the amendment, such Unit Owners and lienors may execute and acknowledge in recordable form a separate consent which shall be attached to the amendment.

Following said Taking of all or a portion of a Unit, the number of Owners, Units and Common Interests shall be based upon the resulting changes in Owners, Units and Common Interests for quorum and voting purposes.

Section 3.12 Termination of Condominium.

Section 3.12.1 Condominium Termination Events. The Condominium shall terminate when not less than eighty percent (80%) of all Owners (including both Retail Owners), in number and Common Interest, authorize (by vote at a duly convened meeting of Owners at which a quorum is present or in writing in lieu of a meeting) to withdraw the Property from the Condominium Act, whether voluntarily or after a Substantial Destruction or Damage as provided in Section 3.10, or after a Substantial Taking of the Property by condemnation or eminent domain as provided in Section 3.11; provided, however, that a decision of an Owner to withdraw the Property from the Condominium Act shall not be effective or counted without

obtaining the consent of the holder of each Registered Mortgage on such Owner's Unit, if such Registered Mortgage so expressly provides.

The Condominium Board and its affiliate shall have no voting rights with respect to any Units owned by each of them and such parties and Units shall be excluded from the base number of Owners, Units and Common Interests for quorum and voting purposes in determining whether such eighty percent (80%) threshold is met.

Section 3.12.2 Partition. Upon the occurrence of any termination event listed in Section 3.12.1, the Property (including the portion not Taken by the Taking Authority) shall be subject to an action for partition by any Unit Owner or lienor as if owned in common. In such case, the net proceeds of sale resulting from such action for partition, together with the net proceeds of any insurance maintained by the Board, after deducting all reasonable costs and expenses, together with any Legal Expenses paid or incurred by the Board in connection therewith (including, if and to the extent necessary, the expenses to install a fence on and along the Property line, raze and remove the Building, and otherwise make the Building secure and safe), shall be regarded as one fund and shall be divided among all of the Unit Owners pro rata to their respective Common Interests after first paying out of such Owner's share of such funds, such amounts as may be necessary to discharge all unpaid liens on said Owner's Unit in the order of the priority of such liens, and thereupon the provisions of Sections 3.12.3 through 3.12.5 shall automatically and irrevocably apply.

Section 3.12.3 Pooled Sale/Insurance Proceeds. The Unit Owners acknowledge and agree that the division of the net proceeds of a partition sale pro rata to each Unit's Common Interest in accordance with Section 3.12.2 would be inequitable and result in a windfall to one or more Owners at the expense of the other Owner(s). Accordingly, in the event of the partition and sale of the Property pursuant to the preceding Section 3.12.2, each Owner hereby irrevocably, automatically, unconditionally and conclusively:

(a) assigns and transfers to itself and to all other Owners the net proceeds to be paid to it on said partition sale, including its share of the net proceeds of any insurance maintained by the Condominium Board; and

(b) covenants and agrees that:

(b-1) said net proceeds so assigned and transferred by it and the other Owners (hereafter, "**Pooled Sale/Insurance Proceeds**") shall be divided among all Owners pro rata to the then existing respective fair market values of their respective Units and Common Interests, as provided in the following Section 3.12.4; and

(b-2) the foregoing assignment and transfer of said net proceeds of a partition sale and insurance by each Unit Owner and the division of the Pooled Sale/Insurance Proceeds among all Owners as provided in the preceding clause (b-1), shall be regarded as valid, enforceable and binding upon, and shall inure to the benefit of, all Owners and their respective heirs, legatees, distributees, executors, administrators, legal representatives, successors and assigns, as covenants running with the Land and every interest and estate therein to the full extent permitted by any applicable Laws, with the same force and effect as if, immediately after recording the Declaration and these By-Laws,

all Owners had duly signed, acknowledged and recorded in the City Register's Office an instrument agreeing to these provisions as covenants running with the Land.

Sponsor, as the initial Owner of all Units and each and every other Owner, at the time in question, upon accepting or recording a deed or otherwise succeeding to title to a Unit, shall conclusively be deemed to have automatically, irrevocably and unconditionally covenanted and agreed to the foregoing with the same force and effect as if Sponsor and each and every Owner shall have duly signed, acknowledged and recorded in the Kings County City Register's Office a separate instrument accepting and ratifying same.

Section 3.12.4 Fair Market Value. The fair market value of each Unit and its Common Interest for the purpose of dividing the Pooled Sale/Insurance Proceeds in accordance with the preceding Section 3.12.3 shall be based on the highest and best permitted use of each Unit, as determined by a qualified appraiser pursuant to Section 3.12.5, assuming:

(a) each Unit shall at the time be used for the most valuable permitted use as a rental with one or more hypothetical space leases held by creditworthy tenants for the highest fair market rent, multiplied by the most favorable market capitalization rate for such permitted use, but in no event less than the highest fair market price of such Unit in a sale transaction;

(b) the Owner is not subject to any time constraint or compulsion to sell and the purchaser is not subject to any time constraint or compulsion to purchase;

(c) the Unit is in its then existing condition or (in the case of a Substantial Destruction or Damage, or a Substantial Taking) in the condition existing immediately prior to such Substantial Destruction or Damage, or a Substantial Taking, after deducting any Net Insurance Trust Funds or Net Award payable or paid to the Owner of such Unit; and

(d) a then current market rate secured loan is available to a purchaser to finance the acquisition.

Section 3.12.5 Determination of Fair Market Value. The fair market value of each Unit and its Common Interest and the Limited Common Elements restricted to its exclusive use shall be determined by a single, duly licensed commercial real estate broker or appraiser chosen by the Condominium Board who, or one or more of whose principals, have at least ten (10) years' recent experience in selling or appraising the sale of buildings located in general vicinity of the Building and similar in use, size, facilities and amenities to the Building ("**Qualified Appraiser**").

Section 3.12.6 Limitation on Power of Designated Appraiser. The Qualified Appraiser shall comply with the requirements set forth in Section 3.12.4 and shall not have the power to vary or modify or change in any manner any of such requirements, it being intended and agreed that the power of the Qualified Appraiser shall be limited accordingly.

Section 3.12.7 Binding Effect. The decision of the Qualified Appraiser shall be controlling and binding on all Owners.

Section 3.13 Unit Sales, Conveyances and Leasing.

Section 3.13.1 Sale Restrictions Applicable to All Units. The following requirements and restrictions apply to sell, transfer or convey a Unit:

Section 3.13.1.1 Current in Common Charges. The Owner of the Unit must be current, within the applicable grace period, in the payment of all Common Charges (including Additional Common Charges*)* levied by the Condominium Board against the Unit.

Section 3.13.1.2 Deed Requirement. The deed conveying the Unit shall expressly state or provide, and notwithstanding the failure to so expressly state or provide, shall conclusively be deemed to irrevocably and unconditionally state and provide as follows with the same force and effect as though set forth at length in the deed:

> This Unit is subject to the powers, duties, easements, requirements, burdens, encroachments, limitations and restrictions contained in the Declaration, the By Laws and the Rules and Regulations of the Condominium establishing The Calyer Greenpoint, as each may be duly amended from time to time, 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. By accepting this deed, Grantee shall conclusively be deemed to automatically, irrevocably and unconditionally: (a) accept, ratify and assume the terms of the Declaration, the By-Laws and the Rules and Regulations, as each may be duly amended from time to time; (b) agree to comply with all the terms thereof; (c) designate and appoint Sponsor, the Condominium Board and the Development Rights Owner, separately, as Grantee's agent; and (d) grant each such agent with all authority and power to do or perform as agent of Grantee all subjects and matters applicable to such agent set forth in Article 12 of the Declaration.

Section 3.13.1.3 Combined Ownership. The conveyance of title to a Unit shall be for the entire Unit and its appurtenant Common Interest. An Owner shall not execute any deed, mortgage or other instrument conveying or securitizing title to the Owner's Unit without including therein its appurtenant Common Interest. In no event such combined ownership be severed. Any deed, mortgage or other instrument purporting to affect only title to a Unit shall automatically be taken to include its appurtenant Common Interest, even though the latter shall not be expressly mentioned or described therein, and vice versa. Similarly, no part of the Common Interest appurtenant to any Unit may be sold, conveyed, transferred, mortgaged or otherwise securitized, except as part of a sale, conveyance, transfer, mortgage or securitization of the Unit to which such Common Interest is appurtenant.

Section 3.13.1.4 Foreign Government and Diplomat. The sale, transfer or conveyance of a Unit to a Foreign Government or Diplomat shall be subject to the Foreign Government or Diplomat complying with Article 14 of the Declaration whereby (among other things) such party waives diplomatic immunity and designates an agent for service of legal process and, at or before recording the deed of conveyance, duly executes and delivers to the Board an instrument (in form and substance acceptable to the Board) wherein the Foreign Government or Diplomat (as applicable) irrevocably and unconditionally confirms and agrees that such waiver of diplomatic immunity and designation of agent for service of legal process, as provided in said Article 14 of the Declaration, are valid, fully enforceable in accordance with its terms and legally binding upon such party, without defense.

Section 3.13.1.5 Foreign Person. The sale, transfer or conveyance of a Unit to a Foreign Person shall be subject to the Foreign Person complying with the provisions of Article 15 of the Declaration whereby, among other things, such party (if an entity) designates the Secretary of State of the State of New York as agent for service of legal process on it or (if an individual) signs and delivers to the Condominium Board either:

(a) an instrument (in form and substance acceptable to the Board) designating an attorney admitted to practice and maintaining an office in the State of New York as agent for service of legal process on such individual; or

(b) a certificate or other instrument from a New York company whose business is to serve as agent for service of process evidencing it is acting agent for service of process on such individual.

Section 3.13.1.6 Remedy for Violation. The failure to comply with any of the requirements and restrictions contained in this Section 3.13.1 shall be grounds for the Condominium Board, among other rights and remedies available at law and in equity and those contained in these By-Laws, to withhold giving the certificate of waiver or exemption from the Board's Right of First Refusal to purchase the Unit and an estoppel certificate certifying as to the status of payment by the Unit Owner of Common Charges and the status of any violations by the Unit Owner of the Condominium Documents, without any manner of recourse against the Board or other Unit Owners, or their respective Related Parties, by reason thereof.

Section 3.13.2 Lease Restrictions. The following restrictions apply to lease Residential, Parking and Storage Units:

(a) the proposed lease of a Sold Unit or an Unsold Unit shall not be consummated unless and until the Owner of such Unit is current, within the applicable grace period, in the payment of all Common Charges (including Additional Common Charges) levied by the Condominium Board against the Unit;

(b) the lease of a Sold Unit, but not the lease of an Unsold Unit or a Retail Unit, shall expressly state and provide, and shall conclusively be deemed to irrevocably and unconditionally state and provide, as follows with the same force and effect as though set forth at length in the lease, and the failure to so expressly state and include these provisions on the lease shall not affect their validity or enforceability:

> This lease is subordinate to the Declaration of Condominium establishing The Calyer Greenpoint, located at 171 Calyer Street, Brooklyn, New York, and the Exhibits attached thereto (including the By-Laws, the Rules and Regulations and the Glossary), which are hereby incorporated herein with the same force and effect as though set forth at length. The meanings given to the capitalized terms and the lower case words contained in Section 1.2 "Glossary" of the Declaration shall apply when such terms are used herein. The acceptance of this lease by Tenant shall constitute an acceptance, ratification and assumption of, and an agreement to comply with, all of the terms of the Condominium Documents.
>
> In the event of any conflict, inconsistency or ambiguity between the terms of this lease and the terms of the Condominium Documents, the conflict, inconsistency or ambiguity shall be resolved in accordance with the terms of the Condominium Documents, which shall govern and control.

This lease cannot be amended or extended without obtaining the consent of the Condominium Board in each instance.

Tenant cannot transfer or assign Tenant's interest in this lease or sublet the Unit demised hereunder or any part thereof without obtaining the consent of the Condominium Board in each instance.

The Unit demised under this lease shall be used and occupied only in accordance with the terms set forth in the Declaration, and for no other purpose, and in compliance with the other requirements and restrictions set forth in the Declaration, including the General Requirements as defined and contained therein, and the By-Laws.

Pursuant to RPL §339-kk, upon written notice from the Condominium Board to the Tenant of a Residential Unit that landlord-Owner has failed to make payments due the Condominium Board for Common Charges, Special Assessments or other Additional Common Charges (including late fees) for the Residential Unit within sixty (60) days of the expiration of any grace period after they are due, Tenant shall immediately and thereafter make all rental payments under this lease directly to the order of the Condominium Board at the address listed in the notice. From and after the time Tenant receives written notice from the Condominium Board that landlord-Owner is once again current in payments of Common Charges, Special Assessments or other Additional Common Charges (including late fees), all rental payments shall be made payable to the order of landlord Owner at the address provided by landlord-Owner. Tenant's rental payments to the Condominium Board in accordance with the foregoing shall be an absolute defense in any action or nonpayment proceeding commenced by landlord-Owner against Tenant for such rent in accordance with RPL §339-kk. Landlord-Owner covenants and agrees not to undertake any action or proceeding in violation hereof or RPL §339-kk.

The Condominium Board shall have the power to terminate or cancel this lease and to bring summary proceedings to evict or remove the Tenant hereunder in the name of the landlord-Owner in the event of: (i) a violation by Tenant of any of the provisions of the Declaration, the By-Laws or the Rules and Regulations, as each may be duly amended from time to time, unless remedied within the applicable grace period (if any); (ii) a foreclosure by the Condominium Board of its lien against said landlord-Owner's Unit in which the demised premises forms a part pursuant to Section 339-aa of the Condominium Act or the By-Laws; or (iii) the purchase or acquisition of said Unit by the Condominium Board or its nominee or designee, whether pursuant to the By-Laws or otherwise.

The foregoing provisions of this lease are for the benefit of, and shall be enforceable by, the Condominium Board as a third-party beneficiary and cannot be amended without the consent of the Condominium Board and any purported change thereto shall be null and void *ab initio*.

(c) each lease of a Sold Unit, but not a lease of an Unsold Unit:

(c-1) (in the case of a Sold Residential Unit) shall be in the then current prevailing form of lease of a residential condominium unit for non-regulated multiple dwellings in The City of New York (or other printed form of lease approved in writing by the Condominium Board, in its sole and absolute discretion), subject to such modifications as may be approved in writing by the Condominium Board (in its sole and absolute judgment);

(c-2) shall be for a term of not less than one year (unless the Condominium Board consents in writing to a shorter term or the lease is to a member of an Owner's immediate family or an officer, director, shareholder, member, partner, executor, administrator, guardian, legal representative, trust maker or beneficiary, government official or employee of the Owner of the Unit, or a member of the immediate family of any of the foregoing);

(c-3) shall not be amended, renewed or extended without obtaining the consent of the Condominium Board in each instance;

(c-4) shall not permit the Tenant to assign or transfer tenant's interest in such lease and if the Tenant is an entity, shall not permit the sale, assignment and/or transfer by the holder or holders of a Controlling Interest in such entity;

(c-5) shall not permit the Tenant to sublet the Unit demised thereunder or any part thereof, without obtaining the consent of the Condominium Board in each instance; and

(c-6) shall restrict the Sold Unit to be used only for the purposes set forth in the Declaration, and for no other purpose, and to be occupied in strict compliance with Article 9 of the Declaration;

(d) each lease of a Sold Unit or an Unsold Unit shall be for the entire Unit and not a portion thereof; and

(e) at or prior to entering into a lease with:

(e-1) a Foreign Government or Diplomat, or assigning or transferring a lease to a Foreign Government or Diplomat, of a Residential, Parking or Storage Unit, such Foreign Government or Diplomat (as applicable) shall comply with the terms of the Article 14 of the Declaration whereby, at or before executing the lease or the assignment or transfer of the lease, the Foreign Government or Diplomat (as applicable) shall duly execute and deliver to the Board an instrument (in form and substance acceptable to the Board) wherein the Foreign Government or Diplomat (as applicable) irrevocably and unconditionally confirms and agrees that the provisions of Article 14 of the Declaration are valid, fully enforceable in accordance with its terms and legally binding upon it, without defense; or

(e-2) a Foreign Person, or assigning or transferring a lease to a Foreign Person, such Foreign Person shall comply with the terms of Article 15 of the Declaration whereby, at or before executing the lease or the assignment or transfer of the lease, the Foreign Person shall, among other things:

(e-2.1) (if an entity) designate the Secretary of State of the State of New York as agent for service of legal process on it; or

(e-2.2) (if an individual) sign and deliver to the Condominium Board or its managing agent either: (i) an instrument (in form and substance acceptable to the Board) designating an attorney admitted to practice and maintaining an office in the State of New York as agent for service of legal process on such individual; or (ii) a certificate or other

instrument from a New York company whose business is to serve as agent for service of process evidencing it is acting agent for service of process on such individual.

The failure to comply with any of these lease restrictions shall be grounds for the Condominium Board, among other rights and remedies available at law and in equity, and those contained in these By-Laws, to withhold giving the certificate of waiver or exemption from the Board's Right of First Refusal to purchase the Unit and an estoppel certificate certifying as to the status of payment by the Unit Owner of Common Charges and the status of any violations by the Unit Owner of the Condominium Documents, without any manner of recourse against the Board or other Unit Owners by reason thereof.

Section 3.13.3 Fees and Deposits. The Condominium Board shall have the right to fix by resolution (without recording an amendment to the Declaration or these By-Laws) and collect as Additional Common Charges from a Sold Unit Owner (but not Sponsor or other Owner of an Unsold Unit or an Owner of a Retail Unit), before the consummation of any sale, transfer, conveyance, lease or sublease of such Owner's Sold Unit:

(a) a reasonable charge to cover the reasonable fees and expenses of the Condominium Board and/or its managing agent and/or any attorney retained by the Condominium Board in connection therewith, including the execution and delivery of a Statement of Common Charges and Indebtedness, a Certificate of Waiver or Exemption and an Estoppel Certificate;

(b) a reasonable charge to cover said reasonable fees and expenses in connection with a mortgage financing or mortgage refinancing of a Sold Unit if any Board action is requested in connection therewith; and

(c) a refundable security deposit in an amount fixed by the Board for potential damage to the Common Elements on moving into or out of a Sold Residential Unit in connection with a sale, conveyance, lease or sublease of such Sold Residential Unit.

The security deposit will initially be set at $2,500.00 and may change from time to time by the Condominium Board, but may not be increased without obtaining the prior written consent of Sponsor during only the Sponsor Veto Control Period. No such charges, fees or move-in or move-out security deposit may be imposed on a tenant of an Unsold Unit without obtaining the prior written consent of Sponsor in each instance.

Any security deposit collected by the Board shall be refunded to the party making the deposit with reasonable promptness following the move, after deducting therefrom the costs and expenses to repair any damage to the Common Elements caused by the move and to restore to as near as commercially reasonable and economically practicable the affected Common Elements to the condition existing immediately prior to the move. The security deposit shall not limit the amount recoverable in the event it is insufficient to fully pay the costs and expenses to repair and restore the affected Common Elements.

The Condominium Board shall in no event impose on any Unit Owner or purchaser of a Unit a so called "transfer fee", "exit fee", "flip tax", or "entrance fee" on the sale, transfer or conveyance of any Unit.

Section 3.13.4 Unsold Units. The only lease restrictions applicable to Sponsor and other Unsold Unit Owners are:

(a) to initially rent an Unsold Unit for a term of not less than six months;

(b) to subordinate the lease to the Condominium Documents; and

(c) to be current, within the applicable grace period, in the payment of all Common Charges (including Additional Common Charges) levied by the Condominium Board against the Unsold Unit in question.

Section 3.13.5 Retail Units. None of the restrictions contained in this Section 3.13 shall apply to the sale or lease of a Retail Unit, other than the following:

(a) the lease shall expressly state:

> THIS LEASE IS SUBORDINATE TO THE CONDOMINIUM DECLARATION ESTABLISHING THE CALYER GREENPOINT ("CONDOMINIUM"), LOCATED AT 171 CALYER STREET, BROOKLYN, NEW YORK, AND THE CONDOMINIUM BY-LAWS, AS EACH MAY BE AMENDED FROM TIME TO TIME. ANY CONFLICT, INCONSISTENCY OR AMBIGUITY BETWEEN THE TERMS OF THIS LEASE AND THE TERMS OF THE CONDOMINIUM DECLARATION OR BY-LAWS, AS AMENDED, SHALL BE RESOLVED IN ACCORDANCE WITH THE TERMS OF THE CONDOMINIUM DECLARATION OR BY-LAWS, AS AMENDED, WHICH SHALL GOVERN AND CONTROL;

(b) the Condominium Board shall be given at least ten (10) business days advance notice of any proposed sale or lease to a Foreign Government, Diplomat or Foreign Person;

(c) a sale of a Unit or a lease of all or part of a Unit:

(c-1) to a Foreign Government or a Diplomat shall be subject to the provisions of Article 14 of the Declaration and, if requested by the Condominium Board, at or before recording the deed of conveyance, the Foreign Government or Diplomat (as applicable) shall duly sign, notarize or acknowledge (as and if required by the Board) and deliver to the Board a certificate from such Foreign Government or Diplomat (as applicable), in form and substance satisfactory to the Board, waiving sovereign and diplomatic immunity and agreeing the provisions of said Article 14 are valid, fully enforceable in accordance with its terms and legally binding upon it, without defense; or

(c-2) to a Foreign Person shall be subject to the terms of Article 15 of the Declaration and, if requested by the Condominium Board, at or before recording the deed of conveyance or entering into a lease of all or part of a Unit (as applicable), the Foreign Person shall duly sign, notarize or acknowledge (as and if required by the Board) and deliver to the Board an instrument (in form and substance acceptable to the Board) wherein the Foreign Person irrevocably and unconditionally confirms and agrees that the provisions of said Article 15 are valid, fully enforceable in accordance with its terms and legally binding upon it, without defense, together with proof of designation of the New York Secretary of State (in the case of an entity) or a New York attorney maintaining an office

in the State of New York or a New York organization whose business includes to act as agent for service of process, with proof of such appointment and designation for service of process on such Foreign Person and such other instruments set forth in said Article 15; and

(d) at the time of closing title or entering into the lease (as applicable), the Owner of such Retail Unit shall be current, within the applicable grace period, in the payment of all Common Charges (including Additional Common Charges) levied by the Condominium Board against such Retail Unit.

Section 3.13.6 Compliance with By-Laws. A Sold Unit Owner shall not sell, transfer, convey or lease such Owner's Sold Unit, except in compliance with the applicable provisions of this Section 3.13. All references to a "sale, transfer or conveyance of a Unit", or words of similar import, shall mean and include (even though not expressly stated) a sale, transfer or assignment by the holder(s) of a Controlling Interest in the Owner of a Sold Unit, which transfer or assignment of said Controlling Interest in such entity-Owner shall conclusively be deemed, and shall be treated as, a sale of fee title to a Sold Unit for purposes of, and subject to compliance with the applicable provisions of, this Section 3.13. Any purported sale, transfer, conveyance or lease consummated in violation of the applicable terms of this Section 3.13 shall be voidable at the sole election and discretion of the Condominium Board for thirty (30) days after the Board receives actual notice thereof.

Section 3.13.7 Ejectment or Eviction. Each Sold Unit Owner, by accepting or recording a deed to such Owner's Sold Unit or otherwise succeeding to title to a Sold Unit (whether by gift, will, inheritance, transfer, merger, consolidation, liquidation, distribution or otherwise), shall thereupon automatically have, and conclusively be deemed to have, irrevocably authorized and designated the individuals who shall from time to time constitute the Condominium Board, collectively in their capacity as Managers, as agent and attorney-in-fact of such Sold Unit Owner, "coupled with an interest" and for valuable consideration, and with full power of substitution, to act on behalf as agent, and at the expense, of such Sold Unit Owner and in the name, place and stead of such Sold Unit Owner in any way in which such Owner could do if personally present, to the full extent such Owner is permitted by law to act through an agent, having the right, power and authority with respect only to the following, upon determination of the Condominium Board:

(a) in the case of a sale, transfer or conveyance in violation of this Section 3.13: to institute and prosecute through completion a court action or proceeding and all appeals therefrom to eject a purported successor Owner of the Sold Unit owned by such Sold Unit Owner; or

(b) in the case of a lease or occupancy agreement in violation of this Section 3.13: to evict or remove by summary dispossess proceedings or otherwise, a tenant of such Owner's Sold Unit.

The Condominium Board shall have the right (but not the obligation) to institute such court action or proceeding, which is in addition to all other rights and remedies available to the Board at law or in equity. The Payment and Collection Terms shall apply all amounts paid or incurred by the Board in accordance with the foregoing.

The exercise and enforcement of the provisions of this Section 3.13.7 and all disputes and controversies with the offending Sold Unit Owner which give rise to the exercise and enforcement hereof,

shall be resolved by court action or proceeding, unless the Board (in its sole discretion) consents to, or initiates, arbitration pursuant to Article 6 below.

Section 3.13.8 Mandatory Provision in Sale Agreement or Lease Agreement. Each agreement to sell a Sold Unit together with its appurtenant Common Interest, ("**Sale Agreement**") or to lease a Sold Unit ("**Lease Agreement**", together with the Sale Agreement, "**Sale or Lease Agreement**") shall be subject to the right of the Condominium Board to preempt such sale or lease and purchase or lease, or cause its designee or nominee to purchase or lease, the Sold Unit on the terms contained in Section 3.13.12 ("**Right of First Refusal**"). Accordingly, each Sale Agreement and each Lease Agreement and shall contain the following language:

> THIS TRANSACTION AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER ARE HEREBY EXPRESSLY SUBJECT TO THE RIGHT OF FIRST REFUSAL IN FAVOR OF THE BOARD OF MANAGERS OF THE CALYER GREENPOINT ("CONDOMINIUM"), AS PROVIDED IN THE CONDOMINIUM BY-LAWS, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.

Section 3.13.9 Sale or Lease Notice. Promptly after a Sale Agreement or a Lease Agreement for a Sold Unit is fully executed, the Owner of such Sold Unit ("**Offeror**") shall send the Condominium Board notice thereof ("**Sale or Lease Notice**") by certified or registered mail, return receipt requested, accompanied by a copy of such fully executed Sale Agreement or Lease Agreement (as applicable), or counterparts thereof. In giving such Sale or Lease Notice to the Board, the Offeror shall be deemed to represent and warrant to the Board that the Sale or Lease Agreement (as applicable) contains all of the writings of the terms offered in good faith by a bona fide purchaser or tenant. as applicable ("**Offeree**").

Section 3.13.10 Offer to Sell or Lease. The sending of the Sale or Lease Notice to the Condominium Board shall constitute an irrevocable offer by the Offeror to sell the Offeror's Sold Unit, together with its appurtenant Common Interest, or to lease the Offeror's Sold Unit (as applicable) to the Condominium Board or (at the exclusive option of the Board) to its designee or nominee, corporate or otherwise, upon the terms and conditions contained in such Sale Agreement or Lease Agreement (as applicable), as modified pursuant to Section 3.13.12.

Section 3.13.11 Other Submissions. The Sale or Lease Notice shall be accompanied by the housing, credit, financial and employment history of the Offeree and (if the Offeree is an entity) the individuals who alone or collectively hold more than a fifty percent (50%) equity or beneficial interest in such entity-Owner, the Offeree's income tax returns, credit reports, net worth statement, personal references, employer verification statement and (if applicable) current landlord good standing letter, and the Board's standard form of sale or lease application (collectively, "**Standard Document Package**"). The Offeror shall also submit to the Condominium Board or its managing agent (as directed by either), promptly following written request therefor, such additional documents and/or information as the Condominium Board may reasonably request with respect to the Offeree or the transaction.

Section 3.13.12 Right of First Refusal. Except for sale or lease transactions exempt from the Board's Right of First Refusal set forth in Section 3.13.12.1, the Condominium Board shall have a Right of

First Refusal for twenty (20) business days after receiving the Sale or Lease Notice together with the Sale or Lease Agreement, the Standard Document Package and such further documents and/or information as may have been requested pursuant to the preceding Section 3.13.11 ("**Option Period**"), to exercise the Right of First Refusal in a notice ("**Acceptance Notice**") given to the Offeror. In determining whether to elect to purchase or lease Offeror's Sold Unit, the Condominium Board shall not discriminate against an Offeree on the basis of race, creed, color, national origin, sex, sexual orientation, age, disability, marital status or other grounds prohibited by Laws. This prohibition also applies to the sale, lease, sublease or other disposition of Offeror's Sold Unit by the Condominium Board or its affiliate as the Owner or tenant (as applicable) thereof.

The Condominium Board, however, shall not exercise its Right of First Refusal to purchase or lease an Offeror's Sold Unit without first obtaining the consent of both Sponsor (during the Sponsor Veto Control Period) and a majority in Common Interest of all Owners of Residential, Parking and Storage Units or the affirmative vote of a majority in Common Interest of all such Owners attending a duly constituted meeting of said Owners called for such purpose at which a quorum is present, excluding the Common Interest of the Offeror's Sold Unit for quorum and voting purposes.

In the event that the Condominium Board shall timely elect and send the Acceptance Notice within the Option Period as provided above to purchase, or to cause its nominee or designee to purchase, Offeror's Sold Unit together with its appurtenant Common Interest, or to lease, or to cause its nominee or designee to lease, Offeror's Sold Unit (as applicable), the Offeror shall send to the Condominium Board for execution, within ten (10) days after the Acceptance Notice is given to the Offeror:

(a) the Sale Agreement, which shall be modified to:

(a-1) substitute name and address of the Board or its nominee or designee (as directed by the Board), as purchaser, and the name and address of the attorney for the Board or its nominee or designee (as applicable), as provided to the Offeror in the Acceptance Notice or otherwise;

(a-2) change the contract deposit to equal the lower of 10% of the purchase price of the Offeror's Sold Unit or the contract deposit stated in the original Sale Agreement;

(a-3) require such contract deposit to be held in escrow by the attorney for the Offeror, or if the Offeror does not have an attorney, by an attorney selected by the Condominium Board and to be disposed of in accordance with the terms of the Sale Agreement (as modified by this Section 3.13.12);

(a-4) hold the closing of title during a business hour and location to be determined exclusively by the Condominium Board and on a business day that shall be mutually agreeable to the Condominium Board and Offeror or (if they are unable to agree thereon within ten (10) business days from giving Offeror the Acceptance Notice) on a business day set by the Condominium Board on not less than five business days' notice to Offeror, but in no event later than sixty (60) business days after the day the Condominium Board gives the Offeror its Acceptance Notice;

(a-5) convey Offeror's Sold Unit and its appurtenant Common Interest to the Condominium Board or its designee or nominee (as applicable) by bargain and sale deed with covenant against grantor's acts and in the form required by Section 339-o of the Condominium Act;

(a-6) apportion as of 11:59 p.m. of the day preceding the closing of title, based on the actual number of days in the month of closing, the following items (if and to the extent applicable to Offeror's Sold Unit):

(a-6.1) real estate taxes (if Offeror's Sold Unit is not separately assessed at closing, the apportionment shall be based on the Offeror's Sold Unit's Tax Share as determined in accordance with Section 3.2.5 above);

(a-6.2) Common Charges, including the then current installment of any Condominium Special Assessment for the month or period in which title closes (such Special Assessment shall be apportioned based on the actual number of days in such month or other period);

(a-6.3) mortgage interest;

(a-6.4) electricity (if separately metered or submetered); and

(a-6.5) rent paid or payable under any existing lease or tenancy; and

(a-7) limit the liability of the Board or its designee or nominee (as applicable) for a default under the modified Sale Agreement that is not remedied within any applicable cure period after giving written notice thereof, to the contract deposit and any interest earned thereon as and for liquidated damages and in full settlement, satisfaction, release and discharge of all claims of the Offeror for any damages incurred or suffered by reason thereof, without any manner of recourse by the Offeror against the Board or (if applicable) its designee or nominee, or Unit Owners, or the respective Related Parties of each of the foregoing; or

(b) the Lease Agreement, which shall be modified to:

(b-1) substitute the name and address of the Board or its nominee or designee (as directed by the Board) as the tenant;

(b-2) (in the case of a Lease Agreement for a Sold Residential Unit) be consistent with the then current prevailing printed form of lease of a condominium unit for non-regulated multiple dwellings in The City of New York, which shall govern any conflict with the provisions of the printed form original Lease Agreement with the Offeree, unless waived by the Condominium Board, in its sole and absolute discretion, together with such rider provisions, not materially inconsistent with such form lease, as those included by the Offeree in the original Lease Agreement, unless waived by the Condominium Board, in its sole and absolute discretion;

(b-3) give the Board (or its designee or nominee, if and as applicable), as tenant, the unfettered right to freely sublet the Sold Unit one or more times, without the Offeror participating in, or sharing, the rent under such sublease or collecting any manner of fee or charge in connection

therewith, notwithstanding any prohibition or restriction against subletting in such prevailing form lease or in the original Lease Agreement with the Offeree;

(b-4) commence the term of the modified Lease Agreement and the obligation to pay rent, on a date mutually agreeable to the Condominium Board and Offeror, or (if they are unable or fail to agree thereon within ten (10) business days from giving Offeror the Acceptance Notice) on the *later* of:

(b-4.1) the date the term commences in the original Lease Agreement; or

(b-4.2) the date that falls on the sixtieth (60th) business day after the Condominium Board gives the Offeror its Acceptance Notice; and

(b-5) limit the liability of the Board or its designee or nominee (if and as applicable) for a default in the payment, performance or observance of any provision of the modified Lease Agreement that is not remedied within any applicable cure period after giving written notice thereof, to canceling the modified Lease Agreement and retaining any rent security deposited thereunder, together with any interest earned thereon, as and for liquidated damages and in full settlement, satisfaction, release and discharge of all claims of the Offeror for any damages incurred or suffered by reason thereof, without any manner of recourse against the Board or (if applicable) its designee or nominee, or Unit Owners, or the respective Related Parties of each of the foregoing.

The Offeror and the Condominium Board shall duly execute and deliver to each other the Sale Agreement, as modified in accordance with clause (a) above, or the Lease Agreement, as modified in accordance with clause (b) above, as applicable, at a business hour and location to be determined exclusively by the Condominium Board and on a business day that shall be mutually agreeable to the Condominium Board and Offeror or (if they are unable to agree thereon within ten (10) business days after the properly modified Sale or Lease Agreement (as applicable) is received by the Board), on a business day set by the Condominium Board on not less than five business days' notice to Offeror, but in no event later than twenty (20) business days after the day the Board receives the properly modified Sale Agreement or Lease Agreement (as applicable).

If the Condominium Board declines to exercise its Right of First Refusal or fails to send the Acceptance Notice within said twenty (20)-business day Option Period, the Sold Unit Owner shall have ninety (90) days thereafter to consummate the transaction, failing which the Sale or Lease Agreement (as applicable) shall automatically be deemed null and void and any subsequent sale of lease of Offeror's Sold Unit shall be subject to the Condominium Board's Right of First Refusal to purchase or lease (as applicable) the Sold Unit.

Section 3.13.12.1 Exempt Transactions. An Offeror of the following sales, transfers, conveyances and leases shall be exempt from the Condominium Board's Right of First Refusal:

(a) (if Offeror is an individual) a sale, transfer, conveyance or lease of such Offeror's Sold Unit to:

(a-1) an adult member of such Offeror's immediate family; or

(a-2) a fiduciary for the benefit of such Offeror or a member of such Offeror's immediate family; or

(a-3) a corporation, partnership, limited liability company or other entity in which such Offeror owns the Controlling Interest;

(a-4) (if Offeror is an entity) a sale, transfer, conveyance or lease of Offeror's Sold Unit to:

(a-4.1) any entity in which such Offeror owns the Controlling Interest; or

(a-4.2) the individual(s) and/or entity(ies) who collectively own the Controlling Interest in such Offeror;

(a-5) a transfer, conveyance or lease of any Sold Unit to any person as a gift or as an heir, legatee or distributee under the Offeror's last will and testament or by intestacy; and

(a-6) a transfer, conveyance or lease to such Offeror's legal guardian or representative;

(b) a sale, transfer, conveyance or lease of any Unsold Unit or any Retail Unit to any person, or any such transaction of any Sold Unit to Sponsor or other Unsold Unit Owner;

(c) a sale, transfer, conveyance or lease of any Sold Unit to the Condominium Board (or its nominee or designee) or by the Condominium Board (or its affiliate) to any person;

(d) a sale, transfer or conveyance of any Sold Unit by a court-appointed referee or other officer or other person conducting a lien foreclosure sale of a mortgage, or the lien of the Condominium Board under Section 339-z of the Condominium Act, or other lien foreclosure sale, to any person;

(e) a transfer or conveyance of a Sold Unit by deed in lieu of foreclosure to the holder of a mortgage encumbering Offeror's Sold Unit or to its nominee or designee, or to the Condominium Board, or to its nominee or designee;

(f) a sale, transfer or conveyance of a Sold Unit acquired by a holder of a mortgage or its nominee or designee, or by the Condominium Board or its affiliate, to any person; and

(g) a sale, transfer, conveyance or lease of Sold Parking Unit or a Sold Storage Unit to a Residential Unit Owner or a lease or rental of a Sold Parking Unit or a Sold Storage Unit to a resident of the Building.

Section 3.13.12.2 Board Decisions. The Residential Managers, in the name and on behalf of the Condominium Board, shall make all decisions concerning an Offeror's Sold Unit, including whether or not to exercise the Right of First Refusal and all decisions relating to the disposition of Offeror's Sold Unit while owned or leased by the Condominium Board or its affiliate (if and as applicable). These decisions include:

(a) the use of Offeror's Sold Unit (provided such use shall be in accordance with the Declaration and these By-Laws);

(b) the occupancy of Offeror's Sold Unit (provided such occupancy shall be in accordance and compliance with the occupancy requirements set forth in Section 9.6 of the Declaration); and

(c) if owned by the Board or its affiliate:

(c-1) whether to sell, lease, repair, restore, alter or otherwise operate such Sold Unit;

(c-2) the terms of any sale or lease;

(c-3) all decisions to repair, restore, alter and otherwise operate such Sold Unit; and

(c-4) whether to mortgage such Sold Unit (subject to compliance with Section 3.13.12.3(a) below); and

(c-5) if leased by the Board or its affiliate, the sublease of such Sold Unit and the terms of the sublease.

Section 3.13.12.3 Funds to Acquire. The Board may obtain funds to purchase a Sold Unit (including the costs and expenses to close title) from the following sources, or any combination of them:

(a) a loan secured by a mortgage on only such Sold Unit or as authorized by Section 399-jj of the Condominium Act; provided, however, in either case that the prior written consent is obtained from Sponsor (during only the Sponsor Veto Control Period) and the loan documents shall expressly provide that:

(a-1) the Residential, Parking and Storage Owners shall have no personal liability under the loan documents and their liability thereunder shall be pro rata to their respective Common Interests and limited to each such Owner's interest in its Unit; and

(a-2) the Retail Owners shall have no liability under the loan documents; and/or

(b) a Special Assessment imposed on only the Residential, Parking and Storage Owners (other than the selling Sold Unit Owner).

Section 3.13.12.4 Existing Mortgage. In the case of a Sale Agreement, if the Offeree is to assume or to take title to Offeror's Sold Unit subject to the Offeror's existing mortgage or mortgages, the Condominium Board or its affiliate may purchase Offeror's Sold Unit and assume or take title subject to such mortgage or mortgages on condition that:

(a) the written consent of Sponsor is obtained during the Sponsor Veto Control Period; and

(b) the mortgage or mortgages shall expressly provide, or be modified to provide, that the Residential, Parking and Storage Owners shall have no personal liability under the loan documents and their liability thereunder shall be pro rata to their respective Common Interests and limited to each such Owner's interest in its Unit, and the Retail Owners shall have no liability thereunder, as required in Section 3.13.12.3(a).

Section 3.13.12.5 Funds to Operate. The funds to maintain, repair, restore, alter, and otherwise operate and make any disposition of a Sold Unit purchased or leased by the Condominium Board (or its affiliate) shall be derived from rents realized from any tenant to whom such Sold Unit is leased, if any. If no such rents are realized or are insufficient, such funds or any deficit shall be derived and paid

from the Residential Common Charges assessed to only all Residential, Parking and Storage Owners pro rata to their respective Common Interests (other than the Sold Unit owned by the Board in the case of a Sold Unit purchased by the Board under its Right of First Refusal or otherwise).

Section 3.13.12.6 Proceeds on Disposition. All rents and any other revenues derived from a Sold Unit while owned or leased by the Condominium Board or its affiliate, after paying the costs and expenses to own or lease and operate such Sold Unit, and all proceeds realized on the resale of Sold Unit owned by the Board or its affiliate, after paying the costs and expenses of such resale, shall be applied to defray the Common Expenses payable by only the Residential, Parking and Storage Owners or other appropriate purpose that benefits only the Residential, Parking and Storage Units or their Owners, as determined by the Residential Managers in the name and on behalf of the Condominium Board, in their sole judgment.

Section 3.13.12.7 Waiver of Partition, Use and Occupancy. In the event that any Unit shall be acquired or leased by the Condominium Board, or its affiliate, such Unit shall automatically become part of the Association's Assets and the ownership or lease of such Unit (as applicable) shall be deemed held on behalf of all Unit Owners, as tenants-in-common, and all Owners shall conclusively be deemed to have irrevocably and unconditionally waived all rights of partition, use and occupancy with respect to such Unit.

Section 3.13.12.8 Certificate of Waiver or Exemption. Except as otherwise provided in Section 3.13.12.14, if the Condominium Board declines or fails to exercise or waives its Right of First Refusal or the proposed sale, transfer, conveyance or lease is exempt from the Board's Right of First Refusal, the Condominium Board shall furnish, or cause its managing agent to furnish, to the applicable Offeror a written certificate to such effect ("**Certificate of Waiver or Exemption**") within the following applicable ten (10)-day period:

(a) (if the transaction is not exempt from the Right of First Refusal) within ten (10) days after expiration of the twenty (20)-business day Option Period set forth in Section 3.13.12 above; or

(b) (if the transaction is exempt from the Right of First Refusal) within ten (10) days after the Condominium Board or its managing agent is given a reasonably detailed written request for such Certificate of Waiver or Exemption, setting forth in reasonable detail the grounds the transaction is exempt from the Board's Right of First Refusal.

Section 3.13.12.9 Content of Certificate of Waiver or Exemption. The Certificate of Waiver or Exemption shall state in effect that the provisions of the By-Laws have been met by the Offeror and as a result:

(a) the Right of First Refusal provided for therein has been duly released or waived by the Condominium Board or that the transaction is exempt from the Board's Right of First Refusal (as applicable); and

(b) the rights of the Condominium Board under said Section 3.13.12 have terminated or are not applicable (as the case may be).

Section 3.13.12.10 Effect of Certificate of Waiver or Exemption. The Certificate of Waiver or Exemption shall be conclusive upon the Condominium Board and all Unit Owners in favor of all persons who rely upon such Certificate of Waiver or Exemption in good faith. After the due issuance of such Certificate of Waiver or Exemption, the Offeror's Unit to which the same relates, together with its appurtenant Common Interest, may be conveyed or leased (as applicable) free and clear of the terms and conditions contained in this Section 3.13.12.

Section 3.13.12.11 Deemed Termination of Right of First Refusal. The Right of First Refusal shall be deemed terminated, released or waived by the Condominium Board, without the Certificate of Waiver or Exemption, if the Offeror shall have strictly and faithfully complied with the provisions of this Section 3.13.12 and, through no fault of the Offeror, the Condominium Board shall fail to:

(a) timely and properly exercise the Right of First Refusal by sending the Acceptance Notice within the twenty (20)-business day Option Period set forth in Section 3.13.12; or

(b) timely enter into and exchange with the Offeror the properly modified Sale Agreement (or counterparts thereof) pursuant to Section 3.13.12 or to consummate the closing of title thereunder; or

(c) timely enter into and exchange with the Offeror the properly modified Lease Agreement (or counterparts thereof) pursuant to Section 3.13.12;

as applicable.

The consummation of the Sale or Lease Agreement or the exempt transaction (as applicable) without the Board signing and delivering the Certificate of Waiver or Exemption strictly in accordance with the provisions of this Section 3.13.12.12 shall not affect the validity or enforceability of said Sale or Lease Agreement or the exempt transaction (as applicable).

Section 3.13.12.12 Estoppel Certificate. Subject to Section 3.13.12.14, the Condominium Board shall execute and deliver to a Unit Owner within ten (10) business days after written request therefor is received by the Board, a written certificate ("**Estoppel Certificate**") addressed to the requesting Unit Owner, certifying:

(a) the then current annual Common Charges and any Special Assessment levied on such Owner's Unit, the date to which Common Charges and any Special Assessments levied by the Board have been paid and the amount(s) thereof, and of any unpaid indebtedness owed by such Unit Owner under the Declaration or these By-Laws;

(b) whether or not, to the best of the actual conscious knowledge of the current Managers:

(b-1) the requesting Unit Owner is in violation (beyond all pertinent notice, grace and cure periods, if and as applicable) in any respect under the Declaration, these By-Laws or the Rules and Regulations, as each of same may then be amended, and if in violation setting forth in reasonable detail the specific nature and basis of such violation; and

(b-2) any dispute is pending between the requesting Unit Owner and the Condominium Board, and if a dispute is pending setting forth in reasonable detail the specific nature and basis of such dispute;

(c) any other matters reasonably requested by the requesting Owner, including whether a:

(c-1) mortgagee of a Unit is a Registered Mortgagee having the rights and benefits of a Registered Mortgagee as set forth in the Declaration or these By-Laws, as duly amended from time to time; or

(c-2) lender to the holder of a Controlling Interest of an Owner of an Unsold Unit or a Retail Unit is a Registered Mezzanine Lender having the rights and benefits of a Registered Mezzanine Lender, as set forth in the Declaration or these By-Laws, as duly amended from time to time

(c-3) tenant of a Retail Unit is a Registered Tenant having the rights and benefits of a Registered Tenant as set forth in the Declaration or these By-Laws, as duly amended from time to time; and

(d) the estoppel certificate shall be conclusive upon the Condominium Board and all Unit Owners in favor of all persons who rely thereon in good faith.

Section 3.13.12.13 Execution of Statements and Certificates. The Statement of Common Charges and Indebtedness, the Certificate of Waiver or Exemption, and the Estoppel Certificate shall be executed and notarized by the following in the name and on behalf of the Condominium Board:

(a) in the case of a Sold Unit: any Residential Manager or any Officer elected by the Condominium Board, or the managing agent; or

(b) in the case of an Unsold Unit: any Sponsor Manager or any Officer elected by a Sponsor Manager, or the managing agent;

(c) in the case of a Retail Unit: any Retail Manager or any Officer elected by a Retail Manager, or the managing agent.

Section 3.13.12.14 Prerequisites for Giving Statements and Certificates. The Condominium Board shall have the right to refuse to execute and deliver a Statement of Common Charges and Indebtedness, a Certificate of Waiver or Exemption and/or an Estoppel Certificate, without any manner of recourse against the Board or Unit Owners, or their respective Related Parties, for any losses or damages, if:

(a) the Unit Owner is in default in the payment of Common Charges or Additional Common Charges (including Special Assessments), if any, or in the payment or performance of a substantial or material obligation under the Condominium Documents, including this Section 3.13.12;

(b) the Owner's Unit is subject to an unpaid lien (other than a Permitted Mortgage);

(c) the Offeree is a Foreign Government or Diplomat and fails to comply with the requirements of, or violates, Article 14 of the Declaration;

(d) the Offeree is a Foreign Person and fails to comply with, or violates, the requirements of Article 15 of the Declaration;

(e) the proposed purchaser or tenant of a Unit fails to first give the Board its contact information (including name, address, email address, telephone and mobile phone) for notices or emergencies;

(f) the purchaser or tenant of a Sold Unit fails to first represent in writing to the Board either:

(f-1) it is not a Foreign Government, Diplomat or Foreign Person; or

(f-2) it is a Foreign Government or Diplomat and shows proof of compliance with Article 14 of the Declaration; or

(f-3) it is a Foreign Person and shows proof of compliance with Article 15 of the Declaration; or

(g) the Offeror of a Sold Unit (but not Sponsor or other Owner of an Unsold Unit or Owner of a Retail Unit) shall fail to pay or reimburse the Condominium Board (as directed by the Board), in accordance with the Payment and Collection Terms, for the reasonable fees and expenses of the Condominium Board's managing agent and/or attorney as required in Section 3.13.3.

Upon curing the default or violation of this Section 3.13.12.14, the Condominium Board shall execute and delver to the Owner with commercially reasonable promptness the Statement of Common Charges and Indebtedness, the Certificate of Waiver or Exemption and/or the Estoppel Certificate (as applicable).

Section 3.13.12.15 Gifts, Devises and Intestacy. Any Unit Owner shall be free to convey or transfer the Owner's Unit, together with its appurtenant Common Interest, by gift, or to devise the same by will or to have the same pass by intestacy, without restriction and without compliance with this Section 3.13.12. Each succeeding Unit Owner shall be bound by, and such Owner's Unit shall be subject to, the provisions of this Section 3.13.12.

Section 3.14 Registered Tenant.

Section 3.14.1 Registered Tenant. A "**Registered Tenant**" is a bona fide tenant who has entered into an arms-length lease for all or a portion of a Retail Unit, and who or whose Related Parties have no direct or indirect relationship with the Owner of such Retail Unit or said Owner's Related Parties (by family, employment or business), and who is registered with the Condominium Board by the Owner furnishing the Board in writing with the tenant's contact information (including name, address, email address, telephone and mobile phone) for notices or emergencies, the date of its lease, a description of the premises demised to it, and the last date on which such lease is scheduled to expire, accompanied by a true and complete non-redacted copy of the fully executed lease (which shall contain he subordination provision set forth in Section 3.13.5 (a)), including any riders and written understandings with respect thereto, and

other documentary proof acceptable to the Condominium Board that the lease requirements contained in Section 3.13.5(b) and (c) are met.

Section 3.14.2 Subordination, Non-Disturbance and Attornment Agreement. A subordination, non-disturbance and attornment agreement ("**SNDA**") is an agreement among the Condominium Board, an Owner and a Registered Tenant of all or a portion of such Owner's Retail Unit in which:

(a) the Registered Tenant shall agree that the lease and the Registered Tenant's interest in the lease are subject to the Declaration, these By-Laws, the Rules and Regulations, as each may be duly amended from time to time, and to the Board's lien on the Unit for unpaid Common Charges and Additional Common Charges, as provided in these By-Laws and the Condominium Act;

(b) the Condominium Board shall agree that so long as the Registered Tenant is not in default or violation under any of the terms, covenants or conditions of the lease after the giving of any required notice and the expiration of any applicable notice and grace period:

(b-1) the Condominium Board shall not join the Registered Tenant in any action to enforce the Board's lien or any rights granted to the Board under the Declaration or these By-Laws (as each may have been duly amended from time to time), at law, in equity or otherwise, unless such joinder is required by Laws, but such joinder shall not disturb the Registered Tenant's possession of the demised premises;

(b-2) the Condominium Board shall not assert the Board's lien against the personal property, goods or chattels of the Registered Tenant in or on the demised premises;

(b-3) the Registered Tenant's right to use and occupy the demised premises in accordance with and subject to the terms of the lease shall not be terminated, disturbed or interfered with in any way by reason of any action to enforce the Board's lien or any rights granted to the Board under the Declaration or these By-Laws (as each may have been duly amended from time to time), at law, in equity or otherwise; and

(b-4) the lease and the Registered Tenant's leasehold estate and rights thereunder shall not be terminated as a result of any Board foreclosure action, or any sale pursuant to any such Board foreclosure action, or the delivery of a deed in lieu of foreclosure or other acquisition of the Owner's interest in the Retail Unit as a result of a default under the Declaration, these By-Laws or the Rules and Regulations, or any then existing amendment thereto, or the exercise of any other remedy available to the Board pursuant to the Declaration or these By-Laws, as each may have been duly amended;

(c) the Registered Tenant shall irrevocably and unconditionally agree:

(c-1) upon receiving notice of the name and address of the person who acquires title to the Retail Unit by reason of foreclosure of the Board's lien or a deed given in lieu thereof or other means ("**New Owner**"), whether such New Owner is the Board or its affiliated or non-affiliated designee or nominee, a purchaser at the Board's lien foreclosure sale, or otherwise, the Registered Tenant shall have the right to rely upon such notice without investigation and shall attorn to, and recognize,

and shall be bound to the New Owner (including its successors and assigns), as its landlord for the unexpired balance of the term of the lease, including any renewal and extension of the term expressly provided therein, in each case, upon the same terms and conditions as set forth in the lease, with the same force and effect as if the New Owner were the then Owner under the lease;

(c-2) such attornment shall be effective and self-operative without the execution of any further instruments by any party thereto, and to confirm such attornment, the Registered Tenant shall, within ten (10) business after written request by the New Owner (or its successors and assigns), execute a written agreement, prepared by the New Owner at the reasonable expense of, and reasonably acceptable to, the Registered Tenant whereby the Registered Tenant shall attorn to such New Owner, affirm the Registered Tenant's obligations to the New Owner under the lease, including to pay all rent and other sums due or to become due under the lease to the New Owner;

(d) the New Owner (or its successors and assigns) shall not be:

(d-1) bound by any rent which the Registered Tenant might have paid for more than the then current month to any prior Owner under the lease;

(d-2) liable for any previous act or omission of any prior Owner under the lease;

(d-3) liable for any defaults, actions or omissions of any prior Owner under the lease;

(d-4) subject to any defense, or abatement or set-off against the rent previously accrued in favor of the Registered Tenant against any prior Owner under the lease based on any act, omission, default or violation of such prior Owner under the lease or otherwise;

(d-5) bound by any amendment, modification, change or waiver of any of the terms of the lease without obtaining the Condominium Board's consent in each instance; and

(d-6) liable or accountable for the return of any deposit, rental security or any other sums deposited with any prior Owner under the lease that have not been given to the New Owner;

(e) to the extent such deposit, rental security or any other sum deposited with any prior Owner under the lease has not been given to the New Owner, the Registered Tenant shall give to the New Owner, within five business days after being given written notice of its name, address and ownership of the Unit and demand therefor, a new deposit, rental security or any other sum in the amount set forth in said lease;

(f) if the Condominium Board is the New Owner, the liability of the Condominium Board and the Unit Owners, and their respective Related Parties, under the lease shall be limited to the Board's interest in the Unit; and

(g) the terms of the SNDA shall inure to the benefit of, and shall be enforceable by, the New Owner.

The SNDA shall contain such other, additional or different terms and requirements as shall be required in the judgment of the Condominium Board, provided such terms and requirements are non-discriminatory. If the Condominium Board shall adopt a form SNDA for the Building, the terms and

requirements of such SNDA to be given to the Registered Tenant shall be consistent herewith in all material respects.

The Condominium Board, at the request of a Retail Owner, shall enter into a SNDA with such Retail Owner and its Registered Tenant if no notice to said Retail Owner for nonpayment of Common Charges or Additional Common Charges, or other violation of a provision of the Declaration, these By-Laws or the Rules and Regulations is outstanding (other than a *de minimis* violation), both at the time of the request and at the time of execution of the SNDA. The SNDA shall be prepared by, and at the sole cost and expense of, such Retail Owner, but shall be in form and substance consistent with the foregoing provisions or on the form SNDA adopted by the Board for the Building (as applicable).

The requesting Retail Owner shall pay or reimburse the Condominium Board (as directed by the Board), in accordance with the Payment and Collection Terms, for the Legal Expenses incurred by the Condominium Board to review the SNDA and consult with the Condominium Board with respect to the proposed terms of the SNDA and any changes or revisions thereto. No other fee or charge shall be imposed by the Condominium Board on the requesting Retail Owner or the Registered Tenant with respect to the SNDA.

The Condominium Board shall duly execute, notarize and deliver to said Retail Owner a SNDA, or counterparts thereof, within ten (10) business days after the Condominium Board is g an SNDA consistent with the terms of this Section 3.14.2, duly executed and notarized by said Retail Owner and its Registered Tenant, together with a good collectible unendorsed check of the Retail Owner in full payment of the Condominium Board's Legal Expenses (if any) to review the SNDA and consult with the Condominium Board with respect to the proposed terms of the SNDA and any changes or revisions thereto.

If the requirements of this Section 3.14.2 are not met, the Condominium Board shall give the requesting Retail Owner, within said ten (10)-business day period after the Board receives the proposed SNDA, duly executed and notarized by said Retail Owner and its Registered Tenant, a reasonably detailed notice specifying the violation of this Section 3.14.2. If the Retail Owner notifies the Board that it disputes the Board's finding of a violation of this Section 3.14.2 and the two parties do not mutually resolve the dispute within five business days thereafter, the dispute shall be resolved by Baseball Arbitration as provided in Article 6.

Section 3.15 Security Interests.

Section 3.15.1 Mortgages and Mezzanine Loans. Each Owner shall have the right, without the consent of the Condominium Board or other Owners, to mortgage its Unit and its appurtenant Common Interest with one or more mortgages. Each holder of a Controlling Interest in an Owner of an Unsold Unit or a Retail Unit (but not a Sold Unit) shall have the right, without the consent of the Condominium Board or other Owners, to securitize such Controlling Interest in said Owner.

Section 3.15.2 Registration of Mortgage and Mezzanine Loan. A "**Registered Mortgage**" is a duly recorded mortgage encumbering a Unit which is registered by the Owner of such Unit in a notice to the Condominium Board setting forth the name and address for notices of the lender, accompanied by copy of the recorded mortgage and at the time of recording such Owner is current and in good standing in paying,

performing and meeting Owner's obligations under the Condominium Documents. A "**Registered Mortgagee**" is the lender identified in Registered Mortgage. A Registered Mortgage that is a first mortgage lien encumbering a Unit is a "**Registered First Mortgage**" and the lender identified therein is a "**Registered First Mortgagee**".

A "**Registered Mezzanine Loan**" is a duly filed security interest in the Controlling Interest in an entity-Owner which is registered by a holder of such Controlling Interest in a notice to the Condominium Board setting forth the name and address for notices of the lender, accompanied by copies of the fully executed security agreement and the filed UCC-1 Statement. The lender identified in the security agreement is a "**Registered Mezzanine Lender**".

Upon notice to the Condominium Board of the name and address of a master servicer and/or a sub-servicer who has been appointed as an administrative agent or a loan servicing agent to administer a Registered Mortgage or a Registered Mezzanine Loan (as applicable), such master servicer and/or sub-servicer (as applicable) shall be regarded as the Registered Mortgagee or the Registered Mezzanine Lender, respectively.

Promptly after receiving the notice required by this Section 3.15.2, the Board shall acknowledge in writing to the applicable Unit Owner or holder of a Controlling Interest (as applicable) that the Board received the information and documentation necessary to recognize the Registered Mortgagee or the Registered Mezzanine Lender (including a master servicer and/or a sub-servicer), as applicable, as such. Any duly recorded mortgage on a Unit owned by Sponsor and any duly filed security interest in a holder of a Controlling Interest in Sponsor at the date of recording the Declaration in the City Register's Office shall automatically and conclusively be considered a Registered Mortgage and a Registered Mortgagee or a Registered Mezzanine Loan and a Registered Mezzanine Lender, respectively, regardless of compliance with the foregoing.

A Unit Owner who satisfies a mortgage encumbering the Owner's Unit shall so notify the Condominium Board in writing accompanied by a conformed copy of the satisfaction of the mortgage. Similarly, the holder of a Controlling Interest in an Owner who satisfies a security interest in said Controlling Interest shall so notify the Condominium Board in writing accompanied by a conformed copy of the UCC-3 termination statement or other evidence thereof. The Secretary of the Condominium shall maintain all such information and documents in a book entitled Registered Security Interests.

The failure of a Unit Owner or a holder of a Controlling Interest in an Owner to comply with the foregoing shall not affect the validity or enforceability of the mortgage or the mezzanine loan, or the priority of its lien as to other lien holders.

Section 3.15.3 Rights and Benefits. The rights and benefits of this Section 3.15.3 are afforded to only a Registered Mortgagee and a Registered Mezzanine Lender (each, "**Registered Lender**") as a "third-party beneficiary" for so long as it continues to hold a Registered Mortgage or a Registered Mezzanine Loan, respectively. If more than one Registered Mortgage encumbers a Unit, the holder of a Registered First Mortgage shall have preference and priority over all other holders of Registered Mortgages to exercise a right or benefit of a Registered Mortgagee. If both a Registered Mortgagee and a Registered

Mezzanine Lender seek to exercise a right or benefit, a Registered Mortgagee shall have preference and priority over a Registered Mezzanine Lender. A reference below to an Owner shall mean the Owner of the Unit encumbered by the Registered Mortgage or the holder of the Controlling Interest in an Owner encumbered by a Registered Mezzanine Loan (as applicable). A reference below to a Registered Lender shall mean the Registered Mortgagee of the Owner's Unit or the pledgee of a security interest in the holder of the Controlling Interest in an Owner (as applicable).

Section 3.15.3.1 Notice of Delinquency. Whenever an Owner fails, for more than sixty (60) days or two consecutive months (whichever is longer), to pay Common Charges or Additional Common Charges, or to perform or fulfill an obligation under the Declaration or these By-Laws after being given notice thereof and such failure continues an additional ten (10) days after giving such notice, the Condominium Board shall give notice thereof to a Registered Lender with commercially reasonable promptness thereafter.

Section 3.15.3.2 Notice of Default. Whenever a default notice is given to an Owner for nonpayment of Common Charges or Additional Common Charges, or for violating an obligation under the Declaration, these By-Laws or the Rules and Regulations (as each may be duly amended), a copy of such notice shall be sent simultaneously to the Registered Lender.

Section 3.15.3.3 Right to Remedy a Violation. The Condominium Board shall accept from a Registered Lender (if permitted under the terms of the Registered Mortgage or the Registered Mezzanine Loan, as applicable), under the terms set forth below, the payment of any amount owed, and the performance of any obligation to be performed, by an Owner under the Declaration, these By-Laws and the Rules and Regulations (as each may be duly amended) with the same force and effect as though paid and performed by said Owner. The Registered Lender shall have the right, but not the obligation, to remedy the violation within ten (10) days after being given notice thereof. If, however, a non-monetary violation cannot be performed with commercially reasonable diligence and continuity to completion within such ten (10)-day period, the Registered Lender shall have thirty (30) days after being given notice thereof to perform such obligation. If due to its nature, the Registered Lender cannot perform the non-monetary obligation without acquiring title to the Unit or the Controlling Interest in the Owner (as applicable), the Registered Lender shall be afforded ten (10) business days after being given notice of the nature of such violation, to commence foreclosure or other appropriate action or proceeding to acquire title to the Unit or the Controlling Interest in the Owner (as applicable), and thereafter to diligently prosecute any such action or proceeding with continuity to conclusion. During the prosecution of said action or proceeding, the Registered Lender shall fully pay all monetary obligations of the Owner owed to the Board as and when due and shall faithfully perform all other non-monetary obligations of the Owner under the Declaration, these By-Laws and the Rules and Regulations that do not require possession of the Unit. After gaining possession of the Unit or the Controlling Interest in the Owner (as applicable), the Registered Lender, as the Owner of the Unit or the holder of the Controlling Interest of the Owner (as applicable), shall perform (if and to the extent capable), with prompt diligence and continuity to completion, all defaulted obligations of the Owner as to which a notice of default was given and shall pay and perform all obligations accruing thereafter as and when required under the Declaration, these By-Laws and the Rules and Regulations. The

Board shall not commence any action or proceeding to foreclose its lien against the Unit if, within ten (10) business days after the Registered Lender is given notice of the Owner's violation, the Board receives notice from the Registered Lender of its intention to remedy the violation and thereafter timely complies with the foregoing. All time periods within which the Registered Lender is to act or perform under this Section 3.15.3.3 are deadlines. A written undertaking by a Registered Lender to pay and/or perform an obligation of an Owner shall be legally binding upon, and enforceable by the Board against, the Registered Lender.

Section 3.15.3.4 Lien Foreclosure. The Condominium Board shall not commence any action or proceeding to foreclose its lien against a Unit encumbered by a Registered Mortgage or a Unit of an Owner in which the holder(s) of a Controlling Interest in such Owner have given a security interest in the Controlling Interest, without giving a Registered Lender at least ten (10) business days' advance notice of its intention to do so.

Section 3.15.3.5 Insurance Notice. If an insurance policy or fidelity insurance or fidelity bond required to be maintained by the Condominium Board or a Unit Owner under these By-Laws shall lapse or terminate or adversely and materially be modified, or the Board receives advance notice from an insurer or bond issuer of any forthcoming lapse, termination or adverse and material modification of said insurance policy or fidelity policy or fidelity bond required to be maintained the Board or a Unit Owner, the Board shall give notice thereof to the appropriate impacted Registered Lender within three business days thereafter.

Section 3.15.3.6 Substantial Destruction or Damage. Within three business days after a majority of Managers in number have actual conscious knowledge of Substantial Destruction or Damage to the Units and the Common Elements, the Condominium Board shall give notice thereof to all Registered Lenders.

Section 3.15.3.7 Taking. Within three business days after a majority of Managers in number have actual conscious knowledge of a Taking in condemnation or by eminent domain of all or a portion of a Unit or a Common Element, the Condominium Board shall give notice thereof to all Owners and all Registered Lenders.

Section 3.15.3.8 Termination of Condominium. The Condominium Board shall give each Registered Lender not less than thirty (30) days' notice prior to the effective date the Condominium is to terminate.

Section 3.15.3.9 Dispute or Litigation. Whenever the Condominium Board gives an Owner a notice of a dispute or serves an Owner with a notice to arbitrate or with a summons with notice or a complaint, a copy thereof shall be sent simultaneously and in like manner to each Registered Lender impacted thereby (if any). If an Owner shall fail to select an arbitrator or to appear in any court action or proceeding (as applicable) or otherwise fails to proceed or take action in such arbitration or court action or proceeding (as applicable) as may be required or permitted by such Owner, such impacted Registered Lender (if permitted under the terms of the Registered Mortgage or the Registered Mezzanine Loan, as applicable) shall have the right (but not the obligation) to select the arbitrator in said arbitration or appear in said litigation, and all procedures and actions taken in said arbitration or court action or proceeding (as

applicable) by such Registered Lender shall be accepted and recognized by the Condominium Board and the other Unit Owners with the same force and effect in all respects as though all of same had been exercised and taken by said Registered Lender's Unit Owner. Any determination and award made in such arbitration or order or judgment in such court action or proceeding (as applicable) shall be binding upon said Registered Lender's Unit Owner, said Registered Lender, the Condominium Board and all other Unit Owners.

Section 3.15.3.10 Notices. Any notice given to a Unit Owner that is required to be given to such Unit Owner's Registered Lender under the Declaration or these By-Laws (as each may be duly amended) shall not be deemed given to, or effective against, such Unit Owner until given to said Unit Owner's Registered Lender.

Section 3.15.3.11 Cooperation. The Condominium Board agrees to cooperate reasonably with any requesting Unit Owner in order satisfy the requests or requirements by such Unit's or Owner's Registered Lender (as applicable); provided, however, such cooperation will be at the sole cost and expense of the requesting Unit Owner, and provided, further, that Condominium Board will not be obligated to accede to any request or requirement that adversely affects, beyond a *de minimis* extent, the rights, powers, easements, privileges or benefits of the Condominium Board or another Unit Owner under the Declaration or these By-Laws, as amended.

Section 3.15.3.12 Immunity. In no event, however, shall the Condominium Board or Unit Owners, or their respective Related Parties, be liable or accountable for any claims, litigations or damages due to any delay or failure, through oversight or negligence, in notifying a Registered Lender of any of the matters contained in this Section 3.15.3. Nonetheless, with reasonable promptness after discovering such delay or failure, the Condominium Board shall advise such Registered Lender of such delay or failure and (in the case of Section 3.15.3.4) if at that time the Condominium Board shall have already foreclosed its lien on such Owner's Unit, the Condominium Board shall pay to such Registered Lender the extent of any undistributed net proceeds realized on said foreclosure sale then held by the Board (after deducting all costs and expenses, including Legal Expenses, incurred in connections therewith and payments to holders of liens on the Unit in the lien priority set forth in Section 3.11.5 and Laws), but not more than the sum as shall be due and owing to such Registered Lender.

Section 3.15.4 Subordination. The lien of any mortgage of a Unit recorded after the date of recording the Declaration in the City Register's Office shall automatically be subordinate to the terms and provisions of the Declaration, these By-Laws and the Rules and Regulations, and any such mortgage that fails to provide for such subordination shall nonetheless conclusively be deemed to irrevocably and unconditionally provide for such subordination. Such subordination shall be effective and self-operative without the execution of any further instruments by the holder of such mortgage. If requested by the Condominium Board, the holder of such mortgage, without fee, charge, restriction, limitation or condition, shall promptly execute, acknowledge in recordable form and deliver to the Board such instruments as the Board may require to confirm said subordination. The failure, however to do so, shall not affect such subordination, it being agreed that a holder of such mortgage, by accepting said mortgage or succeeding to the interests of a preceding holder of such mortgage, shall conclusively be deemed to have automatically, irrevocably and unconditionally agreed to such subordination.

Section 3.16 General Operating Matters.

Section 3.16.1 Compliance with Laws. Each Owner, at its sole cost and expense, with reasonable diligence and continuity to completion, shall comply with all Laws (including remedying governmental violations) applicable to its Unit and/or the Limited Common Elements restricted to its exclusive use.

The Board, as a General Common Expense, or the Residential Managers, a Residential Common Expense, or the Retail Managers, as a Retail Common Expense, with reasonable diligence and continuity to completion, shall comply with all Laws (including remedying governmental violations) applicable to: (a) the General Common Elements, and (subject to Section 9.4 of the Declaration) the sidewalks; or (b) the Residential Common Elements; or (c) the Retail Common Elements, respectively.

However, a condition constituting an emergency or a hazardous governmental violation or having a material adverse effect on the Common Elements or a Unit or its Owner or tenant, or the business being conducted in a Unit, shall be remedied with commercially prompt diligence and continuity to completion.

With reasonable diligence after the responsible party remedies a governmental violation, such party shall thereafter endeavor in good faith and at its expense to cause such violation to be removed of record.

Section 3.16.2 Contest. Except for a Law that constitutes an emergency or a hazardous governmental violation having a material adverse effect on the General, Residential or Retail Common Elements, or a Unit or its Owner or tenant, or the business being conducted in a Unit, the party responsible to comply with a Law pursuant to Section 3.16.1 shall have the exclusive right to contest such Law and to defer compliance with such Law if, and on condition that:

(a) such responsible party prosecutes such contest in good faith with reasonable diligence and continuity by appropriate proceedings and shall have furnished such security, if any, as may be required in the proceedings, unless compliance with such requirement shall have been excused or exempted by a valid nonconforming use permit, waiver, extension or forbearance exempting such responsible party from such requirement; and

(b) such contest or noncompliance does not involve any threat or danger of:

(b-1) foreclosure, forfeiture or loss of any part of the Property; or

(b-2) civil or criminal liability, fine or penalty being imposed on the Condominium Board or any Manager or Officer of the Board, any Unit Owner or any mortgagee or tenant of a Unit; or

(b-3) the creation of any lien, encumbrance or other charge against any part of the Property; or

(b-4) impairment of any insurance under Section 3.9.

Section 3.16.3 Building Employees, etc. The Condominium Board shall have the authority (without the approval or consent of Unit Owners) to make all decisions concerning the employment, compensation and dismissal of employees, and the terms of engagement of agents (including a managing agent or property manager), Construction Parties, service providers and attorneys, as the Board considers

to be necessary or appropriate, in its sole business judgment, to perform its duties and obligations or to implement its rights, easements and remedies set forth in the Declaration or these By-Laws. The wages and related benefits and payroll costs of the Building employees (if any) and the fees, charges and amounts payable to agents, Construction Parties, service providers and attorneys, shall be included in the:

(a) General Common Expenses and assessed to the applicable Units as a Specially Allocated Expense in accordance with RPL Section 339-m; or

(b) Residential Common Expenses and assessed to only the Residential, Parking and Storage Units pro rata to their respective Common Interests; or

(c) Retail Common Expenses and assessed to only the Retail Owners pro rata to their respective Common Interests,

as applicable, in accordance with the First Year's Budget or (if not included in the First Year's Budget) these By-Laws.

Section 3.16.4 Refuse Disposal. Each Owner, at its sole cost and expense, shall comply with all Laws applicable to the disposal of garbage, trash and refuse generated in its Unit (including environmental Laws and governmental requirements for the separation, disposal or recycling of paper, bottles, cans, plastics or other refuse) and the Rules and Regulations, as duly amended from time to time; failing which the offending Owner, at its sole cost and expense, shall remove any governmental violation noted or issued against the Building that is attributable to its Unit, and any related interest, fines and penalties assessed against the Building by a Governmental Authority having competent jurisdiction over the Property.

Section 3.16.5 Rules and Regulations. The Rules and Regulations (attached as EXHIBIT E to the Declaration) contain the administrative details to operate and use the Common Elements and to prohibit offensive or disturbing activities or conduct of Owners or tenants of Units that adversely impacts the Common Elements or another Unit or its Owner, or tenant. All Owners and tenants of Units are obligated to comply with the Rules and Regulations, as they may be amended from time to time by the Condominium Board, without recording an amendment to the Declaration or these By-Laws. No change to the Rules and Regulations shall by binding upon, or enforceable against, Sponsor or an Owner or tenant of an Unsold Unit or a Retail Unit without the consent of Sponsor or the Owner thereof.

Any changes to the Rules and Regulations shall become effective against, and binding upon, Owners and Unit Users of Units on the tenth (10th) day (or such later date as may be specified by the Board) after a copy of the complete text thereof shall be given to each Owner in accordance with Article 7. The Board shall not be responsible to give a tenant a copy of the changes to the Rules and Regulations, which shall be the obligation of the Owner of the Unit occupied by the tenant.

The Condominium Board shall all of the rights and remedies contained in Article 5 against an Owner or anyone for whom an Owner is responsible or accountable who violates the Rules and Regulations, as duly amended from time to time.

Section 3.16.6 Records. The books and records of the Condominium Association are listed below and shall be retained by the Board for at least three years.

The Treasurer of the Condominium Association, or the managing agent or property manager (if and as applicable) under the supervision of such Treasurer, shall keep full, detailed and accurate records and books of account with respect to the financial affairs and business of the Condominium Association and the Condominium Board including:

(a) a chronological listing of all receipts of, and expenditures by, the Condominium Board and the managing agent or property manager (if and as applicable), together with cancelled checks, check register, statements, bills and invoices; and

(b) a separate listing for each Unit, setting forth, among other things, the amount of each assessment of Common Charges and Additional Common Charges levied against such Unit, the date when due, the amounts paid thereon and the balance, if any, remaining unpaid, a copy of the lease with a Registered Tenant of such Unit (if any) and a copy of any Registered Mortgage encumbering such Unit (if any) or a Registered Mezzanine Loan encumbering the holder of a Controlling Interest in an Owner (if any), together with the notices given to the Board in connection therewith.

The Secretary of the Condominium Association, or the managing agent or property manager (if and as applicable) under the supervision of the Secretary, shall keep detailed records of minutes of, and the actions taken at, regular and special meetings of, the Condominium Board, committees of the Board, and Owners, including any resolutions adopted, and the outcome of any matters voted upon, thereat.

Section 3.16.7 Examination. Each Owner and its representatives shall be permitted to examine (without charge) and to copy (at a reasonable charge):

(a) minutes of, and the actions taken at, regular and special meetings of the Condominium Board, committees of the Board, and Owners, including any resolutions adopted, and the outcome of any matters voted upon, thereat;

(b) annual reports and financial statements (if any);

(c) current copies of the Declaration, these By-Laws and the Rules and Regulations, and all amendments thereto;

(d) a list of Unit Owners and their addresses for notices;

(e) records or receipts and expenditures arising from operation of the Condominium Association, including the General, Residential and Retail Common Elements and the Condominium Association's assets, together with vouchers authorizing payments thereof; and

(f) such other information, documents and records as may be in the possession or under the control of the Condominium Board that the Board may determine, in its sole business judgment, to make available to Unit Owners and their representatives, other than the personal financial files of a Unit Owner, a prospective purchaser or a prospective tenant of a Unit, or Building employee files.

At the request of an Owner or the holder of a Controlling Interest in an Owner, an existing or prospective Registered Mortgagee, Registered Tenant, or purchaser of such Owner's Unit, or an existing or prospective Registered Mezzanine Lender or a purchaser of such holder's Controlling Interest in said Owner, and the respective representatives of each of the foregoing, shall be permitted to examine (without charge) and to copy (at a reasonable charge) the items listed only in clauses (a), (b) and (c) above.

All such examinations shall be conducted at the office of managing agent or property manager (if and as applicable) or other location reasonably convenient to the Property or elsewhere in Brooklyn or Manhattan, as specified by the Board, and in a manner that shall not unreasonably interfere with the operation of the Condominium Association, the Condominium Board, the managing agent or the property manager (if and as applicable). The examinations shall occur during business hours, on business days and upon reasonable advance notice, but not more frequently than once a month (such examination shall not extend over more than an aggregate of three business days in any thirty (30)-day period) as to each party listed above.

Section 3.16.8 Tax Returns. The Condominium Board, as a General Common Expense assessed to all Owners pro rata to their respective Common Interests shall:

(a) cause to be prepared and filed all requisite federal, state and city income tax, franchise tax, unincorporated business tax and any other tax returns, and shall pay all resulting taxes, on a timely basis and before the imposition of interest, charges or penalties for late filing or late payment, relating to the Condominium Association, or the Common Charges or Additional Common Charges, or the operation of the Common Elements or the Association's Assets, or conducting the affairs and business of the Condominium Association; and

(b) pay the expenses to prepare and file such tax returns and to attend or defend any audit or litigation in connection therewith.

Section 3.16.9 Annual Financial Statements. Within four months after the end of each fiscal year of the Condominium Association, the Condominium Board, as a General Common Expense assessed to all Unit Owners pro rata to their respective Common Interests, shall give to each Unit Owner and, if so requested by an Owner or the holder of a Controlling Interest in an Owner, to a Registered Lender of such Owner's Unit or said Controlling Interest holder (as applicable), an annual report of assets and liabilities and the operation of the Condominium Association, including the Common Elements, the Association's Assets and the Property generally, and the sidewalks, including the receipts and expenditures of the Condominium Board with appropriate line items and notes detailing Common Expenses for such fiscal year. Each such annual report shall be prepared and certified by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied or (at the Board's exclusive option) AICPA standards consistently applied. The provisions of this Section 3.16.9 may be waived while all the Units are commonly controlled by a manager, member or principal of an Owner or with the consent of eighty percent (80%) of the Owners (including both Retail Owners) in number and Common Interest.

Section 3.16.10 Tenants Entitled To Receive Building Services. The Condominium Board shall provide to each tenant of all or a portion of a Unit, without discrimination, all of the same Building Services and amenities as are required to be provided to the Owner of such Unit pursuant to the Declaration, these By-Laws or applicable Laws without levying against said tenant or the Owner of such Unit, a separate fee, charge, imposition or expense for such Building Services and amenities.

Section 3.16.11 Real Property Law Section 339-kk. Pursuant to RPL §339-kk, a Residential Owner who does not occupy its Residential Unit ("**Non-Occupying Owner**") and the Condominium Board shall comply with the following:

(a) if a Non-Occupying Owner rents its Residential Unit to a tenant and then fails to make payments due for Common Charges, Special Assessments or other Additional Common Charges (including late fees) for such Residential Unit within sixty (60) days of the expiration of any grace period after they are due, upon notice thereof to such tenant, all rental payments from the tenant shall immediately and directly be payable to the Condominium Board on behalf of the Condominium Association at the address listed in the notice;

(b) where a majority of the Condominium Board 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 Board on behalf of the Condominium Association;

(c) at such time as payments for Common Charges, Special Assessments and other Additional Common Charges (including late fees) from the Non-Occupying Owner are once again current, notice of such fact shall be given within three business days thereafter to said rental tenant and Non-Occupying Owner, and thereafter, all rental payments shall be made payable to the Non-Occupying Owner or such Owner's designated agent;

(d) a Non-Occupying Owner who disputes the Condominium Board's claim to rental payments pursuant to said RPL §339-kk shall be 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 of the date that the Board receives notice that such Owner seeks to dispute such claim;

(e) nothing in said RPL §339-kk shall limit any rights of Residential Unit Owners or of the Condominium Board existing under any other Laws or agreement; and

(f) payment by a rental tenant to the Board made in connection with said RPL §339-kk 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 nonpayment proceeding commenced by such Non-Occupying Owner against such tenant for such rent.

The Non-Occupying Owner shall continue to have the obligations to the tenant under the lease and applicable Laws.

Section 3.16.12 Cooperation and Assurances. The provisions of Article 16 of the Declaration regarding the covenant to cooperate and give assurances shall apply to these By-Laws are hereby incorporated herein with the same force and effect as if set forth at length.

ARTICLE 4
AMENDMENTS TO DECLARATION AND BY-LAWS

Section 4.1 Application to Declaration and By-Laws. This Article 4 shall apply to, and shall govern and control, the requirements to execute, acknowledge and record amendments to the Declaration and these By-Laws.

Section 4.2 General Requirement. To be valid, an amendment to the:

(a) Declaration shall be duly executed, acknowledged and recorded in the Kings County City Register's Office in accordance with the legal requirements to record a deed; and

(b) the By-Laws shall be set forth in an amendment to the Declaration in accordance with the preceding clause (a).

Section 4.3 Required Votes or Consents of Owners.

Section 4.3.1 Amendments Generally. Subject to Section 4.3.3, the vote or consent, or the deemed vote or consent (as provided in Section 4.3.2), of not less than sixty-six and two-thirds percent (66-2/3rds%) of all Unit Owners (including both Retail Unit Owners), in number and Common Interest, shall be required to amend the Declaration or these By-Laws.

Section 4.3.2 Certain Amendments. Sponsor, as the initial Owner of all Units, and each succeeding Owner of a Unit, by accepting or recording a deed to such Unit or otherwise succeeding to title to said Unit (whether by gift, descent, inheritance, distribution, transfer, merger, consolidation, liquidation, dissolution, bankruptcy, insolvency, reorganization or otherwise), shall conclusively be deemed to unanimously consent automatically, unconditionally and irrevocably to the following amendments to the Declaration and/or these By-Laws by the parties indicated:

(a) the Condominium Board or Sponsor with respect to an amendment:

(a-1) to reflect changes required by an Institutional Lender holding, or having issued a written commitment for, a Unit mortgage; or a Governmental Authority having competent jurisdiction over the Property or the Condominium Association; or a title insurer of a Unit; or

(a-2) to comply with the Condominium Act or other applicable statute or ordinance; or

(a-3) to correct any conflict, inconsistency or ambiguity between, or scrivener's errors in, the Declaration, these By-Laws and/or the Floor Plans; or

(a-4) to reform the Condominium Documents as provided in Section 21.2 of the Declaration;

(b) each Owner with respect to an amendment to implement a Unit Change to its Unit as set forth in Section 3.7.1 on the terms contained in Section 3.7.2; or

(c) Sponsor or other the Excess Development Rights Owner (if any) with respect to an amendment to utilize, sell or transfer all or a portion the Excess Development Rights.

Section 4.3.3 Required Consents. An amendment to the Declaration or these By-Laws that purports to:

(a) change the Common Interest (except in connection with a Taking as provided in Section 3.11.6), size or configuration, or the permitted use or occupancy, of a Unit, shall not be valid or enforceable against the Owner of such Unit without its consent, duly executed, acknowledged and recorded with such amendment;

(b) eliminate, delete, modify, dilute, impair, infringe, prejudice, restrict, limit, condition, qualify or otherwise change or impact the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of Sponsor, an Unsold Unit Owner or a Retail Owner under the Declaration or these By-Laws, shall not be valid or enforceable against such party without its consent, duly executed, acknowledged and recorded with such amendment;

(c) adversely affect the priority, validity or enforceability of the lien of an existing Registered Mortgage or a Registered Mezzanine Loan, or the rights and benefits of a Registered Lender under Section 3.15.3, shall not be valid or enforceable against the impacted Registered Lender without its consent, duly executed, acknowledged and recorded with such amendment;

(d) interfere with a potential or proposed sale, lease, mortgage or other disposition of an Unsold Unit or Retail Unit, shall not be valid or enforceable against such Owner of such Unit without its consent, duly executed, acknowledged and recorded with such amendment;

(e) to impose any new, different or discriminatory charge, fee or other imposition or obligation on Sponsor, an Unsold Unit Owner or a Retail Unit, or a Unit User of an Unsold Unit or a Retail Unit, shall not be valid or enforceable against Sponsor or the Owner or Unit User of such Unsold Unit or Retail Unit (as applicable) without the consent of such party, duly executed, acknowledged and recorded with such amendment;

(f) limit, restrict, abridge, infringe, prejudice, impose conditions or new requirements or otherwise amend the permitted use or occupancy of an Unsold Unit or a Retail Unit, or the share of the Common Expenses fairly attributable to an Unsold Unit or a Retail Unit, shall not be valid or enforceable against the Owner of such Unit without its consent, duly executed, acknowledged and recorded with such amendment;

(g) adversely affect the value, marketing or other disposition of an Unsold Unit or a Retail Unit shall not be valid or enforceable against the Owner of such Unit without its consent, duly executed, acknowledged and recorded with such amendment;

(h) otherwise adversely affect an Unsold Unit or a Retail Unit, shall not be valid or enforceable against the Owner of such Unit without its consent, duly executed, acknowledged and recorded with such amendment;

(i) otherwise adversely affect Sponsor, an Unsold Unit Owner or a Retail Owner, shall not be valid or enforceable against such party without its consent, duly executed, acknowledged and recorded with such amendment; or

(j) to eliminate, delete, modify, impair, infringe, prejudice, restrict, limit, condition, qualify, dilute or otherwise change or impact the Excess Development Rights or the benefits derived therefrom, shall not be valid or enforceable against Sponsor or other Development Rights Owner without its consent, duly executed, acknowledged and recorded with such amendment.

Section 4.4 Execution and Recording Requirements. A permitted amendment to the Declaration or these By-Laws pursuant to:

(a) Section 4.3.1, must be executed and acknowledged in recordable form by the President or the Vice-President, and by either the Secretary or an Assistant Secretary, and recorded together with the duly executed and acknowledged consents of not less than eighty percent (80%) in number and Common Interest of all Owners (including both Retail Owners) or (in lieu thereof) a duly executed, acknowledged and recorded certification of the Secretary or an Assistant Secretary certifying that not less than eighty percent (80%) in number and Common Interest of all Owners (including both Retail Owners) voted for, or consented to the amendment; or

(b) Section 4.3.2(a), must be duly executed and acknowledged in recordable form by the following:

(b-1) in the case of the Board, the President or the Vice-President, and by either the Secretary or an Assistant Secretary; or

(b-2) in the case of Sponsor, its elected Officer or Manager;

(c) Section 4.3.2(b), must be duly executed and acknowledged and recorded in accordance with Section 4.4(a) together with the duly executed and acknowledged consent of the applicable Owner of the Unit involved in the Unit Change;

(d) Section 4.3.2(c), must be duly executed, acknowledged and recorded by an authorized member, manager, officer, representative or signer of Sponsor or the Excess Development Rights Owner (as applicable).

An amendment to the Declaration or these By-Laws that requires the consent of the party indicated in each of Sections 4.3.3(a) through 4.3.3(j), must be duly executed and acknowledged in recordable form by such party or the amendment must be accompanied by such party's consent, duly executed and acknowledged in recordable form.

Section 4.5 Preparation and Expenses. An amendment to the Declaration or these By-Laws pursuant to:

(a) Section 4.3.1 shall be prepared and recorded by the Condominium Board as a General Common Expense assessed to all Owners pro rata to their respective Common Interests or as a Residential Common Expense assessed to all Residential, Parking and Storage Owners pro rata to their respective Common Interests (as applicable); or

(b) Section 4.3.2(a) through Section 45.3.2(c) shall be prepared and recorded by, and at the sole cost and expense of, the party implementing such amendment.

Section 4.6 **Floor Plans**. The Owner implementing a Unit Change to its Unit pursuant to Section 4.3.2(b) shall also have the right, without obtaining the consent or approval of the Board or other Owners, to cause an amendment to the Floor Plan of its Unit to be prepared by an architect or engineer chosen by such Owner, processed with and certified by the applicable Governmental Authorities (including the Tax Map Specialist of the New York City Land Records Division or a successor with similar function) and filed in the City Register's Office.

Section 4.7 **Filing with Condominium Association**. The party recording an amendment to the Declaration, these By-Laws and (if applicable) the Floor Plans shall promptly thereafter file a conformed copy thereof with the Secretary or an Assistant Secretary of the Condominium Association or the Condominium's managing agent or property manager (if and as applicable).

Section 4.8 **Filing with Secretary of State**. With reasonable promptness following the recording of an amendment to the Declaration or these By-Laws, the party recording such amendment, at its expense, shall file a copy of the recorded amendment with the Department of State of the State of New York, if and as required by the Condominium Act (including Section 339-s thereof) and the rules, regulations or requirements of the said Department of State. If the Condominium Board is recording the amendment, then the expense to file the amendment the Department of State shall be included in the General Common Expenses and charged to each Unit Owner pro rata to its Common Interest.

ARTICLE 5
REMEDIES

Section 5.1 **Board's Remedies**.

Section 5.1.1 Nonpayment of Common Charges. In the event the Common Charges or Additional Common Charges assessed to an Owner is not paid within ten (10) days from date payment is due, the Board shall have the remedies set forth in Sections 3.3.1 through 3.3.6 against the delinquent Owner, in addition to all other remedies available at law and in equity in the appropriate courts located in County, City and State of New York.

Section 5.1.2 Non-Monetary Violations. Absent an emergency, if an Owner or anyone for whom an Owner is responsible or accountable shall violate a provision of the Declaration, these By-Laws or the Rules and Regulations and such Owner does not cure the violation within ten (10) days after being given notice thereof by or on behalf of the Condominium Board, or with respect to any violation not reasonably susceptible to cure within such ten (10)-day period, fails to diligently commence such cure within said ten (10)-day period and thereafter, in the business judgment of the Board, fails to prosecute such cure with prompt due diligence and continuity to completion, the Condominium Board shall have the following rights and remedies against the offending Owner, in addition to all other legal and equitable rights and remedies:

(a) to enjoin, abate or otherwise remedy the continuance or repetition of any such violation, and to compel specific performance, by appropriate court action or proceeding;

(b) to levy fines and assess the expenses, including Legal Expenses, paid or incurred in connection with such violation; and

(c) to enter such Owner's Unit and, at expense and for the account of such offending Owner, to summarily abate, remove a condition causing, or otherwise cure or remediate such violation without Condominium Board or Unit Owners, or their respective Related Parties, or Construction Parties being deemed guilty or liable for trespass or otherwise by reason thereof; provided, however, the offending Owner shall be given not less than five business days' notice of the Board's intention to enter the Unit and remedy the violation for the account and at the expense of the Owner.

In the case of an emergency, the Condominium Board may take such action in clause (c) above immediately, without prior notice or allowing the offending Owner any period of time within which to cure or to commence to cure such violation, and without the Condominium Board or Unit Owners, or their respective Related Parties, or Construction Parties being deemed guilty or liable for trespass or otherwise by reason thereof.

If the Board elects to remediate the violation in accordance with the foregoing, the Board shall make all reasonable efforts to protect the safety of the Owner and any Unit Users of the Unit, and to protect from damage any property located in the portion of the Unit where the work is being performed.

The offending Owner shall reimburse the Condominium Board, pursuant to the Payment and Collection Terms, for any losses or damages sustained by reason of such violation together with the reasonable costs and expenses, including Legal Expenses, paid or incurred to implement its rights and remedies pursuant to this Section 5.1.2. All amounts billed by the Condominium Board pursuant to the foregoing shall be regarded as Additional Common Charges assessed to, and payable by, such offending Unit Owner.

Section 5.2 Owner's Remedies. If the use and enjoyment of a Unit, or the business being conducted therein, is significantly and demonstrably impaired, infringed or interrupted due to a violation of the Declaration, these By-Laws or the Rules and Regulations by the Condominium Board or another Owner, or for whom the Board or another Owner is responsible and accountable pursuant to the Declaration or these By-Laws, then in addition to all other legal and equitable rights and remedies, the aggrieved Owner shall have the right to enjoin or abate the continuance or repetition of any such violation, and to compel specific performance by appropriate court action or proceeding. The offending Board or Owner (as applicable) shall reimburse the aggrieved Owner, pursuant to the Payment and Collection Terms, for the losses or damages sustained by reason of such violation together with the reasonable costs and expenses, including Legal Expenses, paid or incurred to implement its rights and remedies under this Section 5.2.

Section 5.3 Remedies Cumulative. The remedies specifically granted to an aggrieved party in this Article 5 or elsewhere in the Declaration or these By-Laws shall be cumulative, shall be in addition to all other remedies available at law or in equity, and may be exercised at one time or at different times, concurrently or in any order, in the sole discretion of such aggrieved party. Further, the exercise of any remedy shall not operate as a waiver, or preclude the exercise, of any other remedy.

Section 5.4 **Disputes**. The exercise and enforcement of the provisions of this Article 5 and all disputes and controversies underlying a violation which give rise to the exercise and enforcement hereof, shall be shall be resolved by court action or proceeding, unless the aggrieved party (in its sole discretion) consents to, or initiates, arbitration pursuant to Article 6 below.

ARTICLE 6
ARBITRATION

Section 6.1 **Requirement to Arbitrate**. This Article 6 shall constitute an irrevocable written agreement by and among the Condominium Board and all Owners to resolve their disputes under the Declaration, these By-Laws and the Rules and Regulations to expedited arbitration (referred to herein as "**Baseball Arbitration**"), and not court action or proceedings, conducted in the County, City and State of New York in accordance with the terms of this Article 6, unless: arbitration is expressly prohibited; or the dispute involves a third party; or the disputes are between Owners only; or all parties to the dispute unanimously agree to vary any of the terms of this Article 6 or unanimously agree to resolve their dispute in any other manner (including the manner set forth in Section 3031 of the New York Civil Practice Law and Rules and known as "New York Simplified Procedure for Court Determination of Disputes" or an equivalent statute).

To the extent not inconsistent with this Article 6, arbitration shall be conducted by JAMS or its successor, in the City and State of New York, in accordance with the then applicable Expedited Procedures for Comprehensive Arbitration Rules and Procedures; provided, however, the terms of this Article 6 shall govern and control any conflict, inconsistency or ambiguity with the terms thereof. If JAMS or its successor is not then in existence, the arbitration shall be conducted in accordance with these terms by another organization at the time most commonly utilized in the New York City metropolitan area for the arbitration of commercial disputes (JAMS or its successor or said other organization is hereafter, the "**Appointing Authority**").

Section 6.2 **Notice of Arbitration**. The party seeking to submit the dispute to arbitration shall give notice to the other disputant(s) setting forth with meticulousness the dispute sought to be arbitrated and shall, in addition, comply with any applicable requirements of said commercial arbitration rules of the Appointing Authority that supplement, without conflicting with, the foregoing notice requirement.

Section 6.3 **Selection of Arbitrator**. All disputes submitted to Baseball Arbitration shall be resolved by one independent, disinterested arbitrator, having no direct or indirect family, employment, economic or business relationship with any of the disputants or their respective Related Parties. Any disputant may apply to the Appointing Authority to provide a list of potential arbitrators to be chosen by the disputants. The protocol of the Appointing Authority for the disputants to choose the arbitrator shall be followed. The disputants shall have seven business days from being given a list of potential arbitrators to choose an arbitrator, failing which either disputant may apply to the Appointing Authority to have it select the arbitrator. Preferably, the arbitrator shall be an attorney, former judge, owner, developer, operator or

manager having not less than ten (10) years' recent experience in commercial real property in New York City relevant to the mater in dispute.

If the arbitrator selected pursuant to the foregoing shall fail, refuse or be unable to act, his or her successor shall be appointed in accordance with the foregoing procedure. None of the parties to the arbitration shall raise any challenge or objection as to the full power and jurisdiction of the Appointing Authority to entertain such application and to appoint an arbitrator in accordance with the provisions of this Article 6.

Section 6.4 Baseball Arbitration.

Section 6.4.1 Monetary Dispute. The following provisions shall apply to Baseball Arbitration to resolve a monetary dispute:

(a) within ten (10) business days after the appointment of the arbitrator, each disputant shall submit to the arbitrator and the other disputant(s) its final and best monetary offer ("**Best Offer**") together with such affidavits, appraisals, reports, briefs, memorandum of law, case citations, exhibits and other documentation relating thereto (together, "**Supporting Documents**") as such disputant deems appropriate;

(b) if a disputant fails to send its Best Offer to the arbitrator and the other disputant(s) within said ten (10)-business day period and does not cure such failure within a deadline of five business days after being given notice of such failure by the arbitrator or another disputant (as applicable), such disputant shall conclusively be deemed to have irrevocably waived its right to send a Best Offer and the arbitrator shall accept, decide and award based strictly on the Best Offer timely delivered by the other disputant(s);

(c) no disputant may increase, decrease or otherwise change its Best Offer or Supporting Documents after receiving the Best Offer and Supporting Document submitted by another disputant, nor submit any rebuttal to the Supporting Documents submitted by another disputant or seek discovery with respect to the Best Offer or Supporting Documents submitted by another disputant, which shall conclusively be deemed waived; and

(d) the arbitrator shall not hold any hearings.

Section 6.4.2 Non-Monetary Dispute. The following provisions shall apply to Baseball Arbitration to resolve a non-monetary dispute:

(a) within ten (10) business days after the appointment of the arbitrator, each disputant shall submit to the arbitrator and the other disputant(s), its written position on the dispute at issue ("**Position Memorandum**"), together with such Supporting Documents as such disputant deems appropriate;

(b) within ten (10) business days after a disputant receives a Position Memorandum from another disputant, such recipient disputant shall have a one-time right to send to the arbitrator and to the other disputant(s) a memorandum rebutting such Position Memorandum ("**Rebuttal Memorandum**"), together with such Supporting Documents as the rebutting disputant deems appropriate;

(c) if a disputant fails to send its Position Memorandum or Rebuttal Memorandum to the arbitrator and the other disputant(s) within either of said ten (10)-business day periods and does not cure

such failure within a deadline of five business days after being given notice of such failure by the arbitrator or another disputant (as applicable), then:

(c-1) such disputant shall conclusively be deemed to have irrevocably waived its right to send a Position Memorandum or Rebuttal Memorandum (as applicable);

(c-2) in the case of a failure to send a Position Memorandum, the arbitrator shall accept, decide and award based strictly on the one Position Memorandum timely delivered by another disputant; or

(c-3) in the case of a failure to send a Rebuttal Memorandum, the arbitrator shall decide and award as provided in Section 6. 4.3 below;

(d) no disputant may add to, delete from or otherwise change its Position Memorandum, any Rebuttal Memorandum or any Supporting Documents after receiving the Position Memorandum, any Rebuttal Memorandum and any Supporting Documents submitted by another disputant, nor seek discovery with respect to the Position Memorandum, any Rebuttal Memorandum or any Supporting Documents submitted by another disputant, which shall conclusively be deemed waived; and

(e) the arbitrator shall not hold any hearings.

Section 6.4.3 Decision. The arbitrator shall decide the dispute and award the applicable disputant based strictly on only (in the case of a monetary dispute) the one Best Offer and Supporting Documents or (in the case of a non-monetary dispute) the one Position Memorandum, Rebuttal Memorandum and Supporting Documents (as applicable) that the arbitrator believes is the most:

(a) consistent with the Laws of the State of New York, without regard to principles of conflict of Laws, and the provisions of the Declaration, these By-Laws and the Rules and Regulations, it being intended and agreed that the arbitrator shall not have the power to vary or modify any of the provisions of the Declaration, these By-Laws or the Rules and Regulations; and

(b) accurate or correct:

(b-1) Best Offer and Supporting Documents; or

(b-2) Position Memorandum, Rebuttal Memorandum and Supporting Documents, as applicable, on the dispute in question, it being intended and agreed that the arbitrator shall not have the power to increase, decrease or otherwise modify such Best Offer or add to, subtract from or otherwise modify a Position Memorandum or Rebuttal Memorandum (as applicable).

If the Board is a disputant and the dispute involves a matter expressly stated in the Declaration or these By-Laws to be determined in accordance with the Board's business judgment or words of similar import, then the so-called "business judgment rule" articulated in *Levandusky v. One Fifth Ave Corp*. (75 NY2d 530 [1990]) shall apply. In all other cases, the "business judgment rule" shall not apply and the dispute shall be determined solely in accordance with this Section 6.4.3, without any deference, weight or favorable assumption being given to the Board.

Within ten (10) business days after receiving the last or (if applicable) the only Best Offer and any Supporting Documents or last or (if applicable) the only Position Memorandum, Rebuttal Memorandum and Supporting Documents (as applicable), the arbitrator shall deliver to all disputants, in writing, the decision and award, including the rationale to select one disputant's Best Offer and any Supporting Documents or last or (if applicable) the only Position Memorandum, Rebuttal Memorandum and Supporting Documents (as applicable) over that of the other disputant(s), and whether any damages or expenses (including Legal Expenses and Per Diem Interest) are to be awarded in connection therewith.

The decision of the arbitrator shall be final, binding and conclusive upon the disputants and shall constitute an "award" by the arbitrator within the meaning of the rules of the Appointing Authority. Judgment may be entered thereon in any court of competent jurisdiction.

The decision and award shall be effective and implemented immediately after being received, without delay or postponement pending confirmation of the arbitrator's decision or award or entry of judgment upon the decision or award, notwithstanding any challenge or contest by a disputant with respect to the decision or award, and notwithstanding any application or other request by a disputant that the arbitrator or any court or other body stay, set aside, nullify or otherwise change the decision or award.

The disputants shall make no request or other application to the arbitrator or any court or other body for any injunction, stay or other relief that would be contrary to the foregoing, and agree that the court and any other body shall have no jurisdiction or other authority to consider any request or other application for, or to grant, any injunction, stay or other relief that would violate any of the foregoing provisions.

If any decision of the arbitrator shall be set aside, nullified, modified or otherwise changed after the disputants receive a copy of the original decision or award, the disputants shall thereupon comply with the action setting aside, nullifying, modifying or otherwise changing the original decision or award, with such changes and adjustments by the disputants in actions taken pursuant to the original decision as may be necessary for such purpose.

Section 6.4.4 Immunity. The arbitrator shall be immune from liability to all disputants by reason of the arbitrator's participation and in any decision or award made hereunder. The disputants, jointly and severally, shall indemnify the arbitrator from and against any and all claims, litigations, liabilities, losses and damages (including Legal Expenses) asserted against the arbitrator by reason of such arbitrator's participation in arbitration or the decision or award rendered.

Section 6.4.5 Expenses of Arbitration. The losing disputant(s) in any arbitration shall pay all expenses of such arbitration, together with the Legal Expenses of the winning disputant, pursuant to the Payment and Collection Terms, if awarded by the arbitrator.

Section 6.4.6 Condominium Board. If the Condominium Board is involved in the arbitration, then:

(d) the amounts owed to the Board shall constitute Additional Common Charges; or

(e) the amounts to be paid by the Condominium Board shall constitute a General Common Expense and charged to all Unit Owners pro rata to their respective Common Interests or a Residential

Common Expense and charged to all Residential, Parking and Storage Unit Owners pro rata to their respective Common Interests, as applicable.

ARTICLE 7
NOTICES

Section 7.1 **Notices**. All notices (i.e., demands, directions, notifications, requests, petitions, approvals, consents or other communications) required or desired to be given hereunder, the Declaration or the Rules and Regulations, unless otherwise expressly provided, shall be sent to the following address of each party:

If to the Condominium Board:	If to Sponsor:	If to any other Owner:
Board of Managers The Calyer Greenpoint 171 Calyer Street. Brooklyn, New York 11222 Attention: [Insert Name], President with a copy sent simultaneously and in like manner to the then managing agent or property manager of the Property or (if none) to the person sending statements or invoices for Common Charges	171 Calyer Street Project LLC 463 Seventh Avenue, 4th Floor New York, New York 10018 Attention: Mark Adjmi	Addressed to the Owner at the address specified by the Owner in a notice to the Board or (if none) the address of the Building.

Each party may from time to time, by notice to another party, designate a different address to which future notices are to be sent and add an addressee to whom copies of notices are to be sent simultaneously and in like manner when giving a notice to such party.

Each notice shall conclusively be deemed given, received and effective:

(a) when sent by electronic mail (with electronic confirmation of transmission) or text message to a mobile phone followed by sending the original notice the same day by any other method permitted herein, except if not so emailed on a business day and received during business hours, the first business day thereafter; or

(b) the first business day after being sent by Federal Express or other nationally recognized overnight courier service for next day delivery; or

(c) the fifth (5th) business day after being mailed by registered or certified mail (with or without return receipt requested), in a properly addressed postage prepaid wrapper in any post office or branch post office regularly maintained by the United States Postal Service; except a notice mailed from outside the United States or a notice of a change of address or an additional addressee shall not be considered effective until actually received.

The refusal or failure to accept a notice shall be deemed receipt of the notice and shall not affect the effectiveness, validity or enforceability of the notice, nor excuse or justify delaying the performance of an

act or obligation. A written waiver of notice, signed by the party entitled to such notice, whether before or after the time a notice is to be sent, shall be deemed the equivalent of having timely received such notice.

Any notice given by a party's attorney (including a partner, associate or counsel authorized by a party's attorney) shall be deemed given by such party. The attorney shall identify in the notice the party on whose behalf the attorney is acting.

ARTICLE 8
GENERAL

Section 8.1 **Certain References**. All references in these By-Laws to:

(a) the words "Article", "Section", "provision", "paragraph", "clause" or similar words refer to an Article, Section, provision, paragraph and clause of these By-Laws, unless otherwise expressly stated;

(b) the words "hereof", "herein", "above", "below" and similar terms mean these By-Laws;

(c) a Section, provision, paragraph or clause of these By-Laws shall include the text of such Section, provision, paragraph or clause with the same force and effect as though set forth at length herein; and

(d) an exhibit, schedule, document, instrument or agreement shall include all provisions thereof and all attachments thereto.

Section 8.2 **Grammar**. Any number (plural or singular), or gender (masculine, feminine or neuter) or tense (past, present or future) used herein shall be deemed to include any other number, any other gender and any other tense, as the context may require or to correct a grammatical error.

Section 8.3 **Table of Contents and Headings**. The Table of Contents, and the Article and Section headings, of these By-Laws are for convenience and reference only and do not, and shall not be construed to, affect the scope, meaning or interpretation of any provision of these By-Laws.

END OF BY-LAWS

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3. Unit Total.

3.1 Based on Full (Actual) Square Footage. The approximate floor area shown in the "Unit Total" column equals the full (actual) square footage of the Unit and its appurtenant terrace (if any).

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

END OF EXHIBIT B

EXHIBIT E

TO

DECLARATION OF CONDOMINIUM
ESTABLISHING THE CALYER GREENPOINT

DIAGRAMS OF UNITS AND COMMON ELEMENT
(ATTACHED)

EXHIBIT C TO DECLARATION OF CONDOMINIUM

BY-LAWS

OF

THE CALYER GREENPOINT

171 Calyer Street
Brooklyn, New York 11222

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BY-LAWS
OF
THE CALYER GREENPOINT

ARTICLE 1
GENERAL

Section 1.1 **Purpose**. The purpose of these By-Laws is to set forth the requirements, rules and procedures concerning the conduct of the affairs and business of the Condominium Association and the operation of the Property, and the adjacent sidewalks, and all easements, rights and appurtenances belonging to the Land to the extent submitted to condominium ownership pursuant to the Declaration.

Section 1.2 **Applicability of By-Laws**. These By-Laws shall apply to each and every existing and future Owner, Unit User and Transaction Person, all of whom, automatically upon becoming the Owner of a Unit on the recording of the Declaration, or by accepting a deed or succeeding to title to a Unit, or upon accepting a security interest in a Unit, or executing a lease, or occupying a Unit, or entering into a transaction with the Condominium Board (as applicable), shall conclusively be deemed to automatically, irrevocably and unconditionally be legally bound by the Declaration, these By-Laws and the Rules and Regulations, as each may be duly amended from time to time.

Section 1.3 **Glossary**. The meanings of the capitalized terms and the interpretation of certain lowercase words used in these By-Laws are contained in EXHIBIT C Glossary to the Declaration. All other lowercase words shall have their ordinary meanings.

ARTICLE 2
GOVERNANCE

Section 2.1 **General**. The affairs and business of the Condominium Association and the operation of the Property and the adjacent sidewalks shall be governed by the Condominium Board as provided elsewhere herein and in the Declaration and the Rules and Regulations, and shall be implemented by the Officers at the direction of the Condominium Board. In exercising its powers and performing its duties under the Condominium Documents, the Condominium Board shall act on behalf, and as the agent, of all Unit Owners.

Section 2.2 **Condominium Board**.

Section 2.2.1 Status. The Condominium Board shall have the status conferred upon it pursuant to the terms of the Condominium Act and to the extent permitted by Laws, the status conferred upon the governing body of an unincorporated association pursuant to the terms of the General Associations Law of the State of New York.

Section 2.2.2 Principal Office of the Condominium Board. The principal office of the Condominium Board shall be located either at the Property or at such other place in the borough of Brooklyn reasonably convenient to a majority of the then existing Owners, in number and Common Interest, as may be designated from time to time by the Condominium Board.

Section 2.2.3 General Powers and Duties. The Condominium Board, as agent of the Unit Owners, shall have all of the powers and duties necessary or incidental to govern, control, conduct, administer, manage, transact and operate the affairs and business of the Condominium Association, the Property (including the Units and the Common Elements), and the sidewalks, in accordance with the terms of the Declaration, these By-Laws and the Rules and Regulations. The Condominium Board may do all such acts and things in furtherance of its powers and duties as are generally conferred upon a board of directors of a New York business corporation, except those that by Laws, or pursuant to the terms of the Declaration or these By-Laws, are limited or restricted, or may not be, or are expressly not, delegated to the Condominium Board by the Unit Owners. The Condominium Board shall exercise its powers and perform its duties in a manner consistent with the management of a high quality, first-class building used primarily for residential purposes with parking, storage and retail components in the vicinity of the Building and which is similar or nearest in use, size and amenities of the Building.

Section 2.2.4 Specific Powers and Duties. The Condominium Board shall have all of the powers and duties expressly set forth in the Declaration, these By-Laws and the Rules and Regulations. Without limiting the generality of the foregoing and Section 2.2.3 in any respect, these include the specific powers and duties of the Condominium Board:

(a) to prepare and adopt a budget of Condominium operation of the General and Residential Common Elements, which shall be consistent with the budget for the first 12 months of Condominium contained in Schedule B in Part I of the Plan ("**First Year's Budget**" or "**Schedule B**"), including a Reserve for Contingencies and a Reserve for Capital Replacements, in accordance with Section 3.2.3 below, as such Schedule B may last be changed in a duly filed amendment to the Plan before the First Unit Closing;

(b) to govern, control, conduct, administer, manage and otherwise transact the affairs and business of the Condominium Association for each budget year;

(c) to determine the amount, establish the means and methods of payment of, and collect, the General Common Charges from all Unit Owners, the Residential Common Charges from only the Residential, Parking and Storage Owners, any Additional Common Charges from the applicable Unit Owner and any Special Assessments from the applicable Unit Owners;

(d) to institute appropriate litigation for nonpayment Common Charges, including Additional Common Charges and Special Assessments, against defaulting Unit Owners; and to adopt, impose, levy and collect reasonable charges, fees, interest and fines against Unit Owners for violations of the Condominium Documents, as each may be duly amended from time to time;

(e) to use the General Common Charges to pay the General Common Expenses, the Residential Common Charges to pay the Residential Common Expenses, the Additional Common Charges to pay the Specially Allocated Expenses, and the Special Assessments (if any) to pay the General Common Expenses and/or the Residential Common Expenses (if and as applicable); and to use all other assets and funds held or received by the Condominium Board to operate and manage the Property, to govern, control, conduct, administer, manage and otherwise transact the affairs and business of the Condominium Association, and to implement its rights, obligations and duties;

(f) to maintain, repair, restore (including after damage or destruction by fire or other casualty, condemnation or eminent domain, or otherwise, as provided in these By-Laws) and alter the General Common Elements, the Residential Common Elements, the Association's Assets (including any Units or other real property, personal property or assets owned, leased or otherwise held by the Condominium Board or its affiliate from time to time), and the sidewalks;

(g) to furnish to Units and their respective Owners and tenants all intended Building Services and utilities comprising the General, Residential and Retail Common Elements, subject to temporary interruptions or reductions, in accordance with the Declaration or these By-Laws;

(h) to purchase and lease supplies, materials and facilities;

(i) to acquire and lease all rights, titles and interests in real and personal property and chattel real deemed necessary or appropriate by the Condominium Board;

(j) to give or grant leases (which include licenses), easements and other agreements to operate portions of the General Common Elements, the Residential Common Elements and/or the Association's Assets, or considered to be necessary or appropriate by the Condominium Board, in its sole business judgment;

(k) to employ or engage, compensate and dismiss Building personnel;

(l) to enter into contracts with Construction Parties, service providers and vendors of materials and supplies at market or competitive rates;

(m) to engage a managing agent or property manager to serve at a compensation to be negotiated by, and acceptable to, the Condominium Board and to perform such duties and services as the Condominium Board shall direct;

(n) to accept a surrender and acquire a Unit and its appurtenant Common Interest in accordance with Article 11 of the Declaration in the name of the Condominium Board or its affiliate, on behalf and as agent of the Unit Owners;

(o) to purchase or acquire a Unit in the name of the Condominium Board or its affiliate, on behalf and as agent of the Unit Owners, at a foreclosure or other judicial or non-judicial sale in connection with the foreclosure of the Board's lien for unpaid Common Charges;

(p) to purchase or lease a Unit on the permitted exercise of the Board's Right of First Refusal and to sublease any Unit any Unit so leased to the Board;

(q) to sell, lease and otherwise deal with, and make any disposition of, Units or other real and personal property acquired by, and to lease Units acquired by, the Condominium Board or its affiliate, on behalf and as agent of the Unit Owners;

(r) to incur debt on behalf and as agent of:

(r-1) all Unit Owners to maintain, repair, restore, alter or dispose of the General Common Elements, the Association's Assets, the sidewalks and/or to operate the Condominium Association; or

(r-2) all Residential, Parking and Storage Owners only to maintain, repair, restore, alter or dispose of the Residential Common Elements;

provided, however:

(r-2.1) no debt shall be incurred for a major or minor maintenance, repair, restoration or alteration of the General or Residential Common Elements, the Association's Assets, or sidewalks, or for working capital, bad debts, unpaid Common Expenses, depreciation, obsolescence or similar purposes, earlier than the fifth (5th) anniversary of the first conveyance of a Unit as provided in Section 339-jj.1 of the Condominium Act; except Sponsor (as the initial Owner of all Units) and each succeeding Owner of a Unit (by accepting or recording a deed to such Unit or otherwise succeeding to title to said Unit), shall conclusively be deemed to have irrevocably and unconditionally waived said five (5)-year restriction on incurring debt to the full extent such waiver is permitted by law;

(r-3) the incurrence of such debt shall require the vote or consent of:

(r-3.1) Sponsor during the period ending not more than five years after the closing and conveyance of the first Residential Unit ("**First Unit Closing**") or whenever the Unsold Units constitute less than 25% of the aggregate Common Interests appurtenant to all Units, whichever is sooner ("**Sponsor Veto Control Period**"); and

(r-3.2) eighty percent (80%) in number and Common Interest of all Unit Owners (including both Retail Owners) in the case of debt being incurred with respect to the General Elements, the Association's Assets, or sidewalks, or for working capital, bad debts, unpaid Common Expenses, depreciation, obsolescence or similar purposes; or

(r-3.3) a majority in number and Common Interest of all Residential, Parking and Storage Owners in the case of debt being incurred with respect to the Residential Common Elements;

(r-4) no lien to secure repayment of any debt may be created on any Unit or its appurtenant Common Interest (other than a Unit owned by the Board or its affiliate) without obtaining the consent of the Owner of such Unit; and

(r-5) the liability of each Owner for said debt (including the interest, late fees and other charges under the loan instruments) shall be pro rata to the Common Interest appurtenant to its Unit, without recourse for personal liability and limited to such Owner's interest in its Unit, and if the debt shall not be fully repaid by the Board, and such Owner shall pay the lender such proportion of the then outstanding indebtedness represented or secured thereby as the Common Interest of such Owner's Unit bears to the total Common Interests of all Owners who are responsible to repay the debt, such Owner shall be entitled to obtain from the lender, and such lender shall give said Owner,

a release and discharge of any judgment or other lien that the said lender shall have filed, or shall have the right to file, against such Owner's Unit, and the loan documentation shall so provide;

(s) to duly execute, acknowledge and deliver to a lender in connection with the permitted debt incurred by the Board, such instruments to securitize the debt pursuant to which (among other things) the Board, in its sole business judgment, may:

(s-1) mortgage and grant security interests in the Associations' Assets;

(s-2) grant, pledge, encumber and assign to the lender future revenue, including Common Charges, and the power, directly or through a lender's appointee, to levy and collect Common Charges and Special Assessments; and

(s-3) agree to increase Common Charges and Special Assessments in an amount sufficient to repay the debt, to enforce the timely payment of Common Charges and Special Assessments by the Board exercising the remedies for unpaid Common Charges in accordance with Section 5.1 and the Condominium Act, and to apply the net proceeds realized on a foreclosure sale or other remedy to repay the debt;

(t) to grant mortgages and other security interests and collateral in Units and assets acquired, purchased, leased or otherwise held by the Board, subject to obtaining the consent of Sponsor during the Sponsor Veto Control Period;

(u) to maintain books and records with respect to the finances and the operation of the General, Residential and Retail Common Elements, including:

(u-1) accounts of receipts and expenditures affecting the General, Residential and Retail Common Elements, the Association's Assets, the sidewalks, and the overall affairs and business of the Condominium Association, and expenditures undertaken on behalf and for the account of all Owners or a specified Owner or Owners (if and as applicable) in accordance with these By-Laws or the Declaration;

(u-2) books of account of the Condominium Board;

(u-3) other financial records, as well as other books of account of the Condominium Association as may be required to be kept pursuant to the terms of these By-Laws; and

(u-4) minutes, resolutions and other records of all meetings of the Board, committees appointed by the Board and Unit Owners held pursuant to the terms of these By-Laws;

(v) to open and maintain bank accounts on behalf of the Condominium Association and to designate the signatories required therefor;

(w) to obtain and maintain insurance pursuant to the terms of Section 3.9, including: property damage and liability coverage; fidelity bonds for Managers, Officers and employees handling funds of the Condominium Association; and directors and officers liability insurance;

(x) to adjust, compromise and settle claims under insurance policies obtained pursuant to the terms of Section 3.9, and to execute and deliver releases and discharges upon such adjustment, compromise and settlement on behalf and as agent of all Unit Owners, all holders of mortgages and other liens on Units, and all holders of any other interest or estate in the Property or the Association's Assets;

(y) to amend the Rules and Regulations from time to time, without recording an amendment to the Declaration or these By-Laws, as provided more fully in Section 3.16.5;

(z) to enforce the terms, covenants, conditions and provisions contained in the Declaration, these By-Laws and the Rules and Regulations and to exercise and implement the remedies for violations thereof contained in the Declaration or these By-Laws;

(aa) to organize the Condominium Board as a corporation as permitted in the Condominium Act; provided, however, that the organizational documents of such corporation shall conform as closely as practicable to the terms of the Declaration and these By-Laws, which shall prevail in the event of any ambiguity, inconsistency or conflict between the terms thereof and the terms of such organizational documents;

(bb) to organize corporations, limited liability companies and other entities to act as an affiliate of the Condominium Board to acquire title to or to lease or sublease:

(bb-1) Units pursuant to the permitted exercise of the Board's Right of First Refusal or as otherwise permitted under the Declaration or these By-Laws; and

(bb-2) rights, titles and interests in real and personal property for use in connection with the operation of the General Common Elements, the Residential Common Elements and the Association's Assets;

(cc) to execute, acknowledge or notarize (where applicable), record in the Kings County City Register's Office, the Kings County Clerk's office or elsewhere, and deliver any application, declaration, consent, assurance, restriction, document, agreement, contract, lease, easement or other instrument that the Condominium Board deems necessary or appropriate, including to comply with Laws (including a Zoning Resolution), or a requirement of a Governmental Authority having competent jurisdiction over the Board or the Property, or otherwise;

(dd) to exercise and implement all powers vested in the Condominium Board pursuant to a power of attorney granted to the Condominium Board in the Declaration or these By-Laws;

(ee) to do the following act on behalf and as agent of two or more Owners who have authorized the Board in writing to so act (subject to the right of any Owner to revoke such agency by notice to the Condominium Board, provided such notice is effective before the Condominium Board has commenced the applicable action):

(ee-1) to protest, complain or apply to the appropriate taxing authority to correct the tax assessments of the Units for any year by filing one or more complaints on behalf of such Owners;

(ee-2) to commence and prosecute a special proceeding for the review of assessments of real property as an aggrieved person under the Real Property Tax Law to seek administrative and judicial review of the tax assessments for any year;

(ee-3) to negotiate, compromise and settle with the taxing authority the tax assessments and any resulting litigation;

(ee-4) to execute and acknowledge in the name of each Owner for which it is acting on behalf and as agent, as such Owner's attorney-in-fact, all applications, certifications, petitions, complaints, compromise or settlement agreements, releases, discharges and other documents in furtherance of the foregoing; and

(ee-5) to retain legal counsel and other professionals and experts on behalf and as agent of the Owners for whom it is so acting to represent such Owners in connection with the foregoing;

(ff) to do the following on behalf and as agent of two or more Owners relating to the General or Residential Common Elements, or the affairs or business of the Condominium Association, or where required or permitted in carrying out the duties imposed upon the Condominium Board under these By-Laws, the Declaration or the Condominium Act:

(ff-1) to commence and prosecute as well as defend claims and litigations; to seek administrative and judicial review;

(ff-2) to conduct all depositions, trials, appeals, and to negotiate, compromise and settle any such claims and litigations;

(ff-3) to execute and acknowledge in the name of each of the affected Owners for which it is acting as agent, as such affected Owners' attorney-in-fact, all Litigation Documents in furtherance of the foregoing; and

(ff-4) to retain legal counsel and other professionals and experts on behalf and as agent of each of the affected Owners for whom it is so acting to represent such affected Owners in connection with the foregoing;

provided, however:

(ff-5) nothing herein will preclude an Owner from commencing, defending, compromising and settling any claim or litigation affecting only such Owner or such Owner's Unit; and

(ff-6) all expenses (including Legal Expenses), awards, judgments, compromise and settlement payments incurred or collected in connection with any claim or litigation by the Condominium Board, as agent of each of the affected Owners on whose behalf the Board is acting, shall be charged to, or the net amount collected (after deducting the expenses of collection, including Legal Expenses) shall be paid to, such affected Owners (all such amounts shall be charged or paid (as applicable) to such affected Owners pro rata to the respective economic impact on each of such affected Owners or (if speculative or not readily ascertainable) pro rata to the Common Interest appurtenant to the Unit of each of such affected Owner);

(gg) to prepare, execute and record on behalf of all Unit Owners, as their attorney-in-fact, coupled with an interest, a restatement of the Declaration and/or these By-Laws whenever, in the Condominium Board's business judgment, it is advisable to consolidate and restate all amendments, modifications, additions and deletions theretofore made to the Declaration and/or these By-Laws; provided, however, the restatement shall not impair, infringe, abridge, diminish or otherwise change the provisions of the Declaration or these By-Laws with respect to the Excess Development Rights, or the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of Sponsor;

(hh) to prepare execute and deliver in accordance with and on the terms contained in these By-Laws: certificates with respect to the status of payment of Common Charges and violations of the Declaration, these By-Laws or the Rules and Regulations by a Unit Owner; certificates with respect to the waiver of, or exemption from, the Board's Right of First Refusal on a sale or lease of a Unit; estoppel certificates; and subordination and non-disturbance agreements;

(ii) to control temporary power and utility service shutoffs, interruptions or reductions in the normal functioning of the Building Systems when necessary to facilitate the performance of work in, on or to a particular Unit and/or a General Common Element or a Residential Common Element (if and as applicable), which is permitted or required under the Declaration or these By-Laws; the Condominium Board is to endeavor to the extent commercially reasonable and economically practicable to minimize any disruption in the use and enjoyment of, and the business being conducted in, Units and the Common Elements serving Units;

(jj) to invest any excess funds held by the Board in obligations of federal, state and local governments, certificates of deposit or marketable instruments of a savings bank, a savings and loan association, a bank or trust company, a credit union, an insurance company, a real estate investment trust, a mortgage trust, a federal, state or municipal union or similar organization, or a welfare, pension or retirement fund or system (collectively, "**Institutional Lenders**"), and funds which invest in any such obligations, and similar investment-grade securities;

(kk) to cooperate with Owners and give assurances pursuant to Section 16.2 of the Declaration;

(ll) to the extent required to effectuate the rights of Sponsor or other Owner of the Excess Development Rights, to enter into a zoning lot merger or any declaration or other instruments necessary to acquire, purchase, allocate, sell, transfer or dispose of any Excess Development Rights now or in the future appurtenant to the Land or other zoning lot pursuant to the Zoning Resolution or to merge or subdivide a zoning lot;

(mm) to cause to be prepared and filed all requisite federal, state and city income tax, franchise tax, unincorporated business tax and any other tax returns, as provided in Section 3.16.8;

(nn) to cause to be prepared and distributed annually to Unit Owners an annual report of assets and liabilities and the operation of the Condominium Association, as provided more fully in Section 3.16.9; and

(oo) generally, to carry out any and all transactions that the Board determines to be in the best interests of Unit Owners or in furtherance of the purposes of the Condominium Association.

The Condominium Board shall be responsible for carrying out the duties imposed upon it under the Declaration, these By-Laws and the Rules and Regulations regardless of whether a Unit is vacant or occupied by its Owner or a tenant.

Section 2.2.5 Right to Delegate. Subject to Sections 2.2 6 and 2.2.7 and such additional exceptions, limitations and restrictions as the Board may deem appropriate, the Condominium Board shall have the unfettered right to delegate to:

(a) its employees, agents (including a managing agent), representatives, Construction Parties, designees and affiliates any act, work or matter to be undertaken by the Condominium Board in accordance with the Declaration or these By-Laws; and

(b) an executive and other committees to exercise and perform such powers and duties of the Condominium Board during the intervals between the meetings of the Condominium Board as the Condominium Board may direct.

Section 2.2.6 Non-Delegable Powers and Duties. The Condominium Board shall not delegate to any person or committee any of the powers or duties that are expressly prohibited from being delegated under the Condominium Act or other Laws, or by a board of directors of a corporation under the New York Business Corporation Law.

Section 2.2.7 Exception. The prohibitions in Section 2.2.6, however, do not apply to a person designated by the Condominium Board, to whom the powers and duties of the Board may be delegated under such terms and conditions approved and determined by the Condominium Board in connection with a loan (secured or unsecured) obtained by the Condominium Board in accordance with its authority under these By-Laws as agent for all Unit Owners.

Section 2.2.8 Number and Composition of Managers. Initially, the Condominium Board will consist of one Manager, who will be appointed exclusively by Sponsor and will conduct all business and affairs of the Condominium Association. Sponsor will cause the Condominium Board to call the first meeting of Unit Owners no later than approximately sixty (60) days after the second anniversary of the First Unit Closing or whenever the number and Common Interest of the Sold Residential, Parking and Storage Units constitute eighty percent (80%) or more in number and Common Interest of all Units, whichever is the first to occur. At such first meeting, the Unit Owners shall elect and appoint seven Managers to serve on the Condominium Board.

The composition of the seven Managers shall be as follows:

(a) during the first five years from the First Unit Closing or whenever the Unsold Residential, Parking and Storage Units owned by Sponsor constitute less than twenty-five percent (25%) of all Residential, Parking and Storage Units, in number and Common Interest, whichever is sooner to occur ("**Sponsor Board Control Period**"), the Board shall comprise four Sponsor Managers appointed exclusively by Sponsor, one Residential Manager elected by all Residential, Parking and Storage Owners,

(including Sponsor for so long as Sponsor owns at least one Unsold Residential, Parking or Storage Unit) who has no family (by blood, marriage or adoption), employment or business relationship or affiliation with Sponsor or a manager, member or principal of Sponsor or an Unsold Unit Owner ("**Independent Manager**"), and two Retail Managers, each of whom shall be appointed exclusively by a Retail Owner; or

(b) after the end of the Sponsor Board Control Period and for so long as Sponsor owns at least one Unsold Residential, Parking or Storage Unit, the Board shall comprise four Independent Managers elected by all Residential, Parking and Storage Owners (including Sponsor while it owns at least one Unsold Residential, Parking or Storage Unit), one Sponsor Manager appointed exclusively by Sponsor, and two Retail Managers, each of whom shall be appointed exclusively by a Retail Owner.

Sponsor will cause the Board to call a special meeting of Unit Owners to be held within approximately thirty (30) days after the end of the Sponsor Board Control Period to elect three additional Independent Managers to replace three Sponsor Managers, who will resign effective on the qualification and election of such Independent Managers.

Sponsor (at its exclusive option) may choose not to nominate or vote for the Independent Manager(s) to be elected at a meeting of Unit Owners without waiving or otherwise prejudicing Sponsor's right to nominate and vote to elect the Independent Manager(s) at future meetings of Unit Owners.

Section 2.2.9 Qualification. Each Independent Manager must be either:

(a) an individual whose primary or principal residence is in New York State and owns a Sold Residential Unit or an adult member of the immediate family of such Owner who resides in said Unit;

(b) an individual appointed by Sold Residential Unit mortgage lender;

(c) an officer, director, shareholder, partner, member, principal, employee, trustee, executor, administrator or beneficiary of a New York corporation, partnership, company, trust, estate or other entity that owns a Sold Residential Unit;

(d) an individual who resides in a Sold Residential Unit owned by:

(d-1) a Foreign Government or Diplomat that has complied with Article 14 of the Declaration; or

(d-2) a Foreign Person that has complied with Article 15 of the Declaration; or

(d-3) any entity that either shall have been organized under New York law or shall have designated the New York Secretary of State for service of process.

There is no qualification requirement for a Sponsor Manager or a Retail Manager, each of whom may be an entity (organized under New York law or shall have designated the New York Secretary of State for service of process) or individual at least 18 years old, and need not have any relationship with Sponsor or a Retail Owner. Sponsor, as Owner of Unsold Units, may appoint the same person to serve as the two or more Sponsor Managers during the Sponsor Board Control Period and be counted as a separate Manager for each Board seat held by such person for quorum and voting purposes. If the Retail Owner owns both

Retail Units, such Owner may appoint the same person to serve as the two Retail Managers and be counted as a separate Manager for each Board seat held by such person for quorum and voting purposes.

Section 2.2.10 Disqualification. A Manager shall automatically be disqualified and cease to serve on the Board when:

(a) such Manager ceases to qualify under Section 2.2.9; or

(b) if the Condominium Board perfects a lien against a Sold Unit (but not an Unsold Unit or a Retail Unit), the eligibility of an Independent Manager who is associated with the Owner of such Sold Unit will automatically be suspended, and unless the lien is satisfied or discharged by bond or otherwise of record thirty (30) days thereafter, such Board membership shall automatically cease; or

(c) the Retail Owner who appointed a Retail Manager ceases to own fee title to its Unit (in which case Section 2.2.14(d-2) shall apply).

Until a new Manager is elected who qualifies pursuant to Section 2.2.9 (in the case of clause (a) above), or the lien against the Unit is paid or discharged by bonding or otherwise (in the case of clause (b) above), or a new Retail Manager is appointed by the new Retail Owner (in the case of clause (c) above), the number of Managers for quorum and decisions (including conducting transactions) of the Board shall automatically be based on the remaining number of Managers then serving on the Board; provided, however, during the absence of a Retail Manager due to a change in ownership of a Retail Unit, no decision shall be made that would adversely affect the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of a Retail Unit or its Owner who appointed such absentee Retail Manager without the consent of such Owner.

Section 2.2.11 Term of Office. All Managers shall serve for a term of one year and until their respective successors are elected or appointed and qualified. There is no limit on the number of terms, successive or otherwise, a Manager may serve.

Section 2.2.12 Removal. An Independent Manager may be removed "with" or "without" cause, and a Sponsor Manager and Retail Manager may be removed solely for bad faith, breach of a fiduciary duty or obligation, self-dealing, dishonesty, fraud, theft, gross negligence, willful misconduct, illegality or similar misconduct (each, "**Malfeasance**"), by a vote of a majority in number and Common Interest of Owners of all Units cast at a duly constituted meeting of Unit Owners at which a quorum is present. In determining such majority vote, the Units and Common Interests owned by the Manager to be removed, or the Owner who appointed such Manager, or the Owner of the Unit in which such Manager resides, shall be excluded from the count of the base number of Unit Owners and Common Interests for quorum and voting purposes.

Any Independent Manager, Sponsor Manager or Retail Manager who is to be removed shall be given a written explanation of the basis of removal at least seven business days in advance of the meeting of Unit Owners and a reasonable opportunity to be heard at the meeting before the vote is taken.

A Sponsor Manager serves at the will of Sponsor or the Unsold Unit Owner or Owners (as applicable) who appointed such Sponsor Manager and may be removed "without" cause and without explanation by only Sponsor or said Unsold Unit Owner or Owners (as applicable).

A Retail Manager serves at the will of the Retail Owner who exclusively appointed such Retail Manager and may be removed without cause and without explanation by only said Retail Owner.

Section 2.2.13 Resignation. An Independent Manager may resign at any time by giving notice to the remaining Independent Managers or (if none) to a Sponsor Manager. A Sponsor Manager may resign by giving notice to the Sponsor or appropriate Unsold Unit Owner or Owners (as applicable) who appointed such Manager. A Retail Manager may resign by giving notice to the Retail Owner who exclusively appointed said Retail Manager.

An Independent Manager who shall cease to be qualified for membership pursuant to the terms of these By-Laws shall conclusively be deemed to have automatically resigned as a Manager effective as of the date upon which such qualification shall cease.

Section 2.2.14 Vacancy. A vacancy on the Condominium Board, whether resulting from removal, resignation, death, incompetency, incapacity or otherwise, will be filled as follows.

(a) in the case of a vacancy of an Independent Manager during the Sponsor Board Control Period, only the four Sponsor Managers shall have the right to appoint a new Independent Manager to fill such vacancy;

(b) in the case of a vacancy of an Independent Manager after the end of the Sponsor Board Control Period, only the remaining Independent Managers shall have the right to appoint a new Independent Manager to fill such vacancy;

(c) in the case of a vacancy of a Sponsor Manager, only Sponsor or other appropriate Unsold Unit Owner, whoever originally appointed the vacating Sponsor Manager, shall have the right to appoint a new Sponsor Manager to fill such vacancy;

(d) in the case of a vacancy of a Retail Manager:

(d-1) only the Retail Owner who appointed said vacating Retail Manager; or

(d-2) if the vacancy results from a change in ownership of a Retail Unit, only the new Owner of such Retail Unit,

shall have the right to appoint the new Retail Manager to fill such vacancy.

In the case of a removal of an Independent Manager, the Owners of Sold and Unsold Residential, Parking and Storage Units will have the right to pre-empt the Managers and elect the replacement at the same meeting the removal is voted upon or at a subsequent special or annual meeting of Unit Owners called for such purpose.

The person appointed or elected to fill the vacancy will serve as a Manager of the Condominium Board for the remainder of the term of the Manager being replaced.

Section 2.2.15 First Board Meeting. Upon recording of the Declaration in the City Register's Office, Sponsor, as Owner of all Units, shall appoint one Sponsor Manager, who shall then elect the Officers.

Section 2.2.16 Organizational Board Meetings. The first meeting of each Condominium Board elected and appointed annually by the Unit Owners may be held immediately after such annual meeting of Unit Owners and no notice of such Board meeting shall be necessary to the newly elected Managers in order to legally constitute the meeting, provided a quorum shall be present. Alternatively, such first Board meeting may convene at such place, date and time as shall be fixed by a majority of the Managers present at said annual meeting of Unit Owners or (if less than a quorum shall be present) those Managers present at such annual meeting, by notice thereof given to all Managers within five business days thereafter. In any event, however, such first meeting of each newly elected and appointed Board shall be held within approximately thirty (30) days following each annual meeting of Unit Owners.

Section 2.2.17 Regular Meetings of the Condominium Board. The Condominium Board is to hold at least four regular meetings each budget year, but a majority of the Managers may determine to meet more often. The date, time and place of each regular meeting will be fixed by a majority of the Managers.

Section 2.2.18 Special Meetings of the Condominium Board. The President may call a special meeting of the Condominium Board whenever determined by the President to be necessary or desirable. The President shall call a special meeting of the Board to be held within ten (10) business days after request therefor is given by two Managers; provided, however the same two Managers may not call for a special meeting of the Board more often than twice in any fiscal year of Condominium operation.

A notice of a special meeting of the Condominium Board to fill the vacancy of an Independent Manager shall be sent within three business days after any Manager learns of the vacancy and shall be held within five business days after sending the notice. The election held thereat shall be effective to fill such vacancy even if the number of Managers present at such meeting shall not constitute a quorum. Sponsor or the appropriate Unsold Unit Owner or Owners (as applicable) who appointed a vacating Sponsor Manager, or a Retail Owner who appointed a vacating Retail Manger, shall alone fill such vacancy by notice to the other Board Members or to the President, Vice President or Secretary of the Condominium Association without the need to hold a special or regular meeting of the Board.

Section 2.2.19 Date, Time and Place. All regular and special meetings of the Board shall be held on a business day and during business hours, unless a majority of the Managers otherwise agree, and may be held in a physical location reasonably convenient to a majority of the Managers in the borough of Brooklyn in the State of New York, or virtually (i.e., by means of conference telephone or mobile phone, or a video and audio telecommunication platform (such as Skype or ZOOM), or electronic communication, including email and text message to a mobile phone) in which all Managers attending the meeting can hear or otherwise effectively communicate with each other at the same time or concurrently, or any combination of the foregoing. Managers participating in a meeting electronically (i.e., email or text message) shall be afforded a reasonable opportunity to propose, object to, and vote upon a specific action to be taken by the Managers, and to see, read or hear the proceedings of the meeting substantially concurrently therewith.

Participating in a meeting by any of the foregoing means shall be considered attendance in person for all purposes.

Section 2.2.20 Notice of Board Meetings. Notice of all regular meetings and special meetings of the Condominium Board (except in case of an emergency):

(a) shall state the date, time, place and purpose of the meeting; and

(b) shall be sent to each Manager as follows and at least the following number of days prior to the day fixed for the meeting: five business days if sent by hand delivery, facsimile or email (with electronic confirmation of transmission) or text message to a mobile phone; or seven business days if sent by Federal Express or other nationally recognized overnight courier for next day delivery; or ten (10) business days if sent by ordinary first class mail.

Section 2.2.21 Waiver of Notice of Meetings. Any Manager may, at any time, waive notice of any meeting of the Board or any committee thereof in writing or by electronic communication. Such waiver shall be deemed equivalent to receiving the notice. Attendance by a Manager at any such meeting of the Board or any committee thereof shall constitute a binding and conclusive waiver by such Manager of notice of the meeting. If all Managers or committee members are present at any meeting of the Board or any committee of the Board, respectively, no notice of such meeting shall be required and any business authorized pursuant to these By-Laws may be transacted at such meeting.

Section 2.2.22 Quorum. Attendance at a duly convened regular or special meeting of the Board by:

(a) a majority of all Managers shall be necessary to constitute a quorum for any business to be transacted and all decisions to be made by the Board pursuant to Section 2.2.23.1; or:

(b) a majority of the Residential Managers only shall be necessary to constitute a quorum for any business to be transacted and all decisions to be made by only the Residential Managers in the name and on behalf of the Board, pursuant to Section 2.2.23.2; or

(c) both Retail Managers shall be necessary to constitute a quorum for any business to be transacted and all decisions to be made by only the Retail Managers in the name and on behalf of the Board, pursuant to Section 2.2.23.3.

No quorum or Board meeting requirements shall apply to any business to be transacted and any decisions to be made by only the Sponsor Manager or Managers, or only a Retail Manager, or (in the case of an emergency) any Manager pursuant to Section 2.2.23.

Section 2.2.23 Decisions.

Section 2.2.23.1 Condominium Board. A majority of all Managers attending a duly convened Board meeting at which a quorum is present, shall transact all business and make all decisions that relate solely to:

(a) the General Common Elements;

(b) the Association's Assets;

(c) the General Common Expenses, the Specially Allocated Expenses and the Administrative Expenses levied on a Retail Unit or its Owner;

(d) the General Common Charges;

(e) the Building Services to be provided to all Units or to all Residential and Retail Units and their respective Owners;

(f) the affairs of the entire Condominium Association; and

(g) impact both the General and Residential or Retail Common Elements, or booth the Residential and Retail Common Elements, or the Common Elements and a Residential or Retail Unit, or both a Residential and a Retail Unit.

Section 2.2.23.2 Residential Managers. A majority of:

(a) all Residential Managers attending a duly convened meeting of the Residential Managers at which a quorum is present, shall transact all business and make all decisions in the name and on behalf of the Board that relate solely to:

(a-1) the Residential Common Elements;

(a-2) the Residential Common Expenses and the Administrative Expenses levied on a Residential, Parking or Storage Unit or its Owner;

(a-3) the Building Services to be provided to only the Residential, Parking and Storage Units and their respective Owners; and

(a-4) the affairs of only the Residential, Parking and Storage Owners that do not, directly or indirectly, impact, infringe, or in any way diminish the Sponsor's Rights, or the operation or the business conducted in one or more portions of a Retail Unit, or the Building Systems serving a Retail Unit or a Retail Common Element, or the Building Services being provided to a Retail Unit or its Owner, or any of the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of a Retail Unit or its Owner.

Section 2.2.23.3 Retail Managers. Both Retail Managers attending a duly convened meeting of the Retail Managers at which a quorum is present, shall transact all business and make all decisions in the name and on behalf of the Board that relate solely to:

(a) the Retail Common Elements;

(b) the Retail Common Expenses and the Administrative Expenses levied on a Retail Unit or its Owner;

(c) the Building Services to be provided to only both Retail Units and their respective Owners; and

(d) the affairs of only both Retail Owners or both Retail Units and not affecting any other Unit or the General or Residential Common Elements.

Section 2.2.23.4 Sponsor Manager(s). The Sponsor Manager (or if there is more than one Sponsor Manager) a majority of the Sponsor Managers, shall have the right, without attending a Board meeting, to transact any business and make any decisions in the name and on behalf of the Board that relate solely to the operation or affairs of the Unsold Residential, Parking and Storage Units or their respective appurtenant Limited Common Elements or to implement Sponsor's Rights under the Condominium Documents.

Section 2.2.23.5 Retail Manager. A Retail Manager shall have the right, without attending a Board meeting, to transact any business and make any decisions in the name and on behalf of the Board that relate solely to the Retail Owner who appointed such Retail Manager or such Owner's Retail Unit and the Limited Common Elements restricted to its exclusive use, and to implement the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of such Owner or its Retail Unit and its appurtenant Limited Common Elements.

Section 2.2.23.6 Emergency. In the case of an emergency, any Manager shall have the right, in the name and on behalf of the Board, without holding a Board meeting, to temporarily remediate the condition causing the emergency, in which case such Manager shall endeavor, as soon as feasible, to explain to the other Mangers the condition causing such emergency, the efforts to temporarily remediate the emergency condition and the status of said condition.

Section 2.2.23.7 Required Recusal. In the case of an offending Owner who violates the provisions of the Declaration, these By-Laws or the Rules and Regulations, the Manager appointed by or who is related (by family, employment, business or otherwise) to such offending Owner shall be recused from the deliberations and the decision of the Board on the appropriate remedy. In such case, the other Managers or Manager (as applicable) shall make the decisions on behalf and in the name of the Board and the number of Managers for quorum, voting and decision requirements shall be reduced concomitantly.

Section 2.2.24 Decisions in Writing in Lieu of Meeting. Any decision to be made by the Condominium Board or only the Residential Managers may be made without a meeting if all Managers (in the case of the Board) or all Residential Managers (for any decision to be made solely by them) shall consent in writing to the decisions or transactions.

Section 2.2.25 Number of Votes. Each Manager shall have one vote on all matters and transactions to be determined and voted upon by the Condominium Board, except a person appointed to serve as two or more Sponsor Managers or the two Retail Managers shall have one vote for each such Board seat.

Section 2.2.26 Attendance Requirements. Attendance at a regular or special meeting of the Condominium Board or any committee thereof, or the Residential Managers or any committee thereof, shall be in person or virtually (i.e., by means of conference telephone or mobile phone, or a video and audio telecommunication platform (such as Skype or ZOOM), or electronic communication, including email and text message to a mobile phone,) permitting all individuals participating in the meeting to hear or otherwise

effectively communicate with each other at the same time or concurrently. Such participation shall constitute presence at such meeting for all purposes.

Section 2.2.27 Adjournment. If, at any meeting of the Condominium Board there shall be less than a quorum present, a majority of the Managers present may, at such meeting, or within one business day thereafter, adjourn the meeting to a new date, time and place in Brooklyn and give the absentee Manager(s) notice thereof as provided in Section 2.2.20 prior to the adjourned date, failing which the Board shall adjourn the meeting to a new date, time and place in Brooklyn in the manner provided in Section 2.2.20. The business to be transacted at the original meeting shall be the only business that may be transacted at the adjourned meeting.

Section 2.2.28 Conduct of Meetings. The President shall preside at the meetings of Managers and the Secretary shall faithfully record the minutes thereof, which minutes shall include the identity of the Managers present and how each attended the meeting, the items discussed, the full text of all resolutions duly adopted by the Managers, how each Manager voted, and a record of all transactions and proceedings occurring at the meeting.

Section 2.2.29 Robert's Rules of Order. Unless in conflict with the terms of the Declaration, these By-Laws or the Condominium Act, each meeting of the Condominium Board shall be conducted in accordance with the then current edition of Robert's Rules of Order or any other rules of procedure from time to time acceptable to a majority of the Managers attending the meeting.

Section 2.2.30 Restrictions on Board Powers. The Condominium Board:

(a) shall not have the power to enter into any agreement that would make an Owner a guarantor or surety;

(b) must obtain the consent of the impacted Owner in each instance to change:

(b-1) the Common Interest appurtenant to such Owner's Unit;

(b-2) the permitted use and enjoyment of, or the permitted business to be conducted in, such Owner's Unit;

(b-3) the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of such Owner contained in the Declaration or these By-Laws, including the right to sell, lease or mortgage its Unit or to securitize the holder of a Controlling Interest in an Unsold Unit Owner or Retail Owner, without a Right of First Refusal in favor of the Board or another Owner on the terms contained in these By-Laws;

(b-4) the rights or benefits of such Owner's mortgagee or a holder of a Controlling Interest in an entity-Owner contained in these By-Laws;

(b-5) the requirement to obtain the consent of such Owner where expressly provided in the Declaration or these By-Laws; or

(b-6) the non-recourse, pro rata and limited liability of an Owner set forth in Section 2.5.22;

(c) must contain the consent of Sponsor during the Sponsor Veto Control Period to do any of the following:

(c-1) to raise Common Charges or levy a Special Assessment in order to do any of the following:

(c-1.1) to alter the General Common Elements, the Residential Common Elements, the Association's Assets, including any Unit owned or held under a lease or otherwise by the Condominium Board or its affiliate, incorporated or otherwise, organized by the Board to act on behalf and for the account of the Condominium Board or the Condominium Association;

(c-1.2) to establish a fund for reserves for unanticipated expenses and/or contingencies (i.e., a Reserve for Contingencies) that exceeds five percent (5%) of the projected Common Expenses, excluding the Reserve for Capital Replacements;

(c-1.3) to change or eliminate the Reserve for Capital Replacements set forth in Schedule B in Part I of the Plan, as such Schedule B may last be amended before the First Unit Closing, except as permitted to be changed pursuant thereto, which is required to be included in each budget in accordance with these By-Laws and the Plan;

(c-1.4) to increase, decrease, eliminate or otherwise change the number, type, classification or working hours of the Building's service staff from those set forth in Schedule B in Part I of the Plan, as such Schedule B may last be amended before the First Unit Closing, except as permitted to be changed pursuant thereto;

(c-1.5) to increase, decrease, eliminate or otherwise change Building Services by (for example) entering into contracts for new or additional services or maintenance work not included in said First Year's Budget, or failing to provide any service or maintenance contracts set forth in such First Year's Budget, or otherwise;

(c-1.6) to increase, decrease, eliminate or otherwise change the amounts or types of insurance coverage from those provided in said First Year's Budget;

(c-2) to borrow money on behalf of the Condominium Association; or

(c-3) to exercise the Right of First Refusal to purchase or lease a Sold Residential, Parking or Storage Unit;

provided, however, Sponsor may not exercise veto control over: expenses included in said First Year's Budget; or expenses required to comply with applicable Laws, or to remedy a governmental notice of a violation of Laws, or to remedy an order of a Governmental Authority or an insurer of the Building; and

(d) must obtain the consent of a Registered Tenant, a Registered Mortgagee or a Registered Mezzanine Lender to change such party's rights and benefits under the Declaration or these By-Laws.

Section 2.2.31 Business Judgment Rule. The decisions and transactions of the Condominium Board, or the Residential Managers or the Sponsor Manager(s) or a Retail Manager (as to the decisions and

transaction to be made only by such Manager(s) as provided in these By-Laws) that are made in good faith, for the purposes set forth in the Condominium Documents and within the scope of its or their (as applicable) authority, and not in bad faith, breach of a fiduciary obligation, self-dealing, breach of contract or disparate treatment, shall have the equivalent status of the decisions and transactions of a cooperative housing corporation as to which the so-called "**Business Judgment Rule**" articulated in *Levandusky v. One Fifth Ave. Corp.* (75 NY2d 530 [1990]) shall apply, except the Business Judgment Rule shall not apply to any decisions or transactions affecting, directly or indirectly, the Sponsor or other Owner of an Unsold Unit, or the Owner of a Retail Unit, the Sponsor's Rights under the Plan or the Condominium Documents, or an Unsold Residential, Parking or Storage Unit, or a Retail Unit or its Owner or the business to be conducted in or the operation of a Retail Unit, or the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of an Owner of a Retail Unit, which shall be subject to scrutiny and determined solely on the merits by a court, arbitration panel or other forum having competent jurisdiction, without any deference, weight or favorable assumption being given to the Condominium Board, or the Residential Managers or the Sponsor Manager(s) or a Retail Manager.

Section 2.2.32 Compensation of Managers. No Manager or any committee member shall receive any compensation from the Condominium Board for acting as such.

Section 2.2.33 Standards for Fiduciary Responsibility and Self-Dealing. Each Manager shall act in the best interests of the Owner who appointed such Manager or the Owners who elected such Manager (as applicable), but owes a duty of loyalty to act in furtherance of the purposes of the Condominium Association, within the scope of the Manager's authority contained in the Declaration and these By-Laws, and in good faith.

Section 2.2.34 Annual Report for Interested Manager Contracts. In accordance with New York Business Corporation Law ("**BCL**") §727, within approximately ninety (90) days after the end of each fiscal year of Condominium operation, the Board shall give each Manager a copy of BCL §713 and shall submit an annual report to all Unit Owners, signed by each Manager, containing information on any contracts made, entered into, or otherwise voted on by the Board where one or more Managers or any corporation, company, organization, firm, association or other entity in which one or more Managers have a substantial financial interest. Such annual report shall include the following:

(a) a list of all contracts voted on by the Board, including information on the contract, the recipient, the contract amount, and the purpose of entering into the contract;

(b) the record of each meeting, including the names of the Manager in attendance, the voting records for contracts and how each Manager voted on such contracts; and

(c) the date of each vote on each contract, and the date the contract would be and remain valid.

If said annual report would contain no information required to be provided pursuant to the foregoing because of the absence of any actions taken by the Board, then the Board shall instead submit to the Unit Owners a document signed by each Manager stating: "No actions were taken by the Board were subject to the Annual Report required pursuant to BCL §727."

The expenses incurred in connection with the foregoing shall be included in the General Common Expense and charged to all Units pro rata to their respective Common Interests.

Section 2.3 Officers.

Section 2.3.1 Election. The principal Officers of the Condominium Association shall consist of a President, Vice President, Secretary and Treasurer, each of whom shall be elected by a majority of those Managers attending a duly constituted Board meeting at which a quorum is present. The Condominium Board shall also have the right to elect such other Officers and assistant Officers as it deems appropriate. The Sponsor Manager(s) and each Retail Manager shall have the exclusive right to elect a co-Vice President and a co-Secretary for the purpose only to implement the transactions (including to execute and notarize or acknowledge (if and as applicable) and deliver documents as duly elected Officers of the Board) that they alone may decide in the name and on behalf of the Condominium Board pursuant to Section 2.2.23.

Section 2.3.2 Powers and Duties. Generally, the Officers shall have all of the same powers and duties of the equivalent officer of a stock corporation organized under the BCL. Assistant Officers, in order of their seniority or in any other order determined by the Board, in the absence or disability of the applicable principal Officer, as the case may be, shall perform the duties and exercise the powers of said applicable principal Officer, and shall perform such other duties as the Board may prescribe.

Section 2.3.3 Execution of Documents. Except as otherwise provided in Section 2.3.1 or required by Laws, the Officer or Officers or other person to execute and deliver such agreements, contracts, deeds, mortgages, leases, easements, declarations, checks and other instruments and documents applicable to the:

(a) transactions and matters to be decided by the Board, shall be determined by the Board;

(b) transactions and matters to be decided exclusively by the Residential Managers on behalf and in the name of the Board, shall be determined by the Residential Managers;

(c) transactions and matters to be decided exclusively by the Sponsor Manager(s) on behalf and in the name of the Board, shall be determined by the Sponsor Manager(s); or

(d) transactions and matters to be decided exclusively by a Retail Manager on behalf and in the name of the Board, shall be determined exclusively by such Retail Manager.

Section 2.3.4 Authorization. The Condominium Board, the Residential Managers, a Sponsor Manager or a Retail Manager (as applicable) may, by resolution passed in accordance with the provisions hereof, authorize an Officer elected by the Board, the Residential Managers, the Sponsor Manager(s) or a Retail Manager (as applicable) to execute and deliver, on behalf and as the duly authorized Officer of the Board, such documents and instruments as the Board, the Residential Managers, the Sponsor Manager(s) or a Retail Manager (as applicable) directs and considers necessary or desirable to implement the transactions conducted, and the decisions made, respectively by Condominium Board or the Residential Managers or the Sponsor Manager(s) or a Retail Manager (as applicable) in accordance with the Declaration or these By-Laws.

Section 2.3.5 President. The President shall be the chief executive Officer of the Condominium Association, shall preside at meetings of Unit Owners and of the Condominium Board, shall sign as the duly authorized Officer of the Condominium Board all agreements, contracts, deeds, mortgages, leases, easements, declarations and other agreements, documents and instruments authorized by the Board, shall have general management and administration of the affairs and business of the Condominium Association that are governed by the Board, and in general, shall perform all of the general powers and duties that are incident to the office of a president of a stock corporation organized under the BCL, including the power to appoint the members of all committees created by the Board from among the Unit Owners, and other persons.

Section 2.3.6 Vice President. The Vice President shall take the place of the President and exercise and perform the President's powers and duties whenever the President shall be absent or unable to act or whenever authorized by the Board. If the President and the Vice President are unable to act, the Condominium Board shall appoint some other Manager (in the case of the President) or other individual (in the case of the Vice President) to act in the place of such absent or incapacitated Officer on an interim basis. The Vice President shall also perform such other powers and duties as shall be required from time to time by the Condominium Board or the President (as applicable).

Section 2.3.7 Secretary. The Secretary shall record the minutes of all meetings of the Unit Owners and the Condominium Board, including the full text of all resolutions duly adopted by the Condominium Board and all transactions and proceedings occurring thereat; shall give and serve all notices set forth in the Declaration or these By-Laws, unless otherwise expressly provided; shall be empowered to sign all statements, certifications and resolutions with respect to the actions of the Board or Unit Owners, and all other instruments and documents authorized by the Board; shall cause to be kept a list containing the names, in alphabetical order, of all Unit Owners and their contact information, and the date they became Unit Owners; shall have charge of such books and papers as the Condominium Board shall direct; and in general, shall have all of the powers and duties that are incident to the office of a secretary of a stock corporation organized under the BCL.

Section 2.3.8 Treasurer. The Treasurer: shall hold and have custody of the funds and securities of the Condominium Association; shall deposit such funds as the duly authorized Officer of the Condominium Board in such banks, trust companies or similar depositories as may from time-to-time be designated by the Board; shall be responsible for keeping full and accurate financial records and books of account thereof, showing all receipts and expenditures necessary for the preparation of all required financial data and tax returns; and in general, shall have all of the powers and duties incident to the office of a treasurer of a stock corporation organized under the BCL.

Section 2.3.9 Election and Term. Each of the Officers shall be elected annually by a majority of those Managers attending a duly constituted organizational meeting of each new Condominium Board at which a quorum is present and shall serve at the pleasure of the Condominium Board, except the Sponsor Manager(s) and each Retail Manager shall exclusively elect a co-Vice President and a co-Secretary, as provided in Section 2.3.1, and serve at the pleasure of the Sponsor Manager(s) and such Retail Manager, respectively.

Section 2.3.10 Qualifications. The President shall be elected from among the Managers. The other Officers need not be Managers or Unit Owners or have any interest in the Property or a Unit. Any single individual may hold any combination of offices, except that the offices of President, Vice President and Secretary shall be held by different individuals.

Section 2.3.11 Removal. An Officer elected by the Board may be removed at any time "with" or "without" cause, and a co-Vice President and a co-Secretary elected exclusively by the Sponsor Manager(s) or a Retail Manager may be removed at any time "with" cause only, by an affirmative vote of a majority of those Managers attending a duly constituted Board meeting at which a quorum is present. The Sponsor Manager(s) or a Retail Manager may remove the co-Vice President and co-Secretary exclusively elected by the Sponsor Manager(s) or a Retail Manager at any time "with" or "without" cause. The Officer who is to be removed with "cause" shall be given a written explanation of the basis of removal at least seven business days in advance of the meeting of Board at which the vote is to be taken and a reasonable opportunity to be heard thereat before the vote is taken.

Section 2.3.12 Resignation. An Officer may resign at any time by giving notice to the Condominium Board or (in the case of an Officer elected exclusively by the Sponsor Manager(s) or a Retail Manger) to the Sponsor Manager(s) or Retail Manager (as applicable). However, the President shall automatically be deemed to have resigned effective on the date such Officer ceases to be a Manager.

Section 2.3.13 Vacancies. A vacancy in an office shall be filled by a majority of those Managers attending a duly constituted regular meeting of the Condominium Board or at a special meeting thereof called for such purpose at which a quorum is present, except a vacancy in an office elected exclusively by the Sponsor Manager(s) or a Retail Manager shall be filled respectively by the Sponsor Manager(s) or Retail Manager without the necessity to hold a Board meeting for such purpose.

Section 2.3.14 Compensation of Officers. No Officer shall receive any compensation from the Condominium Association for acting as such.

Section 2.4 Liability of Managers and Officers.

Section 2.4.1 Standard for Liability. The Managers and Officers shall have no personal liability to the Unit Owners for errors of judgment, ordinary negligence or otherwise, except that each Manager and Officer shall be liable for his or her own Malfeasance.

Section 2.4.2 Interested Party Transaction. The Condominium Board may transact business in which a financial, beneficial or personal interest benefits a Manager, Officer or Owner, directly or indirectly through a party related to such Manager, Officer or Owner by family, employment, business or otherwise ("**Related Party**"), without the Board or such Manager, Officer or Owner incurring liability for self-dealing, if the terms of such transaction, including any compensation paid in respect thereof:

(a) shall be on no less favorable terms than those commercially reasonable and at competitive rates at the time such transaction is entered into and reasonable evidence or documentation thereof is given to the Board; and

(b) the financial, beneficial or personal interest in the transaction benefitting said Manager, Officer or Owner (as applicable), directly or indirectly through sad Related Party, is fully and fairly disclosed to all Managers.

A Manager who is the subject of the interested party transaction or who is a Related Party to an Owner who is the subject of the interested party transaction, shall be recused from the deliberations and the decision of the Board to transact the business in question, in which case the other disinterested Managers, on behalf and in the name of the Condominium Board, shall make the decision and the number of Managers for quorum, voting and decision requirements shall be reduced concomitantly.

A Manager, Officer or Owner (as applicable) who fails to disclose his or her financial or personal interest in the transaction, whether directly or indirectly through a Related Party, as provided above, shall be accountable and liable to the Board and Owners to disgorge any monetary benefit derived from such transaction.

Section 2.4.3 Immunity. The Managers and Officers shall have no personal liability for having acted in such capacities and such immunity from personal liability shall apply to all transactions of the Board authorized in these By-Laws or the Declaration, including each and every contract made, and other document or instrument executed, by or on behalf of the Condominium Board in accordance with these By-Laws or the Declaration, and each such contract, document and instrument shall so provide. However, the failure to so provide shall not, and shall not be construed to, in any way affect, change or waive such immunity from personal liability. Such contract or other document or instrument shall be regarded as being made or executed by or on behalf of the Board as agent of all Unit Owners and the liability thereunder of a Manager or Officer shall be to the extent only that such Manager or Officer is a Unit Owner and then only is limited to its interested in its Unit as provided in Section 2.5.22.

Section 2.4.4 Building Service Interruptions. Except to the extent covered by insurance maintained by the Condominium Board, the Condominium Board and the Managers and Officers (in their capacity as such) shall be not be responsible or accountable for any claims, liabilities, litigations, losses or damages attributable to the failure or interruption of any utility service or Building Service to be furnished to Units or Owners pursuant to the Declaration or these By-Laws that is due to:

(a) the inability to act or perform by reason of flood, earthquake, inclement weather, explosion, fire, or other casualty; labor strike, work stoppage or slowdown; unavailability of labor, materials or supplies; war, riots, insurrection, sabotage, emergency, national defense preemption; police power, governmental restriction, vacate order, lock down or other action of a Governmental Authority having competent jurisdiction over the Property; epidemic or pandemic; court ordered injunction; or any other cause or event beyond reasonable control and not attributable to bad faith or intentional misconduct (collectively, "**Unavoidable Causes**"); or

(b) the acts or omissions of any Owner or Unit User of a Unit or by any other person; or

(c) water that may leak or flow from a Unit or any portion of the Common Elements; or

(d) theft or other mischief.

Section 2.4.5 Indemnity. Subject to the limitation of liability contained in Section 2.5.22 and to the full extent permitted by Laws, only the Owner or Owners (severally and pro rata to their respective Common Interests) on whose behalf the Condominium Board acted or the transaction primarily benefits, shall indemnify each and every Manager and Officer, on the terms more fully set forth in Article 19 of the Declaration, from and against any and all claims, litigations, liabilities, losses and damages to other persons arising from the acts or omissions of the Board or a Manager or Officer (in the capacity as a Manager or Officer, respectively); provided, however, a Manager or Officer shall not be indemnified if and to the extent that such liability shall be due to such party's Malfeasance or negligence.

Section 2.5 Unit Owners.

Section 2.5.1 First Meeting of Unit Owners. Sponsor will call the first meeting of Unit Owners to be held within approximately sixty (60) days after the second anniversary of the First Unit Closing or whenever the number and Common Interest of the Sold Residential, Parking and Storage Units constitute eighty percent (80%) or more in number and Common Interest of all Residential, Parking and Storage Units, whichever is the first to occur.

At such first meeting, the incumbent Sponsor Manager shall conclusively be deemed to have resigned effective upon the election and qualification or appointment (as applicable) of the new seven Managers, composed of the Managers set forth in Section 2.2.8.

Section 2.5.2 Annual Meetings. Thereafter, annual meetings of Unit Owners shall be held within approximately thirty (30) days of the anniversary of the previous annual meeting of Unit Owners or on such other date as the Condominium Board (in its sole and absolute discretion) shall determine. At each annual meeting, the Residential, Parking and Storage Owners shall elect or appoint (as applicable) the five Residential Managers and each Retail Owner shall appoint one Retail Manager.

Section 2.5.3 Special Meetings. The President shall cause the Secretary to call a special meeting of the Unit Owners whenever so directed by a duly adopted resolution of the Condominium Board signed by any two Managers or upon receipt by the President of a petition or writing to call for such a meeting signed by Owners of not less than twenty-five (25%) percent of the Common Interests of all Units. The President shall call a special meeting of only the Residential, Parking and Storage Owners whenever so directed by a duly adopted resolution of the Residential Managers, or upon receipt by the Secretary of a petition calling for such a meeting signed by any two Residential Managers, or by the Owners of not less than twenty-five (25%) percent of the Common Interests of all Residential, Parking and Storage Units. However, the same Managers or the same Unit Owners shall not have the right to call for more than one special meeting of Unit Owners or only the Residential, Parking and Storage Owners for the same or a related purpose in any twelve (12)-month period.

Within ten (10) business days after receipt of such resolution or petition (as applicable), the President shall call such special meeting to be held within the next twenty (20) days, unless the purpose of a meeting (whether regular or special) is to consider an amendment to the Declaration or these By-Laws, or to remove an Independent Manager, in which case the following shall apply. Notice in writing of such meeting shall be given to all Unit Owners at least thirty (30) days prior to the date fixed for such meeting,

which notice shall be accompanied by a copy of the text of said proposed amendment or the alleged basis to remove the Independent Manager (as applicable). The President shall call such meeting to be held not sooner than thirty-one (31) days nor later than sixty (60) days following receipt by the Secretary of a Board resolution or a petition signed by the requisite percentage of Unit Owners. If the President fails to so timely call such special meeting, then any Manager who voted for such resolution or any Unit Owner who signed such petition (as applicable) may so call such meeting by a notice of meeting, except that such notice need not be given by the Secretary. No business shall be transacted at such special meeting except the business reasonably related to purposes stated in the notice of special meeting or said petition.

Notwithstanding the foregoing, after the expiration of the Sponsor Board Control Period, Sponsor will cause the Sponsor Managers to call a special meeting of the Unit Owners to elect three additional Independent Managers to replace three Sponsor Managers, who will resign or be deemed to have resigned automatically effective upon the election and qualification of such Independent Managers.

Section 2.5.4 Date, Time and Place of Meeting. The provisions of Section 2.2.19 shall apply to the date, time and place of annual or special meetings of Unit Owners. All references in said Section 2.2.19 to Managers shall mean Owners. Participating in a virtual meeting of Unit Owners by any of the means contained in Section 2.2.19 shall be considered attendance of Owners in person for all purposes. Owners participating by electronic communication or by telephone or mobile phone in a meeting shall be afforded a reasonable opportunity to propose, object to, and vote upon a specific action to be taken by the Unit Owners, and to see, read or hear the proceedings of the meeting substantially concurrently therewith.

Section 2.5.5 Notice of Meetings. The Secretary of the Condominium Association shall give notice of each annual and special meeting of Unit Owners to all Unit Owners then of record on the books of the Condominium Association entitled to vote at such meeting. The notice:

(a) shall set forth the date, time, place and purpose of such meeting; and

(b) shall be sent to all Owners by ordinary first class mail at least 10 days and no more than thirty (30) days before the date schedule for the meeting.

The foregoing shall also apply to notices of meetings of only the Residential, Parking and Storage Owners.

Section 2.5.6 Record Dates for Notices and Voting. For purposes of determining the Unit Owners entitled to notices and to vote at any meeting of Unit Owners or any adjournment and rescheduling thereof, or to express consent to or dissent from any proposal without a meeting of Unit Owners, or for the purpose of any other action, the record date on the books of the Condominium Association for giving notices shall be at the close of business of the day immediately preceding the day a notice is given of such meeting of Unit Owners or such adjourned meeting of Unit Owners, and the record date for voting shall be the day of the meeting. No additional notice of an annual or special meeting of Unit Owners need be given to a new Unit Owner who was not the record Owner on the books of the Condominium Association on the close of business of the day immediately preceding the day of giving such notice, and the failure of said new Unit

Owner to receive such notice shall not be the basis to object or otherwise affect the validity, effectiveness or enforceability of the votes cast by Unit Owners.

Section 2.5.7 Conduct of Meetings. The President shall preside at the meetings of Unit Owners and the Secretary shall faithfully record the minutes thereof, which minutes shall include the full text of all resolutions duly adopted by the Unit Owners and a record of all transactions and proceedings occurring thereat. All votes of the Unit Owners shall be tallied by the individual(s) appointed as inspectors by the presiding Officer of the meeting.

Section 2.5.8 Robert's Rules of Order. Unless in conflict with the terms of the Declaration, these By-Laws or the Condominium Act, each annual or special meeting of Unit Owners shall be conducted in accordance with the then current edition of Robert's Rules of Order, or any other rules of procedure acceptable to a majority in number and Common Interest of those Unit Owners present at such meeting, in person or virtually or by proxy.

Section 2.5.9 Order of Business. The order of business at all meetings of the Unit Owners shall be as follows: (a) roll call; (b) proof of notice of meeting; (c) reading of the minutes of the preceding meeting (unless waived); (d) reports of Officers of the Condominium Board; (e) reports of Managers; (f) reports of committees; (g) election of inspector(s) on matters to be voted (when so required); (h) the election and appointment of Managers (when so required); (i) the determination of how to apply the surplus of General Common Charges and/or Residential Common Charges generated in the previous year of Condominium operation (when so required); (j) unfinished business; (k) new business; and (l) adjournment (i.e., end of meeting).

Section 2.5.10 Voting. Subject to Section 2.5.11, each Unit Owner shall be entitled to cast one vote at all meetings of the Unit Owners for each percentage of Common Interest appurtenant to each Unit owned by such Owner, except Sponsor shall exclusively appoint one or more Managers and each Retail Owner shall exclusively appoint one Manager, as provided more fully in Sections 2.2.8.

Section 2.5.11 Disqualification. If the Condominium Board perfects its lien against a Sold Unit, then until the lien is paid or discharged by bonding or otherwise, the Owner of such Sold Unit shall not have the right to participate in the election of the Independent Managers or to serve or have a family member serve as a Manager of Officer, or to vote on any matter to be voted by the Residential Owners. The Sold Units and the appurtenant Common Interests of the Sold Unit Owner who is precluded from voting pursuant to the terms of this Section 2.5.11 shall be excluded when computing the aggregate number and/or Common Interests (as applicable) of all Units and Owners for quorum and voting purposes.

Section 2.5.12 Fiduciary. A fiduciary shall be the voting member with respect to a Unit owned in a fiduciary capacity.

Section 2.5.13 Co-Owners. If two or more persons own a Unit, they shall designate one person amongst them to cast the votes appurtenant to their Unit in a writing given to the Secretary, and the vote of such designee shall be binding upon all of such persons. If such designation is not made, all of such persons shall mutually cast such votes under one ballot without division, and the concurrence of all such persons shall conclusively be presumed if any one of them purports to cast such votes without protest being made

contemporaneously to the individual presiding over the meeting at which such vote is taken. If protest is made, the Common Interest appurtenant to such Unit shall be counted solely for the purpose of determining whether a quorum is present for such meeting.

Section 2.5.14 Proxy. An Owner may appoint any individual to act as a proxy on such Owner's behalf. The appointment of a proxy shall be made in a writing both signed and dated by the Unit Owner and delivered to the Secretary at or before the scheduled date and time for the meeting during which the same is to be effective, but in any event before the poll for voting is closed.

Section 2.5.15 Revocation of Proxy. Any proxy shall be revocable at any time upon notice given to the Secretary or by the Owner casting a ballot or voting, which automatically shall revoke a proxy given by such Owner; except a proxy that expressly states to be irrevocable may be given by an Owner to the holder of a Registered Mortgage encumbering such Owner's Retail Unit or to a Registered Tenant under a lease of such Owner's Retail Unit.

Section 2.5.16 Duration. Except with respect to an irrevocable proxy given to said holder of a Registered Mortgagee or a Registered Tenant of a Retail Unit, no proxy shall be effective for a period in excess of eleven (11) months after the date thereof. Photocopies, facsimiles, emails or other mechanical reproductions of proxies signed with actual or electronic signatures shall be valid and counted for all purposes.

Section 2.5.17 Quorum of Unit Owners. Except as otherwise provided in Section 2.5.19, Owners comprising a majority in number and Common Interest of all Units attending (in person or by proxy) a duly convened regular or special meeting of all Unit Owners shall constitute a quorum, and Owners comprising a majority in number and Common Interest of all Residential, Parking and Storage Units attending (in person or by proxy) a duly convened regular or special meeting of Residential, Parking and Storage Owners shall constitute a quorum.

Section 2.5.18 Adjournment. If, at any meeting of Owners or only Residential, Parking and Storage Owners, there shall be less than a quorum present, the meeting shall be adjourned by the Board or the Residential Managers (as applicable) to a new date, time and place determined by the Board or the Residential Managers (as applicable). Notice of the adjourned date shall be sent to all Owners or only all Residential, Parking and Storage Owners (as applicable) in accordance with Section 2.5.5.

Section 2.5.19 Reduced Quorum. The provisions of Section 2.5.17 to the contrary notwithstanding, if a meeting is adjourned two or more times for the failure to attain a quorum, then the Owners or only Residential, Parking and Storage Owners attending the next adjourned date for the meeting shall constitute a quorum for the transaction of business and the absentee Owners or the absentee Residential, Parking and Storage Owners (as applicable) shall conclusively be deemed to have irrevocably and unconditionally consented to or approved the transactions affirmatively voted upon by those Owners or those Residential, Parking and Storage Owners (as applicable) attending such next meeting comprising a majority in number of Units and/or Common Interest (as applicable), or a majority in Common Interest if not otherwise expressly stated; provided, however, that:

(a) all Owners or all Residential, Parking and Storage Owners (as applicable) are given advance notice of such adjourned date not less than five business days (if sent by hand delivery, facsimile or electronic communication) or seven business days (if sent by Federal Express or other nationally recognized overnight courier for next day delivery), or ten (10) business days (if sent by ordinary first class mail) prior to the adjourned date;

(b) the notice shall set forth in reasonable detail the actions or business proposed to be transacted and the reduced quorum set forth herein for the transaction to be voted upon at the meeting;

(c) the transaction shall not involve a matter that:

(c-1) impairs, infringes or otherwise affects Sponsor's Rights or the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of a Retail Owner;

(c-2) requires the consent or vote of an absentee Owner; or

(c-3) the failure of an Unsold Unit Owner (including Sponsor) or a Retail Owner to attend on such adjourned date shall not be caused by Unavoidable Causes.

Section 2.5.20 Decisions. At any duly convened meeting of all Unit Owners at which a quorum is present, the vote of a majority in number and Common Interest of those Unit Owners attending the meeting (in person or by proxy) will constitute the decision of the Unit Owners, unless a different number and/or percentage is required by the Declaration or these By-Laws or the Condominium Act.

At any duly convened meeting of only the Residential, Parking and Storage Owners at which a quorum is present, the vote of a majority in number and Common Interest of those Residential, Parking and Storage Owners attending the meeting (in person or by proxy) will constitute the decision of the Residential, Parking and Storage Owners, unless a different number and/or percentage is required by the Declaration or these By-Laws or the Condominium Act.

The Condominium Board and its affiliate shall have no voting rights with respect to any Units owned by each of them and such parties and Units shall be excluded from the base number of Owners, Units and Common Interests for quorum and voting purposes in determining any matter to be voted upon by Unit Owners.

Section 2.5.21 Action Without a Meeting. Any vote or action required or permitted to be taken by all Owners or only the Residential, Parking and Storage Owners at a duly constituted meeting of such Owners at which a quorum is present may be taken without such a meeting if the required Owners, in number and/or Common Interest (as applicable), vote or consent to or approve such action in writing. The notice of such proposal or action shall be given by the Secretary to all Owners or only the Residential, Parking and Storage Owners (as applicable) then of record on the books of the Condominium Association. The record date to determine whether the required Owners, in number and/or Common Interest (as applicable), voted for, or consented to or approved, such proposal or action in writing shall be the date such tally is made. No additional notice of such vote or action need to be given to a new Owner who was not the record Owner on the books of the Condominium Association on the date of giving the original notice,

and the failure of a new Owner to receive such notice shall not be the basis of an objection or otherwise affect the validity, effectiveness or enforceability of the written votes, consents or approvals given by Owners. All written votes, consents or approvals given by such Owners pursuant to this Section 2.5.21 shall be retained in the records of the Condominium Association for at least three years together with a true copy of the resolutions to which they relate.

Section 2.5.22 Title to Units. Title to any Unit may be taken by two or more persons as joint tenants, tenants in common or tenants by the entirety, as may be appropriate, but not as tenants in severalty.

Section 2.5.23 Non-Recourse, Pro Rata and Limited Liability of Unit Owners. The liability of each Unit Owner to a judgment creditor solely by reason of being a Unit Owner, whether for torts relating to the Common Elements, or for contracts entered into, or documents executed or transactions conducted by the Condominium Board on behalf and as agent of one or more Unit Owners, or by the Residential Managers in the name and on behalf of the Board in accordance with these By-Laws, shall be without recourse for personal liability, pro rata to the Common Interest appurtenant to its Unit, and limited to its interest in its Unit, and shall be further limited to only the applicable Unit Owner or Owners on whose behalf the Board is actin, or the Residential Managers are acting, or the transaction primarily benefits and (if more than one Unit Owner), each of whom shall be liable severally to such portion of the total liability as the Common Interest appurtenant to such Owner's Unit bears to the total Common Interests of all such applicable Unit Owners on whose behalf the Board is acting, or the Residential Managers are acting, or the transaction primarily benefits (e.g., all Unit Owners in the case of an act affecting, or primarily benefiting, the General Common Elements or all Owners; or only all Residential, Parking and Storage Owners in the case of an act affecting, or primarily benefiting, the Residential Common Elements or the Residential, Parking and Storage Owners), as determined in the sole business judgment of the Board or the Residential Managers (as applicable); provided, however, each Owner shall be personally liable for:

(a) the payment of Common Charges levied or imposed by the Condominium Board;

(b) claims, litigations, liabilities, losses and damages attributable to:

(b-1) torts relating to the Owner's Unit (if any);

(b-2) contracts entered into, or transactions conducted by, such Unit Owner with respect such Owner's Unit; and

(b-3) acts or omissions of said Owner or a person for whom such Owner is responsible or accountable, as provided in Section 1.2.12 of the Declaration.

Each contract made by, or on behalf of, the Condominium Board shall expressly provide that the liability of each Unit Owner thereunder shall be nonrecourse for personal liability, pro rata to the Common Interest appurtenant to its Unit, and limited to such Owner's interest in its Unit in accordance with the foregoing. However, the failure to so expressly provide shall not, and shall not be construed to, in any way affect, change or waive the non-recourse, pro rata and limited liability of Unit Owners as set forth herein.

ARTICLE 3
OPERATION OF THE PROPERTY

Section 3.1 Use and Occupancy. The Property, including the General Common Elements, the Residential Common Elements and the Units, and the sidewalks, shall be used and occupied in accordance with the provisions of the Declaration, including in particular (but not limited to) Article 9 thereof, which is paramount and shall govern any provision of these By-Laws inconsistent therewith.

Section 3.2 Budget of Condominium Operation.

Section 3.2.1 Adoption. The Condominium Board shall determine the twelve (12)-month fiscal or calendar period to constitute the budget year of Condominium operation. The budget shall contain the projected General Common Charges any other sources of revenue to pay the projected General Common Expenses (as determined by the Board) and the projected Residential Common Charges and any other sources of revenue to pay the projected Residential Common Expenses for each budget year (as determined by the Residential Managers in the name and on behalf of the Board). If a budget of Condominium operation is not timely adopted before the start of a budget year, the last duly adopted budget shall remain in effect. If a dispute prevents the required majority of Managers or Residential Managers (as applicable) present at a duly convened Board meeting at which a quorum is present to adopt a budget of Condominium operation, any Manager (in the case of a Board dispute) or any Residential Manager (in the case of a dispute among the Residential Managers) may submit the dispute to Baseball Arbitration pursuant to Article 6 of these By-Laws. If the dispute is to increase the General Common Charges or the Residential Common Charges and the final, non-appealable award in arbitration upholds an increase in the General Common Charges or the Residential Common Charges (as applicable), then such increase shall be retroactive to the date it would have commenced had there been no such failure to agree or dispute and shall be payable in full on the first day of the month immediately succeeding the date of such final, non-appealable award, unless otherwise determined by the Board or the Residential Managers (as applicable).

Section 3.2.2 Budget Items. The budget items generally shall consist of recurring annual expenses:

(a) applicable to the General Common Elements, the Residential Common Elements, the Retail Common Elements and the sidewalks;

(b) to provide Building Services to all or certain Units or their Owners;

(c) to govern, control, conduct, administer, manage and otherwise transact the affairs and business of the Condominium Association; and

(d) to implement the Board's rights, powers, easements, obligations and duties.

The budget items applicable to the Residential Common Expenses or the Retail Common Expenses shall be determined respectively by the Residential Managers or the Retail Manager son behalf of the Board. All other budget items shall be determined by the Board.

Section 3.2.3 RPL Section 339-m. The Board shall adopt a budget each year strictly in accordance with RPL §339-m and First Year's Budget (Schedule B) in Section F of Part I of the Plan, which

is hereby incorporated herein with the same force and effect as if set forth at length. Accordingly, the budget adopted each year by the Condominium Board shall reflect the Common Expenses fairly attributable to:

(a) all Residential, Parking and Storage Units based upon their exclusive use of the Residential Common Elements and their share of the General Common Expenses as set forth in said First Year's Budget (which apportions to the Residential, Parking and Storage Units those Building Services, Building Systems and amenities that exclusively or substantially benefit such Units or their respective Owners); and

(b) both Retail Units in accordance with their share of the General Common Expenses as set forth in said First Year's Budget (which apportions to both Retail Units their fair share of only those General Common Expenses that benefit such Units or their respective Owners).

The percentage share of the budget items comprising the General Common Expenses that are allocated to the Residential, Parking and Storage Units or both Retail Units each budget year shall not change unless necessary to reflect a different amount or a new budget item that is fairly and demonstrably attributable to each such group of Units (such as separate metering or submetering, or an electrical consumption survey conducted by an independent electrical engineer).

The Common Interests of the Residential, Parking and Storage Units or both Retail Units are factored, in part, on each such group of Units always sharing the same Common Expenses pro rata to their respective Common Interests. In no event shall the Common Expenses be separately apportioned among the Residential, Parking and Stored Units or between both Retail Units in any manner other than pro rata to their respective Common Interests.

In accordance with the First Year's Budget, during the Sponsor Veto Control Period, the budget adopted by the Board shall include a reserve for capital replacements of major components of the General Common Elements and/or the Residential Common Elements ("**Reserve for Capital Replacements**") in an amount equal to not less than ten percent (10%) of all other budgeted expenses and a separate reserve for unanticipated Common Expenses or an allowance for an increase in one or more items of Common Expenses or for potential new or additional Common Expenses, or other contingencies (collectively, "**Reserve for Contingencies**") in an amount that exceeds five percent (5%) of the projected Common Expenses, excluding the Reserve for Capital Replacements. Each budget shall also include such additional budget items and amounts required to comply with Section 3.2.2, subject to obtaining Sponsor's consent for the expenses listed in Section 2.2.30(c) during the Sponsor Veto Control Period.

Section 3.2.4 Reserve for Capital Replacements. The Reserve for Capital Replacements shall be segregated in a separate account of the Condominium Association and may be invested from time to time by the Board in investment-grade securities. The Condominium Board shall have the right to apply the funds collected for the Reserve for Capital Replacements to pay for capital replacements of major components of the General Common Elements and/or the Residential Common Elements in accordance with Section 3.2.3 foregoing without the consent of Unit Owners.

Section 3.2.5 Real Estate Taxes. Until the Units are separately assessed and billed for real estate taxes (including any business improvement district assessments), the budget shall initially include

this item as a General Common Expense, which shall be allocated to each Unit pro rata to its Common Interest ("**Tax Share**"). At the exclusive option of the Condominium Board, the Tax Share of each Owner may be payable in one lump sum or in monthly installments, each installment to be in a sum sufficient to pay the real estate taxes one month prior to the date same become due and payable before the imposition by the taxing authority of interest or penalties for late payment. All amounts collected by the Board from each Owner as its Tax Share shall be segregated from other monies of the Condominium Association and used solely to pay the real estate taxes for which such Tax Share was levied. The amount collected by the Board shall be forwarded to the appropriate taxing authority on behalf of the Unit Owners when due and payable before the imposition of interest or penalties for late payment.

Each Unit Owner shall pay to the Condominium Board, within ten (10) days of written demand therefor, an amount equal to such Owner's Tax Share of real estate taxes. Once a Unit is separately assessed and billed directly by the taxing authority for the real estate taxes assessed against the Owner's Unit, the Owner shall pay the real estate taxes assessed to the Owner's Unit directly to the taxing authority and Condominium Board and such Unit Owner shall have the right, within a deadline of only sixty (60) days after the Owner's Unit is separately assessed and billed for real estate taxes, to adjust any overpayment or underpayment of real estate taxes based on Owner's Tax Share being higher or lower than the ratio that the initial actual separate assessed valuation of such Owner's Unit bears to the aggregate initial actual separate assessed valuations of all Units, and the tax rate applicable to the Unit at closing of title.

The amount of the overpayment or underpayment (as applicable) is required to be paid within ten (10) days after notice is sent by the Board or a Unit Owner, as applicable, detailing the calculation of the amount owed, provided such notice is sent within such sixty (60)-day deadline period. The notice shall be accompanied by suitable proof of the initial separate assessed valuation of the Unit and the aggregate initial separate assessed valuations of all Units (such as a real estate tax bill(s) and/or a title report). The Payment and Collection Terms shall apply to all amounts owed the aggrieved party hereunder. Any amounts payable to Condominium Board pursuant to this Section 3.2.5 shall constitute Additional Common Charges of the applicable Unit.

From and after the date a Unit is separately assessed and billed by the taxing authority for real estate taxes, the Owner of such Unit shall have the exclusive right, at said Owner's sole cost and expense, without the consent of the Board and/or any other Unit Owners, to apply for: (a) a tax remission and tax refund with respect to such Owner's Unit; and (b) an exemption and/or abatement from real estate taxes with respect to such Owner's Unit or Units.

The approval, consent and signatures of the other Unit Owners and/or the Board shall not be required in connection with any such application or other document necessary or convenient to the exercise by a Unit Owner of any of its rights or powers under this Section 3.2.5, including any application or document required by a Governmental Authority. Nonetheless, at the request of such Unit Owner, the Board on behalf of all other Unit Owners shall promptly execute and return any such applications or other documents in accordance with Article 16 of the Declaration.

Section 3.2.6 Board Certification. For so long as the Condominium Board is paying real estate taxes for all Units, the Condominium Board or an Officer of the Board shall sign on behalf of the Board and deliver to a Unit Owner, within ten (10) days after written request therefor is given by such Unit Owner, a certification as to the obligation and agreement of the Board to pay the real estate taxes assessed to the Property (including the Units). Such certification shall be addressed to such Unit Owner and/or the proposed purchaser (grantee), tenant or mortgagee, and any title insurer, as directed by such Unit Owner, and shall be conclusive upon the Condominium Board and Unit Owners in favor of all persons who rely thereupon in good faith.

Section 3.2.7 Façade Inspection Safety Program. The costs and expenses to perform the Façade Inspection Safety Program, formerly known as Local Law 11, and the related costs and expenses to erect, maintain, disassemble and remove a sidewalk bridge and scaffold, and to repair any damage to the sidewalk and Building caused by its installation, existence, disassembly or removal, or the work performed thereon, and restore the damaged elements to as near as commercially reasonable and economically practicable to the condition existing immediately before being damaged, shall be included in the General Common Expenses and assessed to all Residential, Parking and Storage Units and to the Retail Units in the proportion that the square footage of the areas of the façade and exterior walls of the Building (excluding windows and storefronts) that enclose the Residential, Parking and Storage Units or the Retail Units bear to the aggregate square footage of all areas of the façade and exterior walls of the Building (excluding windows and storefronts).

Section 3.2.8 Distribution to Owners. Each Unit Owner shall be given a copy of the budget of Condominium operation adopted by the Board at least thirty (30) days before the start of the budget year to which it pertains; however, failure to timely give such budget shall not be regarded as a waiver of Common Charges, or in any way excuse a Unit Owner from the obligation to timely pay the full amount of the Common Charges, which shall continue to be paid on the basis of the last duly adopted budget until a new budget is adopted.

Section 3.2.9 Budget Revision. During a budget year, the Condominium Board shall have the right to increase or decrease the General Common Charges to pay the General Common Expenses and the Residential Managers shall have the right to increase or decrease the Residential Common Charges to pay the Residential Common Expenses of the previously adopted budget for such budget year, except that any increase in General Common Charges or Residential Common Charges (as applicable) in such revised budget shall not be applied retroactively. Each Unit Owner shall be given a copy of the revised budget of Condominium operation adopted by the Board at least thirty (30) days before revised budget becomes effective, but the failure to do so shall not nullify or otherwise affect the validity and enforceability of such revision.

Section 3.2.10 Budget Reconciliation. Within a deadline of sixty (60) days after the audit of the Common Expenses for each budget year is completed and distributed to the Unit Owners, the Condominium Board and each Retail Owner shall have the right to require a true-up or reconciliation of the audited General Common Expenses fairly attributable to such Retail Owner. Any net underpayment by a Retail Owner shall be included in such Retail Owner's Common Charges next due and payable and any net

overpayment shall be credited to (and reduce) such Retail Owner's Common Charges next due and payable or (at the exclusive option of said Retail Owner) refunded immediately to such Retail Owner.

Section 3.2.11 Budget Surplus. If in any completed budget year the General Common Charges shall exceed the actual General Common Expenses or the Residential Common Charges shall exceed the actual Residential Common Expenses, all Owners (in the case of a surplus in the General Common Charges) or all Residential Owners (in the case of a surplus in the Residential Common Charges) shall affirmatively determine by affirmative vote at the annual meeting of Unit Owners held the year immediately after the budget year in which such surplus was generated, whether to apply the surplus to defray the projected General Common Expenses or Residential Common Expenses (as applicable) of such immediately succeeding budget year or to refund the surplus to all then existing Owners (in the case of a surplus in the General Common Charges) or Residential, Parking and Storage Owners (in the case of a surplus in the Residential Common Charges). The Board or the Residential Managers (as applicable) shall apply the surplus as determined by said Owners or Residential Owners (as applicable).

Section 3.3 Payment of Common Charges and Special Assessments.

Section 3.3.1 Payment. Unless otherwise determined by the Board (in the case of the General Common Charges) or the Residential Managers in the name and on behalf of the Board (in the case of the Residential Common Charges), the General Common Charges shall be payable by all Owners, and the Residential Common Charges shall be payable by all Residential, Parking and Storage Owners, in equal monthly installments in advance on the first day of every month. Special Assessments to pay a General Common Expense or a Residential Common Expense (as applicable) shall be payable in one or more installments, with multiple installments payable monthly, quarterly or otherwise, and over such period, with or without interest, as shall be determined in the sole business judgment by the Board or the Residential Managers (as applicable). Statements of the payment due date of a monthly Common Charge or a Special Assessment may be sent by ordinary first class mail, but are only reminders thereof and shall not excuse their timely payment if such statement is delayed or not sent. The Board or the Residential Managers (as applicable) may require said monthly Common Charges and Special Assessments to be paid by ACH from an Owner's account in a bank or other Institutional Lender. Common Charges shall be paid without set-off, credit or abatement, except as otherwise expressly provided in these By-Laws or the Declaration, and shall be paid without defense, and any right to assert a defense shall conclusively, automatically, irrevocably and unconditionally be deemed to have been waived.

Section 3.3.2 Late Charge. A Sold Unit Owner (but not an Unsold Unit Owner or a Retail Owner) who fails to timely pay a Common Charge or Special Assessment levied against the Owner's Unit, shall be obligated to pay, as an Administrative Expense:

(a) a late charge in an amount determined and assessed by the Board or the Residential Managers (as applicable), but not to exceed $0.05 on each overdue dollar (non-compounded) and/or Per Diem Interest on the amount overdue, computed from the date due to the date payment is received by the Condominium Board or its managing agent (if and as applicable), which shall be due and payable within ten (10) days following written demand therefor; and

(b) a charge of $250 for each notice of said violation that is given by counsel engaged by Board in order to reimburse the Board for the Legal Expenses incurred, which charge shall constitute liquidated or agreed upon damages incurred by the Board in connection with such notice.

Section 3.3.3 Security Deposit. If a Sold Unit Owner (but not an Unsold Unit Owner or a Retail Owner) fails to pay the Common Charges assessed to the Owner's Unit within thirty (30) days from the date due for two or more times within any consecutive twelve (12)-month period, the Board shall have the right, in addition to all other rights and remedies under these By-Laws and at law and in equity, to require the delinquent Sold Unit Owner to deposit with the Board as security for the payment of Common Charges assessed to its Unit, a sum equal to up to one year's Common Charges then payable by such delinquent Sold Unit Owner for such Unit, as determined in sole business judgment of the Board. Such security deposit shall be paid to the Board within thirty (30) days after written demand therefor is given to the delinquent Owner. The security deposit shall be maintained in a segregated interest or (at the exclusive option of the Board) non-interest bearing bank or other similar depository account designated by the Board. Any interest earned thereon shall be added to the security deposit.

The Board shall have the right, in its business judgment, to apply the security deposit to pay the Common Charges and any Additional Common Charges (including late charge and Per Diem Interest for any late payment of Common Charges set forth above) that are not paid by said delinquent Sold Unit Owner within ten (10) calendar days of the due date and to pay or reimburse the Board (as directed by the Board) for any other unpaid amounts due and owing by said delinquent Owner beyond any applicable payment or cure period under the Declaration or these By-Laws, as each may be amended from time to time.

If the Board applies the security deposit as provided above, the Board shall give said delinquent Sold Unit Owner, within a commercially reasonable period thereafter, a reasonably detailed notice thereof. Within a deadline of ten (10) days from giving such notice, said delinquent Sold Unit Owner shall pay the Board a sum equal to the amount so applied. At all times, the security deposit shall be an amount equal to the Common Charges then assessed to each Unit owned by said delinquent Sold Unit Owner for the ensuing twelve (12) months. In the event of a deficiency due to an application of the security deposit, said delinquent Owner shall pay the Board the shortfall within a deadline of ten (10) days after giving notice thereof to said delinquent Sold Unit Owner.

The failure of said Sold Unit Owner to pay or replenish the security deposit in accordance with the foregoing shall be a material default hereunder entitling the Board, in addition to all other rights and remedies available at law or in equity, to all of the same remedies as in the case of nonpayment of Common Charges under these By-Laws and the Condominium Act. The Payment and Collection Terms shall apply to the amounts payable by a delinquent Unit Owner under this Section 3.3.2.

The remaining amount of the security deposit, including any interest earned thereon, shall be refunded to said delinquent Owner:

(a) upon the good faith sale and conveyance of the Owner's Unit to a purchaser who and whose Related Parties have no family, employment, economic or business relationship to, such Owner or its Related Parties; or

(b) within five business days after the end of twelve (12) consecutive months during which said delinquent Owner shall remain current and in good standing in timely paying all Common Charges and any Additional Common Charges, and timely performing, observing, fulfilling and meeting all other obligations of such Sold Unit Owner under the Declaration, these By-Laws and the Rules and Regulations, as each may be duly amended from time to time.

Nothing herein shall excuse the obligation, or extend the time period, to pay when due the Common Charges, Additional Common Charges and other indebtedness owed to the Condominium Board.

Section 3.3.4 Lien. The Board shall have the lien for nonpayment of Common Charges in accordance with in RPL §339-z, together with Per Diem Interest thereon, and the right to foreclose such lien as provided in RPL §339-aa. Such lien shall be subordinate to any liens for unpaid real estate taxes assessed against such Unit (to the extent required by Laws) and to the lien of a recorded first mortgage with respect to all unpaid Common Charges accruing from and after the date such first mortgage is recorded in the City Register's Office. The Board shall have the right to bring suit to foreclose such lien or to bring a suit to recover a money judgment for unpaid Common Charges without foreclosing or waiving said lien and may foreclose said lien notwithstanding the pendency of a suit to recover a money judgment.

Section 3.3.5 Lien Foreclosure Sale. In the event the Board brings suit to foreclose its lien and the net proceeds received by the Board at the foreclosure sale, after first paying all amounts owed under said prior recorded first mortgage encumbering said Unit and thereafter deducting all Legal Expenses, advertising costs, brokerage commissions, receiver's fees and expenses, court costs and other costs and expenses paid or incurred in connection therewith:

(a) shall be insufficient to satisfy the indebtedness owed by the defaulting Owner to the Condominium Board, such Owner shall remain personally liable for the deficiency; or

(b) shall exceed indebtedness owed by the defaulting Owner to the Condominium Board, the remaining surplus shall be paid to such defaulting Owner after first paying all other liens on such Owner's Unit in the order of priority of such liens.

Each succeeding Owner of a Unit, other than an Owner who is the holder of a prior recorded first mortgage or its designee or nominee that acquired the Unit at a mortgage foreclosure sale or by deed given in lieu thereof, or a purchaser at such first mortgage foreclosure sale, shall be liable for the payment of all unpaid Common Charges and any other unpaid indebtedness owing to the Condominium Board with respect to such Unit prior to such new Owner's acquisition thereof.

Any deficit resulting from unpaid Common Charges that are not collected from such defaulting Unit Owner shall be deemed a General Common Expense and/or a Residential Common Expense (as applicable) collectible from all other Owners and/or all other Residential, Parking and Storage Owners (as applicable) at the time that the same is levied, and assessed to them pro rata to their respective Common Interests. Any defaulted amounts collected from such defaulting Unit Owner shall be credited to the next due Common Charges payable by said other Owners and/or all other Residential, Parking and Storage Owners (as applicable) who paid their share of such deficit, pro rata to their respective Common Interests.

Section 3.3.6 Rental for Use; Receiver. In any suit to foreclose the Board's lien, the defaulting Owner shall be required to pay a reasonable rental for the use of such Owner's Unit and the Board shall be entitled to the appointment of a receiver to collect the same. The defaulting Unit Owner shall conclusively be deemed to have automatically and irrevocably consented to such appointment of the receiver and to all of the following powers of the receiver, and to have conclusively be deemed to have waived all defenses thereto and to also have automatically and irrevocably waived the right to oppose any application for such appointment or further powers:

(a) the power to determine a reasonable monthly rental for such defaulting Owner's Unit, which shall be payable monthly in advance on the first day of each month, except the first monthly payment shall be appropriately prorated based on the actual number of days in such month, and shall equal not less than the aggregate of the following amounts, as each may change from time to time:

(a-1) the monthly Common Charges and any Special Assessment or an installment thereof and other Additional Common Charges levied by the Board against the Unit; plus

(a-2) the estimated expenses to insure, maintain and repair the defaulting Owner's Unit in accordance with these By-Laws; plus

(a-3) a sum equal to one-twelfth (1/12th) of the then current annual real estate taxes levied against the Unit; plus

(a-4) the monthly debt service due under each loan secured by a mortgage lien against the Unit; plus

(a-5) the individually metered or sub-metered utility charges;

(b) if such defaulting Owner shall fail to pay to the receiver, said monthly rental within a deadline of ten (10) days after the payment due date, the power to commence and prosecute an appropriate action or proceeding to evict, eject or otherwise remove such defaulting Owner, including by means of a summary proceeding or otherwise, and (at the discretion of the receiver) any tenant from such Owner's Unit (but subject to any non-disturbance and attornment agreement given by the Board to a tenant of a Retail Unit); and

(c) upon gaining vacant possession of such defaulting Owner's Unit pursuant to the preceding clause (b) or otherwise, the power:

(c-1) (if the Unit is occupied) to collect the rent or other occupancy fee from a tenant of such Unit who is permitted to remain in possession of the Unit; or

(c-2) (if the Unit is vacant) to lease such defaulting Owner's Unit for its permitted use to a tenant chosen by the receiver with approval or consent of the Board, and at such rent and on such terms as shall be acceptable to the Board, in its sole business judgment, and to perform all obligations of the landlord/owner under such lease; and

(c-3) the power to apply all rental income collected by the receiver, whether from such defaulting Owner or an existing tenant of the Unit or a new tenant of such defaulting Owner's Unit

(as applicable), in the following order of priority, unless otherwise required by Laws or a final, non-appealable order or judgment of a court having competent jurisdiction:

(c-4) first, to the receiver to pay for the receiver's reasonable costs and expenses to:

(c-4.1) collect the rent;

(c-4.2) (if applicable) the expenses to lease the Unit and perform the obligations of the landlord/owner under any said lease of such Owner's Unit; and

(c-4.3) pursue, uphold, protect, defend and enforce its powers;

(c-5) second, to the holder of said prior recorded first mortgage (if any) to pay the unpaid debt service under its first mortgage and thereafter to pay said debt service on a current basis;

(c-6) third, to the Condominium Board to pay all amounts owed and thereafter coming due for Common Charges until the conveyance of such Owner's Unit following the enforcement of the Board's remedies;

(c-7) fourth, to the holders of all other mortgages encumbering the Unit, in the order of their lien priority; and

(c-8) fifth, to such defaulting Owner any amount remaining after said enforcement of the Board's remedies.

The Condominium Board, in its sole business judgment, shall have the right, for the account and at the expense of such defaulting Unit Owner, to pay the expenses of the receiver, which shall constitute Additional Common Charges and shall be payable by such defaulting Owner to the Board in accordance with the Payment and Collection Terms. All rent owed by the defaulting Unit Owner in this Section 3.3.5 shall be added to, and shall constitute, Additional Common Charges payable by such defaulting Unit Owner.

Section 3.3.7 Purchase of Unit. In any litigation brought by the Condominium Board to pursue and enforce its remedies against a Unit because of unpaid Common Charges or other indebtedness owed to the Board by such delinquent Owner, the Condominium Board shall have the power, on behalf and as agent of all Unit Owners, in the name of the Condominium Board or in the name of its affiliate, to purchase such Unit. All expenses paid or incurred in connection therewith and to own, mortgage, lease, license, maintain, repair, alter, operate and convey such Unit shall:

(a) in the case of a Retail Unit, be part of the Retail Common Expenses assessed to the other Retail Unit (or if divided into two or more Subdivided Retail Units) the other Subdivided Retail Unit(s) pro rata to their respective Common Interests and all net revenues derived from the rental, operation, sale, mortgaging or other disposition of such Unit (after deducting said expenses) shall be used to defray the Retail Common Expenses payable by such other Retail Unit or Subdivided Retail Unit(s), as applicable, or for such other appropriate purposes as shall be determined by the Retail Managers; or

(b) in the case of a Residential, Parking and/or Storage Unit, be part of the Residential Common Expenses assessed to the other Residential, Parking and Storage Units pro rata to their respective Common Interests and all net revenues derived from the rental, operation, sale, mortgaging or other disposition of

such Unit (after deducting said expenses) shall be used to defray the Residential Common Expenses payable by such other Residential, Parking and Storage Units, or for such other appropriate purposes as shall be determined by the Residential Managers on behalf of the Board.

Each Unit so acquired by the Condominium Board or its affiliate shall constitute part of the Association's Assets and shall be held by the Condominium Board or its affiliate on behalf and as agent of the Unit Owners. While a Unit is owned by the Condominium Board or its affiliate, it shall be deemed held on behalf of the Unit Owners, as tenants-in-common, and all Owners shall conclusively be deemed to have irrevocably and unconditionally waived any right to bring an action for partition, or to use or occupy, said Unit.

Section 3.3.8 Sales, Use or Occupancy Tax Exemptions. The Condominium Board will adopt and follow such procedures as may be available, without additional cost or expense to the Condominium Board (unless the applicable Unit Owner pays same), to enable any Unit Owner eligible for exemption from New York State and/or New York City sales, use and/or occupancy taxes to enjoy such exemption with respect to such Unit Owner's share of the Common Expenses. Any benefits obtained by the Condominium Board as a result thereof shall be passed through to and shall belong exclusively to the Unit Owner(s) entitled to such benefits and if more than one Unit Owner is entitled thereto, such benefits shall be apportioned between or among said Unit Owners as provided in the benefits or (if not provided) pro rata to the Common Expenses allocable to the Units of said Unit Owners entitled to such benefits.

Section 3.3.9 Prohibition. The Condominium Board shall not charge an Owner or the Owner's Unit Users any separate fee, rental, charge, imposition or payment of any kind for the mere use and enjoyment of the Common Elements, apart from regular General Common Charges and Special Assessments, if any, levied on all Unit Owners, or the Residential Common Charges and Special Assessments, if any, levied on all Residential, Parking and Storage Owners.

Section 3.3.10 Disputes. Any disputes under this Section 3.3 shall be resolved by court action or proceeding, unless the Board (in its sole discretion) consents to, or initiates, arbitration pursuant to Article 6.

Section 3.3.11 Statement of Common Charges. Subject to Section 3.13.12.14, the Condominium Board shall furnish to an Owner, within ten (10) days after receipt of a written request therefor, a written statement of all unpaid Common Charges and any other indebtedness due from such Owner ("**Statement of Common Charges and Indebtedness**"). Such Statement of Common Charges and Indebtedness shall be conclusive upon the Condominium Board and all Unit Owners in favor of all persons who rely thereupon in good faith.

Section 3.3.12 Notices and Statements. Except as otherwise provided, all notices and statements to Owners by or on behalf of the Board in this Section 3.3 may be sent by hand delivery, facsimile or email (with electronic confirmation of transmission), or Federal Express or other nationally recognized overnight courier for next day delivery, or ordinary first class mail in a properly addressed postage prepaid wrapper deposited in any post office or branch post office regularly maintained by the United States Postal Service.

Section 3.4 Utilities.

Section 3.4.1 Electricity. The costs to provide electricity to each Residential and Retail Unit is separately metered and will be paid by its Owner directly to the appropriate utility provider as measured by the Unit's meter.

The share of the electricity provided to the General Common Elements that is attributable to the Retail Units is negligible. Accordingly, all costs to provide electricity to the General and Residential Common Elements shall be included in the Residential Common Expenses and assessed to all Residential, Parking and Storage Units pro rata to their respective Common Interests in accordance with the First Year's Budget.

Section 3.4.2 Gas. Gas service is provided to the Residential Units for cooking and to the residential corridors and the Residential Units for hot water. The costs to provide such gas services, as measured by two separate meters and the rates of the utility provider, together with sales tax (if an), shall be included in the Residential Common Expenses and assessed to all Residential, Parking and Storage Units pro rata to their respective Common Interests in accordance with the First Year's Budget.

No gas service is provided to the Retail Units.

The General Common Elements are not provided with hot water and the cost of gas to provide heat to the gas room (a General Common Element) is negligible and shall be included in the Residential Common Expenses in accordance with the First Year's Budget.

Section 3.4.3 Water and Sewer: Each Retail Unit is sub-metered for water service and shall be billed separately by the Condominium Board for water and sewer services based on its consumption of water as measured by said submeter, the then applicable water and sewer rates paid by the Board and sales tax (if any). The cost of submeter readings shall also be borne by such Retail Unit.

Water and sewer services are provided to the Residential Common Elements and the Residential Units for domestic hot and cold water, lavatories and sanitary sewerage. The costs to provide such water and sewer services shall be included in the Residential Common Expenses and assessed to all Residential, Parking and Storage Units pro rata to their respective Common Interests in accordance with the First Year's Budget.

The General Common Elements use water service in connection with only the Building's fire protection systems, which do not consume water, except in the cases of testing and an emergency. The share of the costs for this water service that is attributable to the Retail Units is negligible and shall be included in the Residential Common Expenses and assessed to all Residential, Parking and Storage Units pro rata to their respective Common Interests in accordance with the First Year's Budget.

Section 3.5 Maintenance and Repairs.

Section 3.5.1 Unit and Limited Common Element. Each Residential and Retail Owner, at its sole cost and expense, shall:

(a) maintain and repair its Unit and the Limited Common Elements restricted to its exclusive use in accordance with the Building Standard;

(b) wash and dry all indoor and outdoor glass surfaces of all storefronts, windows, Unit entrance doors (whether leading to a street or the Unit's its terrace, if any);

(c) keep in good, clean, neat and orderly appearance and condition all areas of its Unit (including its terrace, if any) visible to the public; and

(d) correct and properly remediate, with prompt diligence and continuity to completion (subject to delays caused by Unavoidable Causes), all conditions in or on its Unit constituting an emergency or a governmental violation, or as to which a governmental violation is noted or issued against the Building that is attributable thereto, and thereafter endeavor in good faith to promptly and diligently remove such governmental violation of record.

The Residential Managers, in the name and on behalf of the Condominium Board, shall keep the Parking and Storage Units in good, clean, neat and orderly appearance and condition as a Residential Common Expense assessed to only all Residential, Parking and Storage Units pro rata to their respective Common Interests.

Section 3.5.2 Common Elements and Sidewalks. The Condominium Board, as a General Common Expense (in the case of the General Common Elements and the sidewalks), or the Residential Managers (in the name and on behalf of the Board), as a Residential Common Expense (in the case of the Residential Common Elements), or the Retail Managers (in the name and on behalf of the Board), as a Retail Common Expense (in the case of the Retail Common Elements) shall:

(a) maintain and repair such Common Elements and sidewalks (subject to Section 9.4.2 of the Declaration) in accordance with the Building Standard;

(b) wash and dry all indoor and outdoor glass surfaces of such Common Elements;

(c) keep in good, clean, neat and orderly appearance and condition all areas of such Common Elements, the sidewalks (subject to Section 9.4.2 of the Declaration), that are visible to the public; and

(d) correct and properly remediate, with prompt diligence and continuity to completion (subject to delays caused by Unavoidable Causes), all conditions in or on such Common Elements and sidewalk (subject to Section 9.4.2 of the Declaration) constituting an emergency or a governmental violation, or as to which a governmental violation is noted or issued against the Building attributable thereto, and thereafter endeavor in good faith to promptly and diligently remove such governmental violation of record.

Section 3.5.3 Misuse, Negligence, Neglect or Abuse. If due to misuse, negligence, neglect, abuse or other failure to comply with Section 3.5.1 or Section 3.5.2, a Unit, a Common Element or sidewalk is damaged or destroyed, the offending party shall reimburse the aggrieved party for the commercially reasonable costs and expenses paid or incurred by the aggrieved party to repair and restore the impacted Unit, or the impacted General Common Element, Residential Common Element, Retail Common Element or sidewalk (as applicable), to as near as commercially reasonable and economically practicable to its former condition, appearance and finish immediately before being destroyed or damaged. The Payment

and Collection Terms shall apply to the amounts owed by the offending party to the aggrieved party under this Section 3.5.3.

If the offending party is the:

(a) Board, all amounts payable pursuant to this Section 3.5.3 shall be shall be assessed as Additional Common Charges to all Owners pro rata to their respective Common Interests; or

(b) the Residential Managers, all amounts payable pursuant to this Section 3.5.3 shall be shall be assessed as Additional Common Charges to all Residential, Parking and Storage Owners pro rata to their respective Common Interests; or

(c) the Retail Managers, all amounts payable pursuant to this Section 3.5.3 shall be shall be assessed as Additional Common Charges to both Retail Owners pro rata to their respective Common Interests.

All amounts payable by an Owner to the Board pursuant to this Section 3.5.3 shall constitute Additional Common Charges.

Section 3.5.4 Indemnity. The party responsible to maintain and repair a Unit, Common Element, or sidewalk shall indemnify all other parties, and their respective Related Parties, on the terms more fully set forth in Article 19 of the Declaration, from and against all manner of claims, litigations, liabilities, losses and damages suffered or incurred by the indemnified party due to the indemnifying party's violation of the terms of this Section 3.5 or the work undertaken by the indemnifying party to maintain and repair such party's Unit or Common Element or sidewalk (as applicable) and any defects in such work. The Payment and Collection Terms shall apply to the amounts owed by the indemnifying party to the indemnified party under this Section 3.5.5.

Section 3.5.5 Report of Defects. Any defect or need for repairs for which the Condominium Board is responsible to maintain and repair pursuant to the terms of these By-Laws or the Declaration shall be reported to the Condominium Board or to its managing agent or property manager (if and as applicable) by an Owner promptly upon learning thereof.

Section 3.6 Alterations.

Section 3.6.1 Retail Units. Each Retail Owner shall have the unfettered right to alter its Unit, other than the requirement to comply with the Work Requirements applicable to all Units (but not those applicable to only Sold Residential Units) and until the FCO for the Building issues, to obtain the consent of Sponsor for any alteration that requires an application to a Governmental Authority or the Landmarks Preservation Commission or the issuance of a Governmental Work Permit or a certificate of no effect or a certificate of appropriateness from the Landmarks Preservation Commission.

The alterations and all related installations and work to be performed pursuant to this Section 3.6.1 are exempt from the approvals, consents and other requirements of the Condominium Board applicable to alterations of Sold Residential Units. The Condominium Board, other Unit Owners and their Unit mortgage lenders do not have the right to approve or consent to or to review the plans and specifications of the proposed alterations to a Retail Unit or the proposed installations of facilities and Lines and Conduits to

exclusively serve a Retail Unit in, on and along said General Common Elements and the Residential Common Elements, or the right of an Owner or its authorized tenant to access such Common Elements in order to maintain, repair, replace, alter and operate such facilities and to transport materials, supplies and equipment to, from, on and across said Common Elements.

A Retail Owner and its authorized tenant, and the respective agents, employees and contractors of each of the foregoing, will not be required to enter into any agreement or comply with any requirements or work rules of the Condominium Board or pay any charge or other fee, including those (if any) that may be imposed or adopted by the Condominium Board for alterations to Sold Residential Units. However, all such alterations of a Retail Unit and said installations, connections and operation of any existing or newly installed facilities exclusively serving a Retail Unit shall be performed in accordance with the Work Requirements applicable to all Units.

The right of a Retail Owner to make Unit Changes to its Retail Unit shall be governed by Section 3.7.

Section 3.6.2 Sold Residential, Parking and Storage Units. The rights of a Sold Residential Owner to alter his or her Sold Residential Unit and its Limited Common Elements are set forth below. No alterations may be made to Sold Parking or Storage Units.

Section 3.6.2.1 Ordinary Work. A Sold Residential Owner shall have the right to make the following alterations without obtaining the consents of the Condominium Board or Sponsor:

(a) furnish, paint, wallpaper or otherwise decorate the indoor portions of a Residential Unit; and

(b) any other alteration, addition and improvement to a Residential Unit that does not:

(b-1) require an application to a Governmental Authority or the issuance of a Governmental Work Permit;

(b-2) affect the aesthetics, architectural integrity or exterior appearance of the Building;

(b-3) affect the structural components of the Building;

(b-4) affect any Building Systems or Building Services impacting another Unit or the Common Elements serving another Unit;

(b-5) affect any interior or exterior waterproofing of the Building; or

(b-6) have an acoustical impact on another Unit or the Common Elements.

Section 3.6.2.2 Obligations. All alterations to Sold Residential Units and their respective Limited Common Elements shall be performed:

(a) in accordance with the Building Standard and all applicable Work Requirements;

(b) with commercially reasonable diligence and continuity to completion; and

(c) with facilities that shall be consistent in design, compatibility, aesthetics and architectural integrity and appearance to the original items being altered.

Section 3.6.2.3 Alterations Requiring Board Consent. All other alterations to a Sold Residential Unit (but not an Unsold Residential Unit, which shall not be subject to the following requirements) and its Limited Common Elements shall require the consent of the Condominium Board and if given, the Condominium Board shall have the right to condition its consent on the applicable Sold Residential Owner entering into an alteration agreement, on the form adopted by the Board, with such modifications as may be required by the Board, in its sole business judgment, setting forth the terms and conditions to be met and performed by such Owner, including the following (among others):

(a) the requirement to comply with the Board's customary work rules (as to staging, construction worker access, wall and floor protection, construction noise mitigation, loading of construction materials, debris removal, construction personnel access to the Building and Residential Unit, security, hours and days of work, containment of dust and dirt, and the like);

(b) insurance requirements;

(c) an indemnity in favor of the Condominium Board and all other Unit Owners;

(d) a security deposit to be given to the Board;

(e) submission of plans and specifications of the alteration, which are to be acceptable to the Board's architect and/or engineer and prepared by an architect/engineer acceptable to the Board;

(f) a period within which the alteration may begin and are must be completed or substantially completed, and fines if the work is not completed within the required time period;

(g) the requirements to perform the alteration:

(g-1) in accordance with Building Standard and all applicable Work Requirements;

(g-2) by duly licensed contractors and subcontractors to the extent required by Laws and prosecuted with commercially reasonable diligence and continuity to completion; and

(g-3) using new or replacement Facilities that shall be consistent in design, compatibility, aesthetics and architectural integrity and appearance to the original items being altered;

(h) rights and remedies of the Board to (among others) suspend the work and perform corrective work at the expense of the Owner who or whose tenant is undertaking the work, and to enjoin a violation of the alteration agreement;

(i) the requirement to pay all governmental and other fees and charges; and

(j) the requirement to pay or reimburse (as directed by the Board) for the reasonable costs and expenses incurred by the Board in connection with the preparation, review and execution of the alteration agreement, including the fees and charges of any architect, engineer, consultant or other expert engaged by the Board to review the proposed plans and specifications of the alteration and to monitor the alteration work, and the fees and charges of the managing agent and any attorney retained by the Board in connection with such alteration agreement and the performance of the work (all such costs and expenses shall be added to and constitute Additional Common Charges payable by such Sold Residential Owner).

No approvals or consents of the Condominium Board or Sold Unit Owners are required for alterations, additions and improvements to Unsold Residential Units or the Retail Units, or their respective Limited Common Elements, which may be made freely, other than the requirement to comply with applicable Work Requirements.

Section 3.6.3 Alterations by the Condominium Board. The Condominium Board shall have the right to alter the General Common Elements, the Residential Common Elements, the Association's Assets (if any) and the sidewalks, the Residential Managers (in the name and on behalf of the Board) shall have the right to alter the Residential Common Elements, and the Retail Managers (in the name and on behalf of the Board) shall have the right to alter the Retail Common Elements, in each case subject to the obligations:

(a) to obtain the consent of Sponsor to the extent required in Section 3.6.4:

(b) to perform the alterations:

(b-1) in accordance with the Building Standard and all applicable Work Requirements;

(b-2) by duly licensed contractors and subcontractors to the extent required by Laws;

(b-3) with commercially reasonable diligence and continuity to completion; and

(b-4) using new or replacement facilities that shall be consistent in design, compatibility, aesthetics and architectural integrity and appearance to the original items being altered.

Section 3.6.3.1 Costs and Expenses. The costs and expenses to alter:

(a) General Common Elements, the Association's Assets (if any) and the sidewalks shall be included in the General Common Expenses and charged to all Unit Owners pro rata to their respective Common Interests;

(b) Residential Common Elements shall be included in the Residential Common Expenses and charged to all Residential, Parking and Storage Unit Owners pro rata to their respective Common Interests; or

(c) the Retail Common Elements shall be included in the Retail Common Expenses and charged to the Retail Owners pro rata to their respective Common Interests.

Section 3.6.4 Alterations Requiring the Consent of Sponsor. Until the FCO of the Building is issued authorizing the use of the Units for their intended purposes as set forth in the Declaration, the Condominium Board and the Owners of Sold Residential Units and Retail Units shall not undertake any of the following alterations or other work without obtaining the consent of Sponsor in each instance:

(a) any work that requires an application to a Governmental Authority for a Governmental Work Permit from the DOB, or a certificate of no effect or a certificate of appropriateness (as applicable) from the Landmarks Preservation Commission (if applicable), or other governmental license or authorization;

(b) any work or decoration affecting a Sold Residential Unit's windows (other than window shades, blinds, curtains and other window treatments that are light colored and have light colored backings

facing the outdoors in conformity with the Rules and Regulations, as they may be duly amended from time to time by the Condominium Board) or other portion of a Sold Residential Unit exposed to public view; and

(c) any work affecting all or a portion of a Building System serving one or more other Units, or serving the Common Elements.

Section 3.6.4.1 Requirements for Sponsor's Consent. Sponsor shall have the right to condition giving its consent on requiring the applicable Sold Residential Owner (at such Owner's sole cost and expense) or the` Condominium Board (as a General Common Expense charged to all Unit Owner's pro rata to their respective Common Interests or a Residential Common Expense charged to all Residential, Parking and Storage Units pro rata to their respective Common Interests, as the case may be), giving Sponsor, at least twenty (20) business days before the work is scheduled to begin:

(a) a reasonably detailed written notice of the work, copies of the proposed plans and specifications of the work, which shall be acceptable to Sponsor and prepared by an architect and/or engineer acceptable to Sponsor, together with such further documents and information as Sponsor may require;

(b) copies of the DOB approved plans and specifications, which shall be consistent in all material respects to the plan and specifications acceptable to Sponsor, all required Governmental Work Permits of Governmental Authorities having jurisdiction of the work and a certificate of no effect or a certificate of appropriateness from the Landmarks Preservation Commission;

(c) a policy or original certificate of insurance for such insurance coverage and amounts, and issued by such insurer, as shall be reasonably acceptable to Sponsor (any dispute as to such insurance shall be resolved by arbitration pursuant to the By-Laws), and providing that Sponsor shall be given at least thirty (30) days' advance written notice by the insurer before such insurance coverage is terminated, cancelled or expires; and

(d) if requested by Sponsor, said Sold Residential Owner or the Condominium Board (as applicable) shall post a bond or other security acceptable to Sponsor, in such amount and issued by such insurer or other issuer acceptable to Sponsor, in order to secure the diligent and lien-free completion of such work and compliance with all applicable Laws.

Section 3.6.4.2 Requirements for Work. If Sponsor consents to the work:

(a) any revision to the DOB approved plans and specifications shall be subject to obtaining the consent of Sponsor and, if given, Sponsor receiving a copy of the revision to the DOB approved plans and specifications before implementing the work contained in the revision;

(b) the work shall be performed by duly licensed contractors and subcontractors to the extent required by Laws, and shall be prosecuted with commercially reasonable diligence and continuity to completion in compliance with all DOB approved plans and specifications and any revisions thereto as to which Sponsor gave its consent, and in conformity with all Governmental Work Permits and the certificate of no effect or the certificate of appropriateness (as applicable);

(c) Sponsor and its representatives, upon oral or written demand, shall be given reasonable access to the applicable Unit or the Common Elements (as applicable), from time to time, to inspect and monitor such work as it progresses;

(d) after the completion of the work, the party undertaking the work shall promptly and diligently endeavor to obtain from the appropriate Governmental Authorities and give to Sponsor and (for work undertaken by an Owner) the Board, all required governmental approvals, sign-offs and certificates, including (if applicable) a letter of completion from the DOB and (if applicable) an amended or new Certificate of Occupancy of the Building (i.e., Governmental Approvals), and promptly and diligently endeavor to close all related open applications;

(e) the Sold Residential Owner or the Condominium Board (as applicable) undertaking the work shall indemnify Sponsor, on the terms more fully set forth in the Declaration, from and against any and all claims, litigations, liabilities and losses arising, directly or indirectly, from work or the failure to comply with any of the requirements set forth in this Section 3.6.4.2, including:

(e-1) any violation of Laws;

(e-2) any delay in obtaining a Temporary Certificate of Occupancy or an extension of a previously issued Temporary Certificate of Occupancy or the Final Certificate of Occupancy of the Building; or

(e-3) the failure to make all appropriate filings with Governmental Authorities in connection with the work; and

(f) the Owner or the Condominium Board (as applicable) undertaking the work shall pay or reimburse Sponsor (as directed by Sponsor), within a deadline of ten (10) days after a reasonably detailed and itemized written demand, accompanied by copies of supporting bills or statements from Sponsor's Construction Parties and counsel, for the reasonable costs and expenses incurred or paid by Sponsor to Sponsor's Construction Parties to:

(f-1) review the plans and specifications of the work, the related Governmental Work Permits, certificate of no effect or certificate of appropriateness (as applicable), and Governmental Approvals; and

(f-2) inspect and monitor the work.

If Sponsor is not reimbursed with said ten (10)-day deadline period, the Owner or the Condominium Board (as applicable) shall reimburse Sponsor for the reasonable costs and expenses, together with, if contested and awarded in a final non-appealable order or judgment of a court having competent jurisdiction, Legal Expenses and Per Diem Interest thereon to enforce or defend this right and to collect the amounts owed.

Section 3.6.4.3 Revocation. If the Sold Residential Owner or Condominium Board (as applicable) fails to comply with any of the requirements contained in this Section 3.6.4 or if the continuance of the work or any condition arising therefrom would (in Sponsor's sole and absolute discretion) delay the extension of a previously issued Temporary Certificate of Occupancy or the issuance of a Final Certificate

of Occupancy, Sponsor reserves the right at any time to revoke its consent in writing, without any manner of recourse against Sponsor by reason thereof. If Sponsor revokes its consent, immediately after being given the revocation notice, said Unit Owner or the Condominium Board (as applicable) shall cease all work, remove any such condition and restore such Owner's Unit or the Common Elements (as applicable) to the condition existing before commencing the work, all as and to the extent required by Sponsor.

Section 3.6.4.4 Disputes. Any disputes under this Section 3.6.4 shall be resolved by court action or proceeding, unless Sponsor (in its sole discretion) consents to, or initiates, arbitration pursuant to Article 6.

Section 3.6.5 Alterations Not Requiring Consents. The consents of the Condominium Board, the Residential Managers, the Retail Managers and Sponsor shall not be required:

(a) to furnish, paint, wallpaper or otherwise decorate the indoor portions of a Residential or Retail Unit; and

(b) for any alteration to a Residential or Retail Unit that does not:

(b-1) require an application to a Governmental Authority or the issuance of a Governmental Work Permit;

(b-2) affect the aesthetics, architectural integrity or exterior appearance of the Building;

(b-3) affect the structural components of the Building;

(b-4) affect any Building Systems or Building Services affecting another Unit or the Common Elements serving another Unit;

(b-5) affect any interior or exterior waterproofing of the Building; or

(b-6) have an acoustical or vibration or odor impact on another Unit or the Common Elements; or

(c) for any alteration to an Unsold Residential Unit.

Section 3.7 Unit Changes.

Section 3.7.1 Unit Changes. Each Owner of a Residential Unit or a Retail Unit shall have the right, on the terms set forth in Section 3.7.2, to make the following changes to such Owner's Unit (each, "**Unit Change**"):

(a) divide such Residential or Retail Unit ("**Unit Division**") into two or more Units ("**Subdivided Units**") and in connection therewith: to erect new boundary walls enclosing or separating, the Units established on such Unit Division and to alter the facilities of the original Unit being divided and construct new facilities to serve each Subdivided Unit;

(b) combine two or more of Residential Units or Subdivided Units or both Retail Units ("**Unit Combination**"), horizontally and (in the case of Residential Units) vertically, into one integrated Unit ("**Combined Unit**") and in connection therewith: to remove the party wall separating the Units being combined horizontally; to pierce, remove and leave openings in the structural floors separating the

Residential Units being combined vertically; to alter the facilities of the original Units being combined and construct new facilities to serve the Combined Unit; or

(c) reconfigure portions of two or more of Residential Units or Subdivided Units or both Retail Units ("**Unit Reconfiguration**"), horizontally and (in the case of Residential Units or Subdivided Units) vertically, into reconfigured Units ("**Reconfigured Units**") and in connection therewith: to raze, remove and relocate the party wall separating the Units being reconfigured horizontally; (in the case of Residential Units or Subdivided Units) to pierce, remove and leave openings in the structural floors separating the Units being reconfigured vertically; to alter the facilities that are part of the original Units being reconfigured and construct new facilities to serve each Reconfigured Unit.

The facilities affected by a Unit Change shall automatically become part of a Unit involved in the Unit Change if they are accessible from within the interior of the Unit or part of the Residential Common Elements or the Retail Common Elements (as applicable) if they are inaccessible from within the interior of a Residential Unit or Retail Unit, respectively.

Section 3.7.2 Terms of Unit Changes. Each Owner making a Unit Change to such Owner's Residential Unit or Retail Unit must comply with the following requirements:

(a) until the issuance of the FCO of the Building, no Unit Change to a Sold Residential Unit or a Retail Unit or any Subdivided Unit or Combined Unit resulting therefrom, shall be undertaken without first obtaining the consent of Sponsor (including, if given, such terms and conditions as Sponsor may require in its sole and absolute discretion);

(b) all permitted Unit Changes shall comply with the applicable Work Requirements;

(c) each permitted Unit Division, Unit Combination and Unit Reconfiguration shall be implemented pursuant to duly executed and acknowledged amendments to the Declaration and the Floor Plans of the Unit or Units involved in the Unit Change, which amendments:

(c-1) shall be prepared, recorded and filed in the Kings County City Register's Office by, and at the sole cost and expense of, the Owner making the Unit Change; and

(c-2) (in the case of only a Sold Residential Unit only, but not an Unsold Residential Unit or a Retail Unit) shall be in form and content acceptable to the Board and the Board's counsel and architect or engineer, whose reasonable fees and expenses shall be borne by said Sold Residential Owner as Additional Common Charges;

(d) the Common Interest of a Unit involved in a Unit Division or a Unit Reconfiguration shall be apportioned between or among the resulting Subdivided Units or Reconfigured Units pro rata to the square footages of the Subdivided Units involved in such Unit Division or the Reconfigured Units involved in such Unit Reconfiguration; provided, however, that the aggregate Common Interests of all Subdivided Units or all Reconfigured Units shall equal exactly the Common Interest of the Unit being divided or the aggregate of the Units being reconfigured;

(e) the Common Interest of a Unit involved in a Unit Combination shall equal exactly the aggregate of the Common Interests of the Units being combined;

(f) the Common Interests of all Units following a Unit Division, Unit Combination or Unit Reconfiguration shall total one hundred percent (100%);

(g) no Unit Change shall:

(g-1) change or affect the floor area or size of another Unit or penetrate the interior of another Unit (that is, the space within the Unit's enclosing façade or exterior Building walls, party walls, structural floors and structural ceilings) without obtaining the consent of the Owner of such affected Unit, duly executed, acknowledged and recorded with the amendment to the Declaration implementing the Unit Change;

(g-2) change or affect a Building Service to another Unit by more than a *de minimis* extent or the Common Elements serving another Unit for their intended purposes without obtaining the consent of the Owner of such affected Unit, duly executed, acknowledged and recorded with the amendment to the Declaration implementing the Unit Change;

(g-3) change or affect the Common Interest of another Unit without obtaining the consent of the Owner and any mortgagee of such affected Unit, duly executed, acknowledged and recorded with the amendment to the Declaration implementing the Unit Change;

(g-4) use, impair, infringe or otherwise affect the Excess Development Rights without obtaining the consent of Sponsor and (if any) Development Rights Owner, duly executed, acknowledged and recorded with the amendment to the Declaration implementing the Unit Change; or

(g-5) prevent or unlawfully impair legal access by another Unit to fire-safety egress stairs, the elevator, lobby or street entrance;

(h) no license or use fee or rental or other charge (other than the regular Common Charges and Special Assessments, if any, levied on all Unit Owners or only all Residential, Parking and Storage Owners only, as applicable) may be levied or imposed by the Condominium Board in connection with any wall, space, structural component of the Building or other portion of the Common Elements affected by a Unit Change;

(i) each Unit Change shall be made at the sole cost and expense of the Owner or Owners undertaking the Unit Change;

(j) the obligations, requirements, limitations and restrictions applicable to the use, occupancy, maintenance, repair, restoration and alteration of a Unit involved in a Unit Combination or Unit Reconfiguration shall likewise apply to a Common Area (e.g., the area occupied by a party wall) permitted to be enclosed within the interior of a Unit;

(k) the Owner implementing a Unit Change shall indemnify the Condominium Board and all other Unit Owners, and their respective Related Parties, on the terms set forth in Article 19 of the Declaration, from and against all manner claims, litigations, liabilities, losses and damages arising from such Unit Change, the work in performing such Unit Change and/or any defects in such work;

(l) the Condominium Board shall reasonably cooperate with the Owner or Owners making a Unit Change;

(m) any Unit Change requiring an application to a Governmental Authority for the issuance of a Governmental Work Permit or other document required by a Governmental Authority shall be signed by only the following:

(m-1) in the case of a Sold Residential Unit, the Owner of such Sold Unit and an Officer of the Condominium Board;

(m-2) in the case of an Unsold Unit, Sponsor or other Owner of such Sold Unit (as applicable) and an Officer appointed by a Sponsor Manager, in the name and as an authorized signatory of the Board; or

(m-3) in the case of a Retail Unit, the Owner of such Retail Unit and an Officer appointed by a Retail Manager, in the name and as an authorized signatory of the Board;

(n) all Unit Changes made by Sponsor to its Unsold Units shall require the reasonable consent of Sponsor's construction lender (if Sponsor's contraction loan is still in effect), but shall not require:

(n-1) the consent of the Condominium Board or any Unit Owners or their respective mortgagees or lienors;

(n-2) complying with any regulations, rules or other requirements of the Condominium Board for Unit alterations or other Unit Changes;

(n-3) paying any kind of fee, charge or imposition of the Condominium Board or its managing agent or attorneys or other professionals or consultants; and

(n-4) the plans or specifications of the proposed Unit Change being submitted to or reviewed by, or the work being supervised or monitored by, the Condominium Board or an architect, engineer or other professional or consultant chosen by the Condominium Board; and

(o) no Unit Change to a Sold Residential Unit shall be undertaken without the Owner thereof complying with Section 3.6.2, including executing and delivering the Board's alteration agreement, as more fully provided therein.

No Unit Change shall be made to a Parking Unit or a Storage Unit.

All amounts owing to the Board under this Section 3.7.2 shall constitute Additional Common Charges and shall be payable to the Board in accordance with Payment and Collection Terms.

Section 3.8 Work Requirements. Any work requiring an application to a Governmental Authority or the issuance of a Governmental Work Permit, or affecting the aesthetics, architectural integrity or exterior appearance of the Building, or a structural component of the Building, or any Building System or Building Service serving a Residential, Parking, Storage or Retail Unit or the Common Elements, or any interior or exterior waterproofing of the Building, or the acoustics of a Residential Unit or a Retail Unit or the Common Elements, shall comply with the requirements ("**Work Requirements**") contained in this

Section 3.8, whether undertaken by or on behalf of, and to the extent applicable to, Sponsor, the Condominium Board, an Owner or a tenant of a Unit, a utility provider or other party legally bound by the Declaration or these By-Laws. No work may be undertaken on a Parking Unit or a Storage Unit by the Owner thereof or its tenant.

Section 3.8.1 Performance Requirements. The work shall be performed on all Residential and Retail Units, except as otherwise expressly provided below:

(a) with a quality of the workmanship and materials that shall meet or exceed any relevant specific standards required by Laws as well as the standards of locally accepted building practices for high quality, mixed use primarily residential buildings with retail, parking and/or storage components in the locale of the Building and comparable to the construction and amenities of the Building;

(b) with commercially reasonable diligence, or (in the case of an emergency condition or governmental violation) prompt diligence, and continuity to completion, subject to delays caused by Unavoidable Causes;

(c) in accordance with all Laws, Governmental Work Permits issued therefor and the plans and specifications approved by Governmental Authorities having competent jurisdiction and accepted by Sponsor (until the FCO issues) and (in the case of a Sold Residential Unit only) the Board's Construction Parties;

(d) using materials and facilities compatible with, and of at least substantially equal or better in quality, design, function and utility than those then existing in the Building that impact a Common Element or a Unit or are exposed to public view;

(e) with functioning fire extinguishers and smoke alarms throughout the prosecution of the work if and to the extent required by Laws; and

(f) in a manner that shall not:

(f-1) permanently prevent or diminish by more than a *de minimis* extent the permitted use and enjoyment of a Unit (including the use, occupancy, operation and business of an Owner or tenant), other than the Unit whose Owner or tenant is undertaking the work;

(f-2) overload or materially impair the proper and efficient performance, function, capacity or utility of the Common Elements or a Unit, other than the Unit whose Owner or tenant is undertaking the work;

(f-3) invade or penetrate any portion of the Common Elements or a Unit, without obtaining the consent of the Board or the applicable Managers (with respect to the General, Residential and Retail Common Elements) or the Owner of such affected Unit, other than the Unit whose Owner or tenant is undertaking the work;

(f-4) change the dimensions or floor areas of the Common Elements or a Unit, other than the Unit whose Owner or tenant is undertaking the work;

(f-5) impair or jeopardize the structural integrity, soundness or air and water tightness and weather protection of any portion of the Building;

(f-6) disrupt or interfere with a Building System or Building Service being provided to one or more Units or the Common Elements, other than the Unit whose Owner or tenant is undertaking the work, except in the case of an emergency or a permitted temporary shutdown, interruption or reduction;

(f-7) reduce, impair or jeopardize the acoustical performance of the boundary walls, floors or ceilings enclosing a Common Element or a Unit, other than the Unit whose Owner or tenant is undertaking the work;

(f-8) prevent or impair legal access to a street or to a Common Element;

(f-9) interfere with, or cause any labor strike, disturbance or stoppage in, the work being performed by the Board's employees or Construction Parties; or

(f-10) (in the case of work by a Sold Residential Owner or its tenant, but not Sponsor or an Unsold Unit Owner or a Retail Owner) impact the General, Residential or Retail Common Elements (including a Building System or Building Service being provided to one or more Units) without obtaining the consent of the Board or the applicable Managers (as the case may be).

If any water, gas or other valves shall be affected by the work undertaken by the Owner or a tenant of a Sold Residential (but not an Unsold Residential Unit or a Retail Unit), all such valves shall remain accessible to the DOB and the employees, agents and Construction Parties of the Condominium Board and (until issuance of the FCO) Sponsor during the performance of, and after the completion of, the work. If any valve is enclosed in violation of this Work Requirement, then the Board and/or Sponsor (until the FCO issues) shall have the right (but not the obligation) to require the Owner of the Unit that is the subject of the work, at such Owner's sole cost and expense, to remove such enclosure with commercially prompt diligence.

Section 3.8.2 Plans and Specifications. No Owner of a Sold Residential Unit shall apply for a Governmental Work Permit unless the Condominium Board signs and delivers the governmental application or other documents required by applicable Laws, which shall be subject to the consent of the Board. A Sponsor Manager or a Retail Manager shall have the right to sign in the name and on behalf of the Board an application for a Governmental Work Permit for work permitted to be undertaken by the Sponsor or the Owner of a Retail Unit who appointed such Retail Manager, or such Owner's tenant, without the consent or approval of the other Managers or other Owners.

The Sold Residential Owner who is undertaking the work shall deliver to the Condominium Board the completed application and/or other documents required to be signed by the Board for a Governmental Work Permit accompanied by the proposed plans and specifications of the work and such additional documents and information as the Board and/or Sponsor (until the FCO issues), or their respective Construction Parties may request in order to determine whether the work complies with the requirements of Section 3.8.1. The Board's and/or (if applicable) the Sponsor's Construction Parties are to endeavor in

good faith to make such determination in writing within twenty (20) business days after receiving the plans and specifications and any additional documents and information requested, unless delayed by Unavoidable Causes, in which case said twenty (20)-business day period shall be extended for a period equal in length to the period of delay. The Board and/or (if applicable) Sponsor shall give the Owner a copy of the determination of its Construction Parties promptly after it is received by the Board or Sponsor.

If the Board's and/or (if applicable) Sponsor's Construction Parties determine that the work does not comply with the requirements of Section 3.8.1 beyond *de minimis* extent, such Owner shall cause the plans and specifications to be appropriately revised to the satisfaction of the Board's and/or (if applicable) Sponsor's Construction Parties. The foregoing procedure shall be repeated each time the plans and specifications accepted by the Board's and/or (if applicable) Sponsor's Construction Parties are revised or changed beyond a *de minimis* extent.

A Sold Residential Owner, but not an Unsold Residential Owner or a Retail Owner (each of whom shall be exempt from the following requirement) shall pay or reimburse the Board and (if applicable) Sponsor, as directed by each, for the fees, charges and other expenses paid or incurred by the Board and (if applicable) Sponsor to its Construction Parties in connection with the foregoing. The Payment and Collection Terms shall apply to all amounts to be reimbursed to the Board and (if applicable) Sponsor under this Section 3.8.2.

Section 3.8.3 Access for Inspection. The Condominium Board and (until the FCO issues) Sponsor, and their respective agents, employees and Construction Parties, shall have the right, without the consent of the Sold Residential Owner or such Owner's tenant undertaking the work, and without restriction or limitation (other than to not unreasonably interfere with the work), to access the applicable Sold Residential Unit to inspect, observe and monitor the work as it progresses in order to assure the work is being performed in accordance with Section 3.8.1, the DOB approved plans and specifications of the work, and the related Governmental Work Permits issued for the work. Sponsor and other Unsold Residential Owners and Retail Owners shall be exempt from the provisions of this Section 3.8.3.

Section 3.8.4 Deliveries. If the work by a Sold Residential Owner or such Owner's tenant requires a Governmental Work Permit, such Owner shall deliver to the Board or its managing agent (as directed by either) and (until the FCO issues) Sponsor, at least five business days before the application for a Governmental Work Permit is to be submitted to the applicable Governmental Authority, copies of the plans and specifications of the work and (if requested) shop drawings of the work.

At least five business days before the work to be undertaken by such Sold Residential Owner or such Owner's tenant is to begin, said Sold Residential Owner shall deliver to the Board or its managing agent (as directed by either) and (until the FCO issues) Sponsor:

(a) copies of all required Governmental Work Permits for the work; and

(b) a policy or original certificates of insurance (as directed by the Board or its managing agent and (until the FCO issues) Sponsor) for such insurance coverage and amounts, and issued by such insurer, as required in Section 3.9, and naming the Board, Unit Owners and Registered Mortgagees as additional insureds, as their interests may appear, and shall maintain such insurance in full force and effect at the start

and until the work is completed as evidenced by giving the Board or its managing agent (as directed by either) and (until the FCO issues) Sponsor copies of a letter of completion from the DOB and any other required Governmental Approvals of the work.

Upon completion of the work in question, whether undertaken by said Sold Residential Owner or said Owner's tenant, said Sold Residential Owner shall cause all contractors and subcontractors involved in the work to diligently pursue closing all open applications, failing which the Board and (until the FCO issues) Sponsor shall each have the right (but not the obligation), for the account and at the expense of said Sold Residential Owner, to implement the rights and remedies in these By-Laws (including the right of self-help) and at law and in equity. The Payment and Collection Terms shall apply to all amounts owed the Board or Sponsor hereunder. All amounts owed to the Board shall constitute Additional Common Charges.

Sponsor and other Unsold Residential Owners and Retail Owners shall be exempt from the provisions of this Section 3.8.4.

Section 3.8.5 Construction Parties. Each architect, engineer, structural engineer (in the case of structural work), contractor and subcontractor involved in the work undertaken by a Sold Residential Owner or such Owner's tenant shall be duly licensed and shall have, or its manager, member, director, partner, principal or shareholder shall have, not less than ten (10) years' recent experience in Brooklyn or Manhattan in the nature of the work to be undertaken, and shall otherwise be acceptable to the Board and (until the FCO issues) Sponsor. Sponsor and other Unsold Residential Owners and Retail Owners shall be exempt from the provisions of this Section 3.8.5.

Section 3.8.6 Lines and Conduits. All Lines and Conduits in connection with the work by an Owner or a tenant of a Residential or Retail Unit shall be installed in:

(a) areas concealed from view that do not impact the structural components or weather tightness of the Building or the acoustical performance of a Unit or a Common Element;

(b) unutilized or underutilized areas of existing chases, chase walls, shafts, shelves, coves, ducts, dropped ceilings or the like that can accommodate such Lines and Conduits without impairing or interfering with the performance, function, efficiency or operation other existing Lines and Conduits, or other facilities located therein; and

(c) exposed indoor areas of the Common Elements located in the cellar and the public stairs if appropriately boxed-in or otherwise covered to the satisfaction of the Condominium Board.

Section 3.8.7 Mechanic's Liens. If due to the work undertaken by an Owner Residential or Retail Unit, or its tenant, a mechanic's lien for labor or material is filed against such Unit or the Building, such Owner shall, or shall cause its tenant (as applicable) to, discharge such lien by payment, bonding or otherwise (as provided by applicable Laws) within thirty (30) days thereafter, failing which the Condominium Board and (until the FCO issue) Sponsor shall each have the right (but not the obligation), for the account and at the expense of said Owner, to discharge such lien by payment, bonding or otherwise, without investigation as to the validity thereof or any defenses thereto, and to defend or intervene in an action to foreclose a mechanic's lien. The Condominium Board or (if applicable) Sponsor shall first give

such Owner a deadline of not less than ten (10) business days' notice of its intention to exercise such right if the Owner does not so discharge such lien, and may thereafter proceed without further notice if said Owner shall fail to discharge the lien of record within said ten (10)-business day deadline period. Said Owner shall reimburse the Board or Sponsor (as applicable), in accordance with the Payment and Collection Terms, for all costs and expenses (including Legal Expenses) paid or incurred by or on behalf of the Board or Sponsor (as applicable) in connection with the foregoing. All amounts owed the Board hereunder shall constitute Additional Common Charges.

Section 3.8.8 Temporary Interruptions or Reductions in Building Systems. The Condominium Board, Sponsor and each Owner shall have the right to temporarily interrupt or reduce one or more Building Systems on the following terms in order to perform work in accordance with its rights, powers and easements under the Declaration or these By-Law:

(a) except in the case of an emergency:

(a-1) if Sponsor or a Retail Owner is undertaking the work:

(a-1.1) Sponsor or such Retail Owner (as applicable) shall give the Condominium Board, at least five business days before the work is to begin, a reasonably detailed notice of the work, the contemplated Building System to be temporarily interrupted or reduced, and the planned duration of the work; and

(a-1.2) Sponsor or such Retail Owner (as applicable) shall have the right, freely and without fee, charge or payment to the Board or the affected Owners or their respective tenants, to determine and coordinate with the Board as to the date, time and daily duration of said temporary interruption or reduction in a Building System, but not sooner than seven business days after the day Sponsor or a Retail Owner notifies the Board of the proposed temporary interruption or reduction in a Building System, and shall implement such interruption or reduction in such Building System with contractors chosen by Sponsor or such Retail Owner (as applicable);

(a-2) if a Sold Residential Owner (but not Sponsor, other Unsold Residential Owners and Retail Owners, who shall be exempt from the following provision) who or whose tenant is undertaking permitted work:

(a-2.1) such Owner shall give, or cause its tenant to give, the Condominium Board, at least five business days before the work is to begin, a reasonably detailed notice of the work, the contemplated Building System to be temporarily interrupted or reduced, and the planned duration of the work; and

(a-2.2) the Condominium Board shall determine and coordinate with such Owner and/or tenant (as applicable) as to the date, time and daily duration of said temporary interruption or reduction in said Building System and shall implement such interruption or reduction in said Building System for the account, and at the expense, of said Owner using Building staff or contractors chosen by the Board (the Payment and Collection Terms shall

apply to all amounts owed the Board hereunder, which amounts shall constitute Additional Common Charges);

(b) whether the permitted work is being undertaken by the Board, Sponsor or other Owner or its tenant, the Condominium Board shall give all Owners and Registered Tenants to be impacted by an interruption or reduction in a Building System, at least three business days before the interruption or reduction is scheduled to occur, a reasonably detailed notice (by messenger service, or by first class mail or email (with electronic confirmation of delivery), Building link (if any) or FedEx or other nationally recognized courier service for next day delivery) of the Building System to be affected and the scheduled date(s), time period and duration thereof;

(c) the interruption or reduction in a Building System shall not prevent and, to the extent commercially reasonable and economically practicable, shall minimize interfering with the use, occupancy and operation of, and the business being conducted in, a Unit, other than the Unit of the Owner who or whose tenant is undertaking the work;

(d) the work shall be performed with commercially reasonable diligence and continuity to completion;

(e) upon a Manager or the Board's managing agent or property manager being notified (orally or otherwise), or becoming aware, of an emergency, the interruption or reduction in a Building System may be immediate, such Manager or the Board, without advance notice, other than to the extent feasible to endeavor to notify by telephone or mobile phone, or (if unsuccessful) by email (with electronic confirmation of delivery), the Owners and Registered Tenants to be impacted of the emergency condition and the Building System to be affected thereby;

(f) except as otherwise provided in clause (a) above, the interruption or reduction in a Building System shall be performed by or on behalf of the Condominium Board, to the extent commercially feasible, with commercially prompt diligence and continuity to completion;

(g) no Owner or tenant incurring losses or damages due to a temporary interruption or reduction in, a Building System, shall have any manner of recourse by reason thereof against the party (and its Related Parties) causing such temporary interruption or reduction in a Building System, or the Condominium Board (and its Related Parties) implementing the temporary interruption or reduction in a Building System; and

(h) any interruption or reduction in a Building System pursuant to this Section 3.8.8 shall not entitle an Owner to any set-off or credit against, or abatement in, or diminution of, Common Charges.

Section 3.8.9 Sidewalk Structure. If the work on the façade or exterior Building walls requires the erection or use of a sidewalk bridge, scaffolding or other structure, or a scaffold hanging from the Building's roof, the Condominium Board shall exclusively control and determine the timing, duration, specifications and manner of performance of the work to stage, erect, disassemble and remove the sidewalk bridge and scaffold, including the design, fabrication and composition thereof and all work incidental thereto; the Construction Parties to perform the work; the plans and specifications (including the height and

design) of the sidewalk bridge and scaffold; and the commencement date and duration of the work, except as otherwise provided below.

The erection, disassembly and removal of the sidewalk bridge and scaffold, including a scaffold to hang from a roof, shall be performed with commercially reasonable diligence and continuity to completion in accordance with all applicable Laws.

Any bridge or scaffold to be erected or installed by or on behalf of the Condominium Board in front of a Retail Unit:

(a) shall be double height and shall clear and not obstruct a Retail Unit's storefronts and street entrance door(s);

(b) shall not block or interfere with access to a Retail Unit's street entrance;

(c) to the extent practicable, shall not diminish the visibility of any storefronts and signs of a Retail Unit's Owner or tenant, except on a temporary basis;

(d) shall not be erected without first giving the affected Retail Owner, at least twenty (20) business days' advance notice stating in reasonable detail the purpose and anticipated start date and estimated duration of the bridge or (if applicable) scaffold; provided, however, in the case of an emergency, no advance notice shall be required and, to the extent commercially feasible and economically practicable, the Condominium Board will endeavor to contact each affected Retail Owner by telephone or mobile phone, or (if unsuccessful) by email (with electronic confirmation of delivery) of the emergency and the forthcoming erection of the bridge and (if applicable) scaffold;

(e) shall not be erected or (if feasible and economically reasonable) remain during the months of November, December and January, unless required by Laws or to remediate an emergency condition, or necessary to continue to completion with work in progress;

(f) shall have all exposed bolts protected and bridge supporting poles wrapped with bright yellow or luminous tape to prevent pedestrian accidents;

(g) shall have lighting below the scaffolding as required by applicable Laws;

(h) if reasonably possible, shall not affect or interfere with exhaust ducts or vents (if any); and

(i) shall be disassembled and removed with commercially prompt diligence as soon as practicable when the work is completed.

Each affected Retail Owner shall have the right, on the following terms and at its sole expense, to install on and under the bridge appropriate signs at or opposite the Unit's storefront or street entrance to identify the Unit's tenant or occupant. At least ten (10) business days before a sign is to be installed, the Retail Owner or its tenant shall submit to the Condominium Board, for acceptance by the Board's Construction Parties, without fee or charge by the Condominium Board, the proposed plans and specifications for each sign, detailing its size, fabrication, material and weight. Each sign must comply Laws, cannot contain lighting or impair pedestrian passage on and across the sidewalk, or impact the structural integrity or soundness of the bridge or scaffold. Such Owner, at its sole cost and expense, shall

be responsible to maintain, or to cause its tenant to maintain, each sign in good condition and appearance, and to remove the sign with prompt diligence when notified that the bridge is ready to be disassembled. All notices to be given under this Section 3.8.9 that do not involve an emergency may be sent by hand delivery, first class mail, email (with electronic confirmation of delivery) or by FedEx or other nationally recognized courier service for overnight delivery.

Section 3.8.10 Access Requirements. Except in the case of an emergency, a party having an easement and right to access a Unit or Common Element under the Declaration (including Article 10 thereof) or these By-Laws ("**Access Party**"), whether to install, maintain, repair, restore, alter or operate its facilities or otherwise, shall give at least five business days' advance notice ("**Access Notice**") to an Owner to access such Owner's Unit, or to the Board to access a General or Residential Common Element. The Access Notice shall state the reason to, and the projected duration of, access.

Access to a Unit or a Common Element shall be on such business day and during such business hours as shall be mutually convenient to the Access Party and the affected Owner or the Condominium Board (as applicable). If they shall be unable or fail to agree thereon within said five-business-day period from giving the Access Notice, then access to the Unit or the Common Element in question (as applicable) shall be on such business day and during such business hours as the Access Party shall determine upon giving the affected Owner or the Condominium Board (as applicable) not less than five business days' notice thereof.

The Access Party and its Construction Parties shall comply with all commercially reasonable security and protection procedures and requirements (including protecting walls, floors and other surfaces against damage) as may be required by the affected Owner or the Condominium Board (as applicable); provided, however, such procedures and requirements shall not impede or unreasonably delay, impair or interfere with such access. The affected Owner or the Condominium Board (as applicable) shall also have the right for its representative to be present at all times during the period of access.

In the case of an emergency, access by the Condominium Board and its Construction Parties to the affected Unit may be immediate, at any time, without advance notice (written or vocal), without meeting any security or protection procedures and without the affected Owner or its representative or any tenant being present. In such case, the Board and Unit Owners, and their respective Related Parties, and Construction Parties shall not be guilty or liable in any manner for trespass or otherwise, and the affected Owner and its tenant (if any) shall have no recourse against them by reason thereof, except for any property damage caused by access to the Unit and the work to remediate the condition causing the emergency. To the extent commercially feasible and economically practicable, the Condominium Board will endeavor to promptly notify the affected Owner by telephone or mobile phone, or (if unsuccessful) by email (with electronic confirmation of delivery) of the emergency condition and the Building Services affected thereby. The Board shall perform the remedial work to correct the emergency condition, to the extent commercially feasible, with commercially prompt diligence and continuity to completion.

The provisions of this Section 3.8.10 do not apply to access a Unit of an offending Owner, which shall be governed by Section 5.1.2.

Section 3.8.11 Board Consent. Whenever a Sold Residential Owner (but not Sponsor, an Unsold Residential Owner or a Retail Owner, who shall be exempt from the provisions of this Section 3.8.11) or such Owner's tenant is required to obtain the discretionary or reasonable consent of the Board before undertaking any work, the Board shall have the unfettered right to condition its consent on said Sold Residential Owner entering into an alteration agreement containing the terms and conditions outlined in Section 3.6.2.

Section 3.8.12 Sponsor's Consent. Until issuance of the FCO of the Building authorizing the use of the Units for their intended purposes as set forth in the Declaration, any work to be undertaken by an Owner or its tenant, or the Board that requires the consent of Sponsor under the Declaration or these By-Laws shall be governed by, and shall comply with, Section 3.6.4.

Section 3.8.13 Sponsor's Priority Rights. The rights of Sponsor under a Work Requirement shall be paramount and take preference and priority over the rights of the Board hereunder. In the event of any conflict, inconsistency or ambiguity between the rights of Sponsor and the rights of the Board under the Work Requirements, the rights of Sponsor shall govern and control.

Section 3.8.14 Board Remedies. If an Owner or an Owner's tenant, or their respective Construction Parties, violates any of the Work Requirements and such Owner fails to commence to cure the violation at issue within two business days after being given notice thereof and thereafter to diligently and in good faith prosecute the curative work with continuity to completion, the Condominium Board shall have the right (but not the obligation), in addition to all rights and remedies set forth in Article 5 and at law and in equity, without recourse against the Board or Unit Owners, or their respective Related Parties or Construction Parties for any losses or damages:

(a) to impose fines;

(b) to suspend, prohibit and enjoin the work;

(c) to deny access to the Building by the Construction Parties, including their respective workers, involved in the work, other than to permit the Construction Parties to remove their tools and equipment accompanied at all times by a representative designated by the Board;

(d) to stop and bar deliveries of equipment, supplies and material to the Building related to the work;

(e) to bar future work by such Owner and its tenant, other than work to remediate an emergency condition in such Owner's Unit until the violation of the applicable Work Requirement is corrected to the satisfaction of the Board; and

(f) to access such Owner's Unit, without the Board or its Construction Parties being guilty or liable for trespass or otherwise, and, at the sole cost and expense of said Owner:

(f-1) to perform or cause to be performed all work necessary to remedy the violation of the Work Requirements, whether or not such work shall comply with the plans and specifications for the work theretofore performed by, or on behalf of, such Owner or its tenant (as applicable); and

(f-2) to cause the offending work to be removed and to restore the affected elements to as near as commercially reasonable and economically practicable to their respective former conditions immediately before undertaking the work.

Any dispute hereunder shall be resolved by court action or proceeding, unless the Board (in its sole discretion) consents to, or initiates, arbitration pursuant to Article 6.

Section 3.8.15 Assumption of Obligation and Liability. The Owner or the Condominium Board (as applicable) undertaking the work or is responsible and accountable for the party undertaking the work pursuant to Section 1.3.12 of the Declaration or these By-Laws:

(a) shall assume the obligation to:

(a-1) obtain all required Governmental Work Permits and any other authorizations for the work required by Governmental Authorities having competent jurisdiction;

(a-2) diligently obtain all Governmental Approvals and diligently pursue to close all open applications upon completion of the work;

(a-3) perform the work or cause the work to be performed in accordance with all applicable Work Requirements; and

(a-4) timely pay or cause to be timely paid the Construction Parties, vendors and suppliers of equipment, supplies or material and others engaged in the work in accordance with all contractual requirements; and

(b) shall be liable and accountable for:

(b-1) damage to property (including a Unit and the Common Elements, and the personal property contained in each), bodily injury or death, and damages attributable to the work, the performance of the work and defects therein;

(b-2) the accuracy, suitability and soundness of the work and any plans and specification of the work;

(b-3) a failure of the proper and efficient performance, function, capacity, utility and operation of any facilities affected by the work (excluding permitted temporary interruptions or reductions in a Building Service);

(b-4) the failure in the air and water tightness and weather protection of the Building structure (including the Building walls, windows, storefronts, roofs and/or bulkheads, as applicable) attributable to the work;

(b-5) plumbing leaks attributable to the work;

(b-6) the costs and expenses incurred or paid by an aggrieved party to properly correct such defects; and

(b-7) all claims, litigations, liabilities, losses and damages attributable to:

(b-7.1) the work or the performance of the work (unless attributable to the negligence or intentional wrongdoing of a party seeking recovery, which is excluded from this liability); or

(b-7.2) said plans and specifications of the work; or

(b-7.3) defects (latent and patent, structural and non-structural, extraordinary and ordinary) attributable to the work.

The Payment and Collection Terms shall apply to all amounts to be reimbursed to an aggrieved party under this Section 3.8.16.

Section 3.8.16 Disclaimer. The acceptance or consent of Sponsor or the Condominium Board, or their respective Construction Parties, to the proposed work by or on behalf of an Owner or tenant, or the plans and specifications of the work or any changes thereto, and the Board's executing and/or delivering any applications, forms or other documents of Governmental Authorities having competent jurisdiction with respect to the work, shall not constitute nor be construed to constitute:

(a) an approval, acknowledgement, admission or representation by Sponsor or the Condominium Board, or their respective Construction Parties, of:

(a-1) the proper design, feasibility, suitability, efficiency, accuracy or soundness of: the work or any portion thereof;

(a-2) the compliance of the accepted plans and specifications of the work, or the accepted changes thereto, with or conformity to applicable Laws or Governmental Work Permits; or

(a-3) the ability to obtain any or all required Governmental Work Permits or Governmental Approvals with respect to the work; or

(b) an assumption of liability by Sponsor or the Board, or their respective Construction Parties, for the work or any portion thereof or for the failure of the proper or efficient operation, capacity or utility of:

(b-1) the equipment, fixtures, apparatus, devices, systems or other items involved in the work; or

(b-2) the Building Systems serving the Unit that is the subject of the work, it being understood and agreed that Sponsor and the Condominium Board, and their respective Related Parties and Construction Parties, shall have no such liability.

The foregoing disclaimer shall apply equally to any consent or acceptance of Sponsor given to the Board for any work undertaken by the Board that requires Sponsor's consent or acceptance.

Section 3.8.17 Indemnity. The Owner or the Board undertaking the work or the person undertaking the work for whom the Owner or the Board is responsible or accountable pursuant to Section 1.3.12 of the Declaration, shall indemnify all other Owners and (if the Owner is the indemnitor) the Board, and their respective Related Parties, on the terms set forth in Article 19 of the Declaration, from and

against any and all claims, litigations, liabilities, losses and damages attributable to said work, the performance of the work, any defects in the work, and any violation of the applicable Work Requirements.

If the work being undertaken by the Condominium Board primarily benefits:

(a) all Owners, the amounts payable by the Board under this indemnity shall be included in the General Common Expenses and charged to all Owners pro rata to their respective Common Interests; or

(b) fewer than all Owners, the amounts payable by the Board under this indemnity shall be charged to only the Owner (or if more than one Owner) the Owners (pro rata to their respective Common Interests) for whom the work primarily benefits, as determined by the Board in its sole business judgment.

Section 3.8.18 Damage or Destruction. In the event the work damages or destroys a Unit (including its contents) or a Common Element or an Association's Asset, the party responsible to maintain and repair the damaged or destroyed item, at the expense of the offending party who is undertaking or is accountable for the work, shall with commercially reasonable diligence and continuity to completion, and in accordance with all applicable Work Requirements, repair and restore the impacted areas and facilities to as near as commercially reasonable and economically practicable to its former condition and finish immediately before being destroyed or damaged. The Payment and Collection Terms shall apply to the amounts owed by the offending party to the aggrieved party hereunder.

Section 3.8.19 Limitation on Damages. Notwithstanding anything to the contrary contained herein or elsewhere in these By-Laws or the Declaration, Sponsor, the Board and Owners shall not be accountable or liable for consequential, indirect, incidental, special or punitive damages with respect to violations of the Declaration or these By-Laws (including violations of the Work Requirements or otherwise), other than liability for consequential, indirect, incidental, special and punitive damages owed or paid to unrelated third parties as to which:

(a) a Unit Owner is otherwise responsible to indemnify another Unit Owner or the Board; or

(b) the Board is otherwise responsible to indemnify a Unit Owner; or

(c) Sponsor is otherwise responsible to indemnify an Owner or the Owner's Related Parties or the Board or the Board's Related Parties, which are expressly reserved.

Section 3.9 Insurance.

Section 3.9.1 Requirements for the Condominium Board. From and after the date of recording the Declaration, the Condominium Board shall obtain and maintain the insurance coverages in such amounts and with such deductibles as the Condominium Board may determine from time to time, in its sole business judgment, provided that the insurance coverages shall minimally include such coverage as may be required by any mortgage encumbering a Unit owned by Sponsor existing on the date the Declaration is recorded in the City Register's Office, and shall initially include insurance as set forth in the following Sections 3.9.2 through 3.9.7.

Section 3.9.2 Fire and Casualty Insurance. The Board shall obtain and maintain:

(a) fire and casualty insurance with all risk coverage, vandalism and malicious mischief endorsements, insuring the Common Elements, and covering the interests of the Condominium Board and all Owners and their respective mortgagees, as their respective interests may appear, in an amount equal to one hundred percent (100%) of the full replacement value of the Building (exclusive of foundations, footings and permitted excludible soft costs, such as architect fees, and the build-out of the interior of Units, including trade and other fixtures, appliances, built-ins and other personal property), without deduction for depreciation; but not less than an amount that shall be sufficient for the insurer to waive any co-insurance requirement or is based on an "Agreed Amount" replacement cost (or comparable term), and shall contain (if obtainable):

(a-1) waivers of:

(a-1.1) subrogation in favor of Owners and designated tenants of Units;

(a-1.2) any defense based on co-insurance or other insurance;

(a-1.3) invalidity arising out of the acts of an insured party; and

(a-1.4) pro rata reduction of liability;

(b) a provision that any adjustment of loss will be made by the Condominium Board and that all proceeds will be paid to the Condominium Board or (at the option of the Board) an Insurance Trustee (defined below) appointed pursuant to these By-Laws where the Board is to repair the damaged or destroyed elements in accordance with these By-Laws;

(c) a New York Standard Mortgagee provision in favor of each Registered Mortgagee, subject however to the preceding loss payment provisions in favor of the Condominium Board or (at the option of the Board) Insurance Trustee; and

(d) a provision preventing the policy from being canceled or substantially modified unless at least ten (10) days' prior notice is given to the Condominium Board;

(e) flood and earthquake coverage in amounts, terms and rates to be determined by the Board to be commercially reasonable, adequate and available; and

(f) insurance covering Acts of Terrorism (as defined in the Terrorism Risk Insurance Act of 2002), including any extensions and changes thereof ("**TRIA**"), but only so long as TRIA is in effect or such insurance is available at reasonable commercial rates and terms; it being understood that if such insurance is not available at reasonable commercial rates and terms, any Unit Owner may nonetheless require the Condominium Board to carry such terrorism insurance if such Unit Owner assumes and pays all expenses thereof.

An "**Insurance Trustee**" shall mean an Institutional Lender having both an office in the City and State of New York and a capital surplus and undivided profits of $100,000,000.00 or more.

Before obtaining any policy of property casualty insurance or any renewal thereof, the Condominium Board may, at its option, obtain an appraisal from a property insurance company or otherwise of the full replacement value of the Property for the purposes of determining the amount of such property

casualty insurance to be obtained pursuant to this Section 3.9.2. Any such appraisal of the Building obtained within twelve (12) months preceding the date of issuance of said property casualty insurance policy or a renewal thereof shall suffice for this purpose.

Duplicate originals of all policies of property casualty insurance and of all renewals thereof, together with proof of payment of the premiums, shall be delivered to Sponsor and a Registered Mortgagee of a Unit owned by Sponsor at least thirty (30) days prior to the expiration of the then current policies.

The property casualty insurance shall not cover the decorations or finishes of walls, floors or ceilings of the General Common Elements or the Residential Common Elements or of any Unit not owned, leased or otherwise held by the Board (or its affiliate), or the contents of any such Unit (including its appliances, kitchen and bathroom fixtures (electric, electronic, plumbing, heating, cooling or otherwise), furniture, furnishings, cabinets, countertops, decorations and other personal property).

Section 3.9.3 Liability Insurance. The Condominium Board shall obtain and maintain Commercial General Liability coverage written on the Insurance Services Office form - 1986 or later (containing the so-called "occurrence clause"), or equivalent comprehensive general liability coverage, with respect to ownership, operation, maintenance, use and control, insuring against liability for injury or damage to persons or property in or upon the Common Elements, the sidewalks, and the Association's Assets (including all Units or other property (if any) owned, leased or otherwise held by the Condominium Board, or its affiliate). The Condominium Board may, in its discretion, obtain umbrella liability insurance in such amounts as the Condominium Board may determine from time to time.

The liability coverage shall initially be not less than a combined single limit in the minimum amount of $10,000,000.00 per occurrence/general aggregate, which can be met with a combination of the primary liability and excess liability. The Condominium Board shall review the amounts of liability coverage at least once each budget year.

The liability policies shall list as co-insureds:

(a) the Condominium Board and each and every Manager and Officer thereof;

(b) the managing agent or property manager (if and as applicable);

(c) each agent and employee of the Condominium Board;

(d) each Unit Owner; and

(e) (if required by the terms of a Registered Mortgage of a Unit) the holder of such Registered Mortgage, as their respective interests may appear.

The insurance provided under this Section 3.9.3 shall not cover liability of a Unit Owner arising from occurrences within or on the Owner's Unit, which includes a terrace (if any). This exception shall not apply to any Unit owned, leased or otherwise held by the Condominium Board or its affiliate.

Duplicate originals of all policies of liability insurance and of all renewals thereof, together with proof of payment of premiums for such liability coverage, shall be given to Sponsor, so long as it owns a Unit, within ten (10) days after being requested therefor.

Section 3.9.4 Boiler and Machinery Insurance. The Condominium Board shall obtain and maintain boiler and machinery insurance on facilities constituting part of the Common Elements in an amount not less than $500,000 per accident or the replacement cost; but not any facilities that are part of a Unit (which may be separately insured by the Owner of such Unit).

Section 3.9.5 Workmen's Compensation. The Condominium Board shall obtain and maintain worker's compensation insurance, New York State disability benefits insurance and employer's liability coverage covering any employees hired by the Condominium Board. Each Unit Owner shall be solely responsible to obtain and maintain, at its sole cost and expense, the foregoing insurance for its own employees or contractors.

Section 3.9.6 Other Insurance. The Condominium Board shall also obtain and maintain the following insurance to the extent available at reasonable rates and not otherwise part of any coverage required hereunder:

(a) business interruption insurance, including loss of rents in an amount equal to the Common Charges for at least eighteen (18) months;

(b) water damage legal liability insurance;

(c) elevator liability and collision insurance;

(d) non-owned and hired automobile liability insurance;

(e) combination crime insurance, including blanket employee dishonesty, forgery or alteration, covering the Managers and Officers of the Condominium Board, the managing agent or property manager (if and as applicable) and employees (if any) handling funds of the Condominium Board;

(f) directors and officers liability insurance for Managers and Officers of the Condominium Board, including Employment Practices liability insurance and third party discrimination;

(g) such other or additional insurance as the Condominium Board shall determine from time to time, in its sole business judgment; and

(h) such insurance with respect to the Units, the Common Elements and the Condominium Association as would be reasonably required and which are commonly insured against for such properties most similar to the Property, similarly situated to a prudent lender originating commercial mortgage loans for securitization similar to a then existing mortgage on a Unit owned by Sponsor at the time in question, which insurance shall in all cases comply in all respects with the insurance requirements expressly contained in said then existing mortgage for so long as it encumbers a Unit owned by Sponsor.

Section 3.9.7 Insurance Covering Work Performed by Board. If not covered by insurance policies then maintained by the Condominium Board when it is performing work in or on the Property, the Condominium Board shall also obtain and maintain installation floater coverage in an amount equal to the cost of the contract for such work or shall cause its contractors to maintain equivalent insurance, naming the Condominium Board, all Unit Owners and the Registered Mortgagees as additional insureds as their

interests may appear, except that such insurance shall not be required if the estimated cost of such work is less than One Hundred Thousand Dollars ($100,000) (Adjusted for Inflation, as defined in Section 3.9.9).

Section 3.9.8 Insurance Amounts and Deductibility. To the extent not specified above, all such insurance shall be in such amounts and may provide for such deductible amounts as the Condominium Board may determine from time to time in its sole and absolute discretion to be reasonable and customary for buildings in the vicinity of the Building that are similar in use, size, facilities and amenities of the Building.

Section 3.9.9 Adjustment. All of the above policies shall provide that adjustment of loss shall be made by the Condominium Board and all policies of property casualty insurance shall provide that the proceeds of insurance shall be paid as follows, unless otherwise provided in said loan instruments of a then existing mortgage encumbering a Unit owned by Sponsor (whose provisions shall govern and be followed):

(a) to the Condominium Board, if $1,000,000.00 (Adjusted for Inflation, as defined below) or less; or

(b) (at the sole option and business judgment of the Board) to the Insurance Trustee, which shall be an Institutional Lender chosen and appointed by the Condominium Board, if in excess of $1,000,000.00 (Adjusted for Inflation).

The term "**Adjusted for Inflation**" (or words of similar import) shall mean to adjust the specified dollar amount by multiplying such amount by a fraction, the numerator of which shall be the Consumer Price Index (defined below) for the full calendar month immediately preceding the date of such adjustment, and the denominator of which shall be the Consumer Price Index for the calendar month December of the year immediately preceding the year the Declaration is recorded in the City Register's Office. The "**Consumer Price Index**" shall mean the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor for New York, New York (or the smallest measured area including New York, New York), All Items (1982 84 = 100), or any successor index thereto, appropriately adjusted. If the Consumer Price Index ceases to be published, and there is no successor thereto, such other reasonably similar index as is designated by the Condominium Board shall be substituted for the Consumer Price Index. If the Consumer Price Index is not immediately available, payments to be calculated in accordance with such Index shall be made based on a reasonable estimate of such Consumer Price Index, and any deficiency shall be paid, and any overpayment credited, against the next installment of funds due, immediately after such Consumer Price Index is available.

Section 3.9.10 Payments. In either instance, all such insurance proceeds actually received by the Board or Insurance Trustee (as applicable) shall be held in trust for the benefit of the following and shall be disbursed as provided in Section 3.10:

(a) the Owner and Registered Mortgagees of a Unit in the case of a loss to all or a portion of the Owner's Unit and/or the Limited Common Elements restricted to its exclusive use; or

(b) all Owners and their respective Registered Mortgagees in the case of a loss to the General Common Elements; or

(c) the Owners of the Residential, Parking and Storage Units and their respective Registered Mortgagees in the case of a loss to the Residential Common Elements.

Section 3.9.11 Insurance Trustee's Fees and Disbursements. The fees and expenses of any Insurance Trustee shall be paid by the Condominium Board as a General Common Expense and charged to all Unit Owners pro rata to their respective Common Interests, unless the funds held by the Insurance Trustee benefit only one or more, but not all, Owners, in which case the fees and expenses of the Insurance Trustee shall be charged to only such Owner or Owners (pro rata to their respective Common Interests), as applicable, as a Specially Allocated Expense. The Insurance Trustee shall hold said proceeds as trust funds until paid over or applied as provided in the Declaration and these By-Laws.

Section 3.9.12 Allocation of Insurance Premiums. Unless otherwise expressly provided elsewhere in the Declaration or these By-Laws, the premiums for insurance maintained by the Condominium Board in accordance with this Section 3.9 shall be a General Common Expense and charged to all Unit Owners pro rata to their respective Common Interests**.**

Section 3.9.13 Insurance Requirements for Unit Owners.

Section 3.9.13.1 General Prohibitions. A Unit Owner shall:

(a) not do, permit or suffer any act or omission to occur in or to such Owner's Unit or the Limited Common Elements restricted to its exclusive use that will, with reasonable likelihood, invalidate, or invalidates, or be in conflict with, any public liability, property or other policy of insurance at any time carried by the Condominium Board with respect to the Property, except no such policy maintained by the Condominium Board shall conflict with or prohibit any use of a Unit permitted under the Declaration;

(b) not keep anything in its Unit that is prohibited by the New York City Fire Department, the Board of Fire Underwriters, or a fire insurance rating organization or other Governmental Authority having competent jurisdiction;

(c) not do, permit or suffer a Unit or the Limited Common Elements restricted to its exclusive use to be used in any manner that will, with reasonable likelihood, increase, or increases, the insurance rate for the Property over that in effect on the date of recording the Declaration, unless the Unit's Owner responsible for such increase pays the additional cost thereof as provided below; and

(d) not perform or cause to be performed, or suffer, any permitted work affecting the General or Residential Common Elements without first obtaining and continuously maintaining until the work is completed, at the sole cost and expense of such Unit Owner, the insurance required below.

Section 3.9.13.2 Owner Liability for Default or Higher Rate. Any expenses which shall be imposed upon the Condominium Board by reason of a violation by a Unit Owner in performing or observing its obligations under this Section 3.9.13 or by reason of any increase in the premium charged for insurance carried by the Condominium Board resulting from a higher insurance rate for the Property attributable to a use or occupancy of an Owner's Unit or a portion thereof, but not attributable to a Unit caused merely by the normal use of such Unit permitted by the Declaration, shall be assessed as a Specially Allocated Expense to only such Unit and shall be payable solely by the Owner of such Unit. For all purposes

hereunder, a schedule or "make-up" of rate for the Property issued by the New York Fire Insurance Exchange or other body making fire insurance rates applicable to the Property shall be conclusive evidence of the facts therein stated and of the several items and charges in the fire insurance rate or rates then applicable to the Property.

Section 3.9.13.3 Work by a Unit Owner. A Unit Owner, at such Owner's sole cost and expense, shall maintain, or cause to be maintained by its contractor or otherwise, the following insurance during its performance of any work, other than work not required to comply with the Work Requirements (or such alternate amounts as may be required by the Board based upon the type of work) during its performance of any work:

(a) Workmen's Compensation and Disability Benefits Insurance as required by the Laws of the State of New York and Employer's Liability Insurance;

(b) Commercial General Liability and Products/Completed Operations Coverage to the extent such insurance coverage is not included in a policy maintained by the Condominium Board, including the Condominium Board, its agents, successors and assigns, and any tenant of the Unit as additional insureds with a minimum limit of $5,000,000.00 per occurrence;

(c) Additional Commercial General Liability coverage extensions required: This Insurance is Primary and Non-Contributory as respect to coverage afforded the additional insurance and will be applicable to both the premises and completed operations coverage; Contractual Liability; and Waiver of Subrogation in favor of the Condominium Board and its Related Parties and Unit Owners; and

(d) Installation Floater coverage in an amount equal to the cost of the contract for any work performed in the Common Elements, naming as additional insureds the Unit Owners, the Condominium Board, and any mortgagee of the Unit Owner performing such work, as their interests may appear, except that such insurance shall not be required if the estimated cost of the work in the Common Elements is less than One Hundred Thousand Dollars ($100,000) and is covered by insurance policies maintained by the Condominium Board.

Section 3.9.13.4 Insurance Requirement for Sold Residential Units and Retail Units. Each Owner of a Sold Residential Unit or Retail Unit is to obtain and maintain the following insurance while owning such Unit: Personal Property in the amount of $150,000; Alterations & Additions in the amount of: $150,000; and Personal Liability in the amount of $1,000,000. Such Owner's Property and Liability coverage is to be endorsed to provide a waiver of subrogation in favor of the Condominium Board. These insurance requirements do not apply to Owners of Unsold Residential Units, or Owners of Parking Units or Storage Units.

Section 3.9.14 Waiver of Subrogation. Except for New York Statutory Disability Insurance coverages, all insurance maintained by the Condominium Board, Unit Owners and future tenants under leases of Units entered into after the Declaration is recorded in the Kings County City Register's Office shall contain waivers of subrogation. The Condominium Board and the Unit Owners each hereby waive and agree, and each such future tenant shall conclusively be deemed to have automatically, irrevocably and unconditionally waived and agreed, that it shall make no claim for recovery against each other or against

Owners or tenants of other Units, for damages to, or loss of, the Common Elements and/or any Unit, or any improvements and betterments or personal property thereon or therein, or for recovery of any other injury or damage, to the extent that such damage, injury or loss is covered by any insurance carried by or on behalf of the waiving party. Such waiver of subrogation shall apply to all insurance coverages required to be maintained under these By-Laws, and to any other coverages carried by the parties that waive rights under the immediately preceding sentence, except that this waiver of subrogation will not apply to persons other than the Condominium Board, the Unit Owners, or future tenants under any lease to the extent an insurer will not permit this waiver in favor of any of the foregoing on a commercially reasonable basis. A waiver of subrogation will be effective as to a waiving party even though that waiving party would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and (with respect to property insurance waivers) whether or not the waiving party had an insurable interest in the property damaged. If an insurance policy implicated by the waiver in this Section 3.9.14 does not allow the insured to waive rights of recovery against others prior to a loss, the insured shall cause the policy to be endorsed to provide for this waiver.

Section 3.9.15 General Policy Requirements. The policies of insurance required to be maintained under this Section 3.9 shall meet the following criteria:

(a) the policies of insurance shall be from a company rated in the A.M. Best Key Rating Guide with ratings of at least A- and of at least VI and such company shall be licensed to do business in the State of New York;

(b) the policies shall contain a provision that before any change or cancellation of a policy, at least thirty (30) days' advance notice by certified mail, return receipt requested, shall be given:

(b-1) in the case of insurance maintained by the Condominium Board under Sections 3.9.2 to 3.9.7, to the Condominium Board and (if and to the extent obtainable at reasonable rates) to all Unit Owners and Registered Mortgagees; and

(b-2) in the case of insurance maintained by a Unit Owner under Sections 3.9.13, to the Condominium Board;

(c) all policies required to be obtained by the Condominium Board pursuant to this Section 3.9 shall be renewed or replaced at least ten (10) days prior to the expiration of the then current term;

(d) all policies for property insurance maintained by the Condominium Board under Section 3.9.2 shall contain (if and to the extent obtainable) waivers of subrogation and generally all policies maintained by the Condominium Board shall also cover cross-liability claims of one insured against another insured;

(e) all policies shall acknowledge that all Unit Owners and Registered Mortgagees are deemed additional insureds for any liability insurance and loss payees for property insurance although not individually named, and that the Condominium Board is authorized to sign all checks for payment of proceeds or other instruments required in connection with the processing, payment and settlement of claims and litigations on such Unit Owner's behalf (other than the Unit Owner owning the policy under which

such proceeds are paid, who alone shall have the right to sign said checks and instruments and settle claims and litigation under its policy, subject to the rights of its Registered Mortgagee);

(f) each liability policy shall be endorsed (if obtainable) with a severability of interest endorsement, if not otherwise included, stating that if a claim or litigation is brought by one insured against another insured under such policy, or by an employee of one insured against another insured under such policy, each insured shall be considered a separate insured for purposes of the insurance and shall meet the following additional criteria (if obtainable):

(f-1) the policies shall be written with a contractual liability endorsement, if not otherwise included, providing coverage for bodily injury or property damage assumed under any type of written contract, except any contract under which the insured assumes liability for the sole negligence of an indemnitee; and

(f-2) the policies shall be written to specifically include coverage for legal liability for damage of any part of the Property by fire;

(g) any policies required to be furnished by a Unit Owner pursuant to Section 3.9.13:

(g-1) may be maintained by the Unit Owner under a blanket policy or policies; provided, however, that the minimum amount of the total insurance afforded by such blanket policy which shall be allocable to the Owner's Unit(s) and the work to be performed and any sublimits of such policy allocable to the Unit(s) shall be in amounts which shall not be less than the amounts of the insurance required hereunder and the protection afforded under such policy shall be not less than what would have been afforded under a separate policy or policies;

(g-2) the certificate evidencing such insurance shall contain provisions confirming the foregoing;

(g-3) certificate(s) evidencing the existence of any policy required to be maintained by a Unit Owner under Section 3.9.13 shall be delivered to the Condominium Board with evidence of the payment of the premiums therefor not less than fifteen (15) days prior to the commencement of the work; and

(g-4) at least ten (10) days prior to the expiration or termination date of any policy, the Unit Owner shall deliver a renewal or replacement policy, or (at the option of the Board) certificate(s) evidencing the existence thereof, to the Condominium Board together with proof of the payment of the premium therefor; and

(h) all of the conditions contained in Section 3.9.15 (b) above (other than those contained in Section 3.9.2) are required only to the extent obtainable at reasonable rates from any insurance company meeting the requirements set forth in Section 3.9.15(a) above.

Section 3.9.16 General Insurance Matters. The Condominium Board may amend or waive any of the insurance requirements contained in Section 3.9.13 or Section 3.9.15 from time to time and/or adopt different or additional requirements in lieu thereof without recording an amendment to these By-Laws.

Without limiting the remedies of the Condominium Board for a Unit Owner's violation, in the event that any Unit Owner fails to provide evidence of insurance required to be provided by such Unit Owner hereunder and does not cure such violation within three business days after request therefor is given by or on behalf of the Condominium Board, the Condominium Board shall be authorized (but not required) to procure such coverage in the amounts stated, with all costs thereof to be assessed against such offending Owner's Unit as a Specially Allocated Expense.

Neither the issuance of any insurance policy hereunder, nor the minimum limits specified herein with respect to a Unit Owner's insurance coverage, shall be deemed to limit or restrict in any way such Unit Owner's liability in connection with or arising out of work by such Owner or for whom such Owner is responsible and accountable pursuant to the Declaration or these By-Laws, and the indemnity obligations set forth in the Declaration and these By-Laws.

Each Unit Owner may carry for such Owner's own benefit insurance which is in addition or supplemental to that required herein; provided, however, that the insurance coverage for the Condominium Board and other Unit Owners pursuant to this Section 3.9 shall not be diminished or otherwise adversely affected by reason of any such additional or supplemental insurance carried by such Unit Owner.

The coverages required under this Section 3.9 shall be increased upon the reasonable request of a Registered Mortgagee from time to time; provided, however, that the entire amount of the increase in premiums resulting from such increased coverages shall be charged as a Specially Allocated Expense to only the Owner of the Unit encumbered by the Registered Mortgage held by such Registered Mortgagee.

Section 3.10 Destruction or Damage.

Section 3.10.1 Substantial Destruction or Damage. In the event three-fourths or more of the Units, the Building's structural components and the Building Services comprising the General, Residential and Retail Common Elements, or the rentable square footage of the Units, are destroyed or substantially damaged so as to require re-construction ("**Substantial Destruction or Damage**"), the Unit Owners shall conclusively be deemed to have irrevocably and unconditionally duly resolved to proceed with the repair, regardless of the adequacy of the Net Insurance Trust Funds (defined below) to repair the destruction or damage, unless not less than eighty percent (80%) of all Unit Owners (including both Retail Owners), in number and Common Interest, authorize to withdraw the Property from the Condominium Act within a deadline of sixty (60) days thereafter, in which case Section 3.12 shall apply. In all other cases, the Board shall repair the destruction or damage to the Common Elements in accordance with the terms of this Section 3.10.

The term "**Net Insurance Trust Funds**" means the proceeds of insurance policies received by the Condominium Board from the insurers issuing insurance policies maintained by the Board by reason of a casualty, after deducting all commercially reasonable fees and expenses incurred by the Condominium Board to collect said insurance proceeds.

Section 3.10.2 Board Authority. All Owners hereby irrevocably appoint and designate the Condominium Board having the sole and exclusive power and duty to arrange and make all decisions to

repair the destroyed or damaged General, Residential and Retail Common Elements in accordance with this Section 3.10, including:

(a) to engage all Construction Parties and to monitor all work;

(b) to have all powers and duties of a board of directors of a New York corporation that owns a building located in the vicinity of Building which is most similar in use, size, facilities and amenities of the Building; and

(c) to implement said powers and duties on behalf of all Owners without their further consent.

The Condominium Board shall perform its duties under this Section 3.10 with ordinary prudence and in a manner characteristic of business persons in similar circumstances, but the Condominium Board and the Board's Related Parties shall not be responsible or accountable to the Unit Owners for any claims, liabilities, litigations, losses or damages (including Legal Expenses) due to, or caused by, any act or omission arising from a mistake in business judgment, or any act or omission which is believed in good faith and fair dealing to be in the best interests of the Condominium Association. Nothing herein shall excuse a Manager or Officer from liability for his or her Malfeasance.

Section 3.10.3 General, Residential and Retail Common Elements. In all cases in which the destruction or damage to the Building is to be repaired, the Condominium Board, with commercially prompt diligence and continuity to completion in accordance with the Work Requirements, shall have the exclusive authority to act on behalf of all Owners to implement all repairs to the destroyed or damaged General, Residential and Retail Common Elements necessary to provide all Building Services to each affected Unit and to restore the impacted General, Residential and Retail Common Elements to as near as commercially reasonable and economically practicable to their respective conditions existing immediately prior to the destruction or damage, except to the extent limited by any changes in Laws or otherwise mutually agreed to by all affected Owners.

Section 3.10.4 Order of Priority of Repairs to General, Residential and Retail Common Elements. All work to repair the destroyed or damaged General or Residential Common Elements shall be performed to the extent reasonable and economically practicable in the following order of priority and in appropriate progress payments to contractors, vendors and suppliers engaged to repair said destruction or damage, as determined in the sole business judgment of by the Condominium Board:

(a) first, in or to those General, Residential and Retail Common Elements that provide structural support to any one or more Units;

(b) second, in or to those General, Residential and Retail Common Elements that provide air and water tightness and weather protection to all Units;

(c) third, in or to those General, Residential and Retail Common Elements that provide Building Systems and Building Services to all Units;

(d) fourth, in or to those General, Residential and Retail Common Elements that provide legal access of each Unit to the street or to the General, Residential and Retail Common Elements that lead to a street;

(e) fifth, in or to those General, Residential and Retail Common Elements that are required to legally use and occupy all Units for the purpose set forth in the Declaration; and

(f) sixth, in or to the Association's Assets (if any).

Section 3.10.5 Construction Parties. The Construction Parties engaged by or on behalf of the Condominium Board to perform the repair and restoration shall be duly licensed and who, or one or more of whose principals, have at least ten (10) years recent experience in the construction or repair of Brooklyn or Manhattan buildings similar in use, size, facilities and amenities to the Building.

Section 3.10.6 Plans and Specifications. The plans and specifications to repair and to restore the impacted General, Residential and Retail Common Elements, as provided in Section 3.10.4, shall be prepared by the architect chosen by the Board in accordance with the instructions given by the Condominium Board.

Section 3.10.7 Insurance. During the course of the work, the Board may maintain builder's risk insurance and such other insurance as the Board considers appropriate. The Condominium Board shall adjust, compromise and settle all claims and litigations with the insurers under the insurance policies maintained by the Board. If the casualty involves only one Unit and does not involve or affect or impact another Unit or the General, Residential or Retail Common Elements, the Owner of such Unit shall have the exclusive power to adjust, compromise and settle the claims and litigations with said insurers.

The Net Insurance Trust Funds received by the Condominium Board shall be held in trust for the benefit of all Owners and their respective Registered Mortgagees, and shall be disbursed pursuant to the terms of this Section 3.10.

Section 3.10.8 Cooperation. The Condominium Board and all Owners shall reasonably cooperate with the Construction Parties engaged in the work, including allowing commercially prompt and continuous access to the General, Residential and Retail Common Elements and each Unit on an emergency basis in order to perform and complete the work to repair and restore the impacted General, Residential and Retail Common Elements expeditiously.

Each Owner whose Unit, or any portion thereof, shall be impacted by any work to be performed by the Board, shall be kept reasonably informed as to the scheduling and progress of the work, but may not supervise, observe, monitor or otherwise impair or interfere with the performance of such work.

Section 3.10.9 Units and Limited Common Elements. In the case of destruction or damage to a Unit and/or the Limited Common Elements restricted to its exclusive use, the affected Owner of such Unit, at its sole cost and expense, with commercially prompt diligence and continuity to completion, and with Construction Parties chosen and engaged by it, shall do as follows in accordance with the applicable Work Requirements and the requirements of its Registered Mortgage (if any) to the extent not inconsistent with this Section 3.10.9:

(a) remove any rubble and debris resulting from such casualty, and implement and perform all work to the Unit and/or said Limited Common Elements necessary to avoid damage to another Unit or the General, Residential and Retail Common Elements, or bodily injury or death;

(b) thereafter, at its election, either:

(b-1) repair its Unit and/or said Limited Common Elements so destroyed or damaged to tenantable and usable condition in compliance and conformity with applicable Laws and standards generally applicable to high end mixed-use residential and retail buildings in the vicinity of the Building and most similar in use, size, facilities and amenities to those of the Building, and the provisions of the then existing leases of its Unit (if any); or

(b-2) repair its Unit and/or said Limited Common Elements to a safe and secure condition in compliance with applicable Laws and with complete and neat interior walls, partitions, doors and windows that are visible from the street, or another Unit or the General, Residential and Retail Common Elements, including any appropriate alterations that shall be consistent with the aesthetics, architectural integrity and appearance that existed prior to such destruction or damage; and

(c) implement and perform such other work to repair its Unit and/or said Limited Common Elements as shall be required to avoid or eliminate any other adverse effect on the use and enjoyment of another Unit and the General, Residential and Retail Common Elements beyond a *de minimis* extent.

Section 3.10.10 Allocation of Net Insurance Trust Funds. The Condominium Board shall allocate the Net Insurance Trust Funds in proportion to the costs estimated by the Construction Parties engaged by the Board to repair the elements comprising:

(a) the General, Residential and Retail Common Elements, and the Association's Assets; and

(b) (to the extent insured and insurable by the Board) the Units (other than removable furniture, furnishings, cabinets, decoration and other personal property of the Owners and tenants of the Units).

During the progress of the work, these estimates may be adjusted from time to time by the Board as necessary to correspond to the actual total costs to repair and restore said damaged or destroyed General, Residential and Retail Common Elements and (if insured and insurable) Units. Any increase in these estimates caused by Unavoidable Causes shall be allocated to the affected General, Residential and Retail Common Elements, and (if applicable) the affected Units in proportion to their respective estimated costs to repair and restore, as they may be adjusted. However, any increase in these estimates caused by changes requested by an Owner or the acts or omissions of an Owner or for whom the Owner is responsible or accountable pursuant to Section 1.3.12 of the Declaration or these By-Laws, shall be borne by, and assessed by the Condominium Board as Additional Common Charges to, such Owner.

Section 3.10.11 Insufficient Net Insurance Trust Funds. If the Net Insurance Trust Funds shall be insufficient to pay the expenses to repair and restore the destroyed or damaged items (including the fees and expenses of the Construction Parties, the expenses of equipment, materials and supplies, and Legal Expenses) the deficit shall allocated in proportion to the their estimated costs to repair and restore, as they may be adjusted, as determined pursuant to Section 3.10.10. The deficit allocated to a destroyed or damaged:

(a) General Common Element or Association's Asset, shall be assessed to all Owners, pro rata to their respective Common Interests;

(b) Residential Common Elements, shall be assessed to all Residential, Parking and Storage Owners only, pro rata to their respective Common Interests;

(c) Retail Common Element, shall be assessed to the Retail Owners only, pro rata to their respective Common Interests; or

(d) Unit and/or its Limited Common Element, shall be assessed to only the applicable Owner thereof.

Section 3.10.12 Surplus Net Insurance Trust Funds. If upon completion of the work and payment in full of all expenses thereof, any surplus Net Insurance Trust Funds shall be distributed in the following order of priority:

(a) first, to the Owners (pro rata to their respective contributions) who contributed to a deficiency in the Net Insurance Trust Funds allocable to the destroyed or damaged General Common Elements and/or Association's Assets caused by the failure of one or more other Owners to pay the amount of such deficiency assessed to such Owner or Owners (if and as applicable);

(b) second, to the Residential Owners (pro rata to their respective contributions) who contributed to a deficiency in the Net Insurance Trust Funds allocable to the destroyed or damaged Residential Common Elements caused by the failure of one or more other Residential Owners to pay the amount of such deficiency assessed to such other Residential Owner or Owners;

(c) third, to the Retail Owner who contributed to a deficiency in the Net Insurance Trust Funds allocable to the destroyed or damaged Retail Common Elements caused by the failure of the other Retail Owner to pay the amount of such deficiency assessed to such other Retail Owner; and

(d) fourth, any remaining balance thereof shall be allocated in proportion to the actual costs to repair and restore the destroyed or damaged General Common Elements, Association's Assets, Residential Common Elements, Retail Common Element and (if applicable) Units, and paid in the following order of priority:

(d-1) first, the amount allocated to the affected General Common Elements and/or affected Association's Assets shall be paid to all Owners pro rata to their respective Common Interests;

(d-2) second, the amount allocated to an affected Residential Common Element shall be paid to all Residential Owners pro rata to their respective Common Interests;

(d-3) third, the amount allocated to an affected Retail Common Elements shall be paid to the Retail Owners pro rata to their respective Common Interests; and

(d-4) fourth, the amount allocated to an affected Unit shall be paid to the Owner thereof, subject however to claims by holders of liens on each such Owner's Unit in the order priority of such liens.

Section 3.10.13 Abatement in Common Charges. If, through no fault of a Unit Owner or for whom a Unit Owner is responsible or accountable pursuant to Section 1.3.12 of the Declaration or these By-Laws, a destruction or damage to the General Common Elements and/or the Residential Common

Elements and/or the Retail Common Element renders a Unit wholly or partially unusable or non-tenantable for the purposes permitted in the Declaration, or the means of reasonable access thereto is prevented, the Common Charges otherwise payable by the Owner thereof shall proportionately abate until such Unit shall again be rendered useable or tenantable for the purposes permitted in the Declaration and/or until the means of reasonable access thereto shall be restored, as the case may be. The amount of abatement shall be determined by the Condominium Board based on:

(a) the net amount not recovered by the Board and the affected Owner from insurance maintained by each;

(b) the resulting increase in Common Charges assessed to other Owners by reason thereof not being unduly economically burdensome; and

(c) equitable considerations, as determined by the Board in its sole discretion.

The foregoing notwithstanding, if the destruction or damage shall be caused by an act or omission of the impacted Unit Owner or for whom a Unit Owner is responsible or accountable pursuant to Section 1.3.12 of the Declaration or these By-Laws, the Common Charges otherwise payable by such Owner shall abate to the extent only of any net proceeds of business interruption or similar insurance actually collected by the Condominium Board with respect to such Owner's affected Unit, after deducting all expenses of collection thereof.

If the Common Charges of a Unit is abated, such abatement shall not excuse the other Unit Owners from the obligation to pay the full amount of the Common Expenses assessed by the Board to such other Unit Owners, including their respective pro rata share of the amount abated to the affected Unit.

Section 3.10.14 Disputes. Any dispute under this Section 3.10 shall be resolved by court action or proceeding, unless the Board (in its sole discretion) consents to, or initiates, arbitration pursuant to Article 6.

Section 3.11 Condemnation or Eminent Domain.

Section 3.11.1 Taking Generally. If an Owner or the Board receives notice that all or any part of the Property has been taken or is to be condemned or taken through the exercise of the power of eminent domain by a Governmental Authority ("**Taking Authority**"), whether temporarily or permanently (herein called "**Taken**" or a "**Taking**"), such Owner (if it receives said notice) shall so notify the Board (which shall notify the other Owners), or the Board (if it receives said notice) shall so notify all Owners.

Section 3.11.2 Substantial Taking. A "**Substantial Taking**" is a:

(a) Taking of such portion of the Property that would leave the balance of the Property economically impracticable to accommodate a new or reconstructed building most similar in use, size, facilities and amenities to the Building existing at the date of the Taking due to then existing economic conditions, zoning Laws, and the codes, regulations and requirements of Governmental Authorities having competent jurisdiction or otherwise; or

(b) Taking of seventy-five percent (75%) or more of the rentable square footages of the aggregate square footages of all Units.

In the event of a Substantial Taking of the Property, the award for damages or compensation given by the Taking Authority payable as a result of the Taking ("**Award**"), after deducting the commercially reasonable fees and expenses incurred by the Condominium Board and all Owners in determining and collecting the Award ("**Net Award**"), shall be distributed to each Owner in the proportion that the then existing fair market value of its Unit together with its appurtenant Common Interests bears to the aggregate of the then existing fair market values of all Units together with their respective Common Interests, as determined by the Taking Authority. Each Unit Owner shall have the right to pursue a separate claim against the Taking Authority for its share of the Net Award, which may include an Award for all individual facilities and customized changes and improvements that are appurtenant to the Owner's Unit, as well as for relocation and moving expenses and similar allowances designed to facilitate relocation of a displaced business concern.

Section 3.11.3 Withdrawal from Condominium Ownership. In the event of a Substantial Taking and not less than eighty percent (80%) of all Owners (including both Retail Owners), in number and Common Interest, of the remaining Units not Taken authorize to withdraw the remaining portion of the Property from the Condominium Act, then the provisions of Sections 3.12.2 and 3.12.3 shall apply to the portions of the Property not Taken, it being understood and agreed that the fair market value of each Unit and its appurtenant Common Interest shall be based on the fair market values of said remaining portion of the Units not Taken and their respective appurtenant Common Interests, as adjusted pursuant to Section 3.11.6.

Section 3.11.4 Destruction or Damage. In the event of a Taking that is not a Substantial Taking, the Condominium Board and the Unit Owners shall fully cooperate with each other and cause the portion of the Property not Taken that is destroyed or damaged by reason of such Taking to be repaired and restored with prompt diligence and continuity to completion to as near as commercially reasonable and economically practicable to the condition existing immediately before the Taking. Such destruction or damage to the portion of the Property not Taken shall be repaired on all of the same terms applicable to repair the destruction or damage to the General, Residential and Retail Common Elements following a casualty set forth in Section 3.10 above, except all references therein to the Net Insurance Trust Funds shall mean the Net Award and any insurance proceeds collected by the Board from insurance policies maintained by the Board by reason of the destruction or damage caused by the Taking. Similarly, the abatement in Common Charges set forth in Section 3.10.13 shall apply to the Owner of a Unit that, through no fault of such Owner or for whom such Owner is responsible or accountable, is rendered wholly or partially unusable or non-tenantable for the purposes permitted in the Declaration, or the means of reasonable access thereto is prevented, by reason of said destruction or damage. Nothing contained herein shall impair the right of a Unit Owner to pursue a separate claim against the Taking Authority for its share of the Net Award as provided in Section 3.11.2.

Section 3.11.5 Lien Priority. Any payment to an Owner of any Net Award for a Taking shall first be applied to pay off all unpaid liens on the Owner's Unit (including the liens of mortgages and the

lien of the Condominium Board) in the order of priority of such liens, except if such Owner paid an assessment levied by the Board for a projected deficiency in the amount of the Net Award available to fully repair and restore the destroyed or damaged General, Residential and Retail Common Elements, any portion of the Net Award that remains unspent after paying all expenses incurred to complete the repair and restoration, shall be deemed to be, and shall constitute, an excessive assessment and shall be refunded to such Owner in proportion to the amount so assessed, free of any claim of any lienor, other than the lien of the Condominium Board and subject to the rights of a Registered Mortgagee set forth in its Registered Mortgage.

Section 3.11.6 Adjustment of Common Interests. If a portion of the Property Taken is no longer subject to the Declaration or these By-Laws and the Property shall not be subject to a partition action as provided in Section 3.12.2, then the Common Interest of each Unit affected by such Taking shall be eliminated (if an entire Unit is Taken) or proportionately reduced (if only a portion of a Unit is Taken) and the Common Interests appurtenant to all other Units shall proportionately be increased by the amount of change in Common Interest of the affected Unit so that the total Common Interests of all remaining Units shall equal 100%. All such proportionate changes in Common Interests shall be based on the same factors used originally to determine the Common Interests as set forth in Article 8 of the Declaration. Any dispute that may arise hereunder shall be resolved by court action or proceeding, unless the Board (in its sole discretion) consents to, or initiates, arbitration pursuant to Article 6 below.

All changes in Common Interests to the Units shall be reflected in a duly recorded amendment to the Declaration prepared by an attorney chosen by the Condominium Board. The change to the floor area of each Unit affected by a Taking shall be reflected in an amendment to the Floor Plan of such Unit prepared by an architect or engineer chosen by the Condominium Board. The amendment to the Declaration shall be executed and acknowledged in recordable form by the required Officers together with the remaining Unit Owners and holders of recorded liens on such Units in accordance with Article 4. In lieu of executing the amendment, such Unit Owners and lienors may execute and acknowledge in recordable form a separate consent which shall be attached to the amendment.

Following said Taking of all or a portion of a Unit, the number of Owners, Units and Common Interests shall be based upon the resulting changes in Owners, Units and Common Interests for quorum and voting purposes.

Section 3.12 Termination of Condominium.

Section 3.12.1 Condominium Termination Events. The Condominium shall terminate when not less than eighty percent (80%) of all Owners (including both Retail Owners), in number and Common Interest, authorize (by vote at a duly convened meeting of Owners at which a quorum is present or in writing in lieu of a meeting) to withdraw the Property from the Condominium Act, whether voluntarily or after a Substantial Destruction or Damage as provided in Section 3.10, or after a Substantial Taking of the Property by condemnation or eminent domain as provided in Section 3.11; provided, however, that a decision of an Owner to withdraw the Property from the Condominium Act shall not be effective or counted without

obtaining the consent of the holder of each Registered Mortgage on such Owner's Unit, if such Registered Mortgage so expressly provides.

The Condominium Board and its affiliate shall have no voting rights with respect to any Units owned by each of them and such parties and Units shall be excluded from the base number of Owners, Units and Common Interests for quorum and voting purposes in determining whether such eighty percent (80%) threshold is met.

Section 3.12.2 Partition. Upon the occurrence of any termination event listed in Section 3.12.1, the Property (including the portion not Taken by the Taking Authority) shall be subject to an action for partition by any Unit Owner or lienor as if owned in common. In such case, the net proceeds of sale resulting from such action for partition, together with the net proceeds of any insurance maintained by the Board, after deducting all reasonable costs and expenses, together with any Legal Expenses paid or incurred by the Board in connection therewith (including, if and to the extent necessary, the expenses to install a fence on and along the Property line, raze and remove the Building, and otherwise make the Building secure and safe), shall be regarded as one fund and shall be divided among all of the Unit Owners pro rata to their respective Common Interests after first paying out of such Owner's share of such funds, such amounts as may be necessary to discharge all unpaid liens on said Owner's Unit in the order of the priority of such liens, and thereupon the provisions of Sections 3.12.3 through 3.12.5 shall automatically and irrevocably apply.

Section 3.12.3 Pooled Sale/Insurance Proceeds. The Unit Owners acknowledge and agree that the division of the net proceeds of a partition sale pro rata to each Unit's Common Interest in accordance with Section 3.12.2 would be inequitable and result in a windfall to one or more Owners at the expense of the other Owner(s). Accordingly, in the event of the partition and sale of the Property pursuant to the preceding Section 3.12.2, each Owner hereby irrevocably, automatically, unconditionally and conclusively:

(a) assigns and transfers to itself and to all other Owners the net proceeds to be paid to it on said partition sale, including its share of the net proceeds of any insurance maintained by the Condominium Board; and

(b) covenants and agrees that:

(b-1) said net proceeds so assigned and transferred by it and the other Owners (hereafter, "**Pooled Sale/Insurance Proceeds**") shall be divided among all Owners pro rata to the then existing respective fair market values of their respective Units and Common Interests, as provided in the following Section 3.12.4; and

(b-2) the foregoing assignment and transfer of said net proceeds of a partition sale and insurance by each Unit Owner and the division of the Pooled Sale/Insurance Proceeds among all Owners as provided in the preceding clause (b-1), shall be regarded as valid, enforceable and binding upon, and shall inure to the benefit of, all Owners and their respective heirs, legatees, distributees, executors, administrators, legal representatives, successors and assigns, as covenants running with the Land and every interest and estate therein to the full extent permitted by any applicable Laws, with the same force and effect as if, immediately after recording the Declaration and these By-Laws,

all Owners had duly signed, acknowledged and recorded in the City Register's Office an instrument agreeing to these provisions as covenants running with the Land.

Sponsor, as the initial Owner of all Units and each and every other Owner, at the time in question, upon accepting or recording a deed or otherwise succeeding to title to a Unit, shall conclusively be deemed to have automatically, irrevocably and unconditionally covenanted and agreed to the foregoing with the same force and effect as if Sponsor and each and every Owner shall have duly signed, acknowledged and recorded in the Kings County City Register's Office a separate instrument accepting and ratifying same.

Section 3.12.4 Fair Market Value. The fair market value of each Unit and its Common Interest for the purpose of dividing the Pooled Sale/Insurance Proceeds in accordance with the preceding Section 3.12.3 shall be based on the highest and best permitted use of each Unit, as determined by a qualified appraiser pursuant to Section 3.12.5, assuming:

(a) each Unit shall at the time be used for the most valuable permitted use as a rental with one or more hypothetical space leases held by creditworthy tenants for the highest fair market rent, multiplied by the most favorable market capitalization rate for such permitted use, but in no event less than the highest fair market price of such Unit in a sale transaction;

(b) the Owner is not subject to any time constraint or compulsion to sell and the purchaser is not subject to any time constraint or compulsion to purchase;

(c) the Unit is in its then existing condition or (in the case of a Substantial Destruction or Damage, or a Substantial Taking) in the condition existing immediately prior to such Substantial Destruction or Damage, or a Substantial Taking, after deducting any Net Insurance Trust Funds or Net Award payable or paid to the Owner of such Unit; and

(d) a then current market rate secured loan is available to a purchaser to finance the acquisition.

Section 3.12.5 Determination of Fair Market Value. The fair market value of each Unit and its Common Interest and the Limited Common Elements restricted to its exclusive use shall be determined by a single, duly licensed commercial real estate broker or appraiser chosen by the Condominium Board who, or one or more of whose principals, have at least ten (10) years' recent experience in selling or appraising the sale of buildings located in general vicinity of the Building and similar in use, size, facilities and amenities to the Building ("**Qualified Appraiser**").

Section 3.12.6 Limitation on Power of Designated Appraiser. The Qualified Appraiser shall comply with the requirements set forth in Section 3.12.4 and shall not have the power to vary or modify or change in any manner any of such requirements, it being intended and agreed that the power of the Qualified Appraiser shall be limited accordingly.

Section 3.12.7 Binding Effect. The decision of the Qualified Appraiser shall be controlling and binding on all Owners.

Section 3.13 Unit Sales, Conveyances and Leasing.

Section 3.13.1 Sale Restrictions Applicable to All Units. The following requirements and restrictions apply to sell, transfer or convey a Unit:

Section 3.13.1.1 Current in Common Charges. The Owner of the Unit must be current, within the applicable grace period, in the payment of all Common Charges (including Additional Common Charges*)* levied by the Condominium Board against the Unit.

Section 3.13.1.2 Deed Requirement. The deed conveying the Unit shall expressly state or provide, and notwithstanding the failure to so expressly state or provide, shall conclusively be deemed to irrevocably and unconditionally state and provide as follows with the same force and effect as though set forth at length in the deed:

> This Unit is subject to the powers, duties, easements, requirements, burdens, encroachments, limitations and restrictions contained in the Declaration, the By Laws and the Rules and Regulations of the Condominium establishing The Calyer Greenpoint, as each may be duly amended from time to time, 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. By accepting this deed, Grantee shall conclusively be deemed to automatically, irrevocably and unconditionally: (a) accept, ratify and assume the terms of the Declaration, the By-Laws and the Rules and Regulations, as each may be duly amended from time to time; (b) agree to comply with all the terms thereof; (c) designate and appoint Sponsor, the Condominium Board and the Development Rights Owner, separately, as Grantee's agent; and (d) grant each such agent with all authority and power to do or perform as agent of Grantee all subjects and matters applicable to such agent set forth in Article 12 of the Declaration.

Section 3.13.1.3 Combined Ownership. The conveyance of title to a Unit shall be for the entire Unit and its appurtenant Common Interest. An Owner shall not execute any deed, mortgage or other instrument conveying or securitizing title to the Owner's Unit without including therein its appurtenant Common Interest. In no event such combined ownership be severed. Any deed, mortgage or other instrument purporting to affect only title to a Unit shall automatically be taken to include its appurtenant Common Interest, even though the latter shall not be expressly mentioned or described therein, and vice versa. Similarly, no part of the Common Interest appurtenant to any Unit may be sold, conveyed, transferred, mortgaged or otherwise securitized, except as part of a sale, conveyance, transfer, mortgage or securitization of the Unit to which such Common Interest is appurtenant.

Section 3.13.1.4 Foreign Government and Diplomat. The sale, transfer or conveyance of a Unit to a Foreign Government or Diplomat shall be subject to the Foreign Government or Diplomat complying with Article 14 of the Declaration whereby (among other things) such party waives diplomatic immunity and designates an agent for service of legal process and, at or before recording the deed of conveyance, duly executes and delivers to the Board an instrument (in form and substance acceptable to the Board) wherein the Foreign Government or Diplomat (as applicable) irrevocably and unconditionally confirms and agrees that such waiver of diplomatic immunity and designation of agent for service of legal process, as provided in said Article 14 of the Declaration, are valid, fully enforceable in accordance with its terms and legally binding upon such party, without defense.

Section 3.13.1.5 Foreign Person. The sale, transfer or conveyance of a Unit to a Foreign Person shall be subject to the Foreign Person complying with the provisions of Article 15 of the Declaration whereby, among other things, such party (if an entity) designates the Secretary of State of the State of New York as agent for service of legal process on it or (if an individual) signs and delivers to the Condominium Board either:

(a) an instrument (in form and substance acceptable to the Board) designating an attorney admitted to practice and maintaining an office in the State of New York as agent for service of legal process on such individual; or

(b) a certificate or other instrument from a New York company whose business is to serve as agent for service of process evidencing it is acting agent for service of process on such individual.

Section 3.13.1.6 Remedy for Violation. The failure to comply with any of the requirements and restrictions contained in this Section 3.13.1 shall be grounds for the Condominium Board, among other rights and remedies available at law and in equity and those contained in these By-Laws, to withhold giving the certificate of waiver or exemption from the Board's Right of First Refusal to purchase the Unit and an estoppel certificate certifying as to the status of payment by the Unit Owner of Common Charges and the status of any violations by the Unit Owner of the Condominium Documents, without any manner of recourse against the Board or other Unit Owners, or their respective Related Parties, by reason thereof.

Section 3.13.2 Lease Restrictions. The following restrictions apply to lease Residential, Parking and Storage Units:

(a) the proposed lease of a Sold Unit or an Unsold Unit shall not be consummated unless and until the Owner of such Unit is current, within the applicable grace period, in the payment of all Common Charges (including Additional Common Charges) levied by the Condominium Board against the Unit;

(b) the lease of a Sold Unit, but not the lease of an Unsold Unit or a Retail Unit, shall expressly state and provide, and shall conclusively be deemed to irrevocably and unconditionally state and provide, as follows with the same force and effect as though set forth at length in the lease, and the failure to so expressly state and include these provisions on the lease shall not affect their validity or enforceability:

> This lease is subordinate to the Declaration of Condominium establishing The Calyer Greenpoint, located at 171 Calyer Street, Brooklyn, New York, and the Exhibits attached thereto (including the By-Laws, the Rules and Regulations and the Glossary), which are hereby incorporated herein with the same force and effect as though set forth at length. The meanings given to the capitalized terms and the lower case words contained in Section 1.2 "Glossary" of the Declaration shall apply when such terms are used herein. The acceptance of this lease by Tenant shall constitute an acceptance, ratification and assumption of, and an agreement to comply with, all of the terms of the Condominium Documents.
>
> In the event of any conflict, inconsistency or ambiguity between the terms of this lease and the terms of the Condominium Documents, the conflict, inconsistency or ambiguity shall be resolved in accordance with the terms of the Condominium Documents, which shall govern and control.

This lease cannot be amended or extended without obtaining the consent of the Condominium Board in each instance.

Tenant cannot transfer or assign Tenant's interest in this lease or sublet the Unit demised hereunder or any part thereof without obtaining the consent of the Condominium Board in each instance.

The Unit demised under this lease shall be used and occupied only in accordance with the terms set forth in the Declaration, and for no other purpose, and in compliance with the other requirements and restrictions set forth in the Declaration, including the General Requirements as defined and contained therein, and the By-Laws.

Pursuant to RPL §339-kk, upon written notice from the Condominium Board to the Tenant of a Residential Unit that landlord-Owner has failed to make payments due the Condominium Board for Common Charges, Special Assessments or other Additional Common Charges (including late fees) for the Residential Unit within sixty (60) days of the expiration of any grace period after they are due, Tenant shall immediately and thereafter make all rental payments under this lease directly to the order of the Condominium Board at the address listed in the notice. From and after the time Tenant receives written notice from the Condominium Board that landlord-Owner is once again current in payments of Common Charges, Special Assessments or other Additional Common Charges (including late fees), all rental payments shall be made payable to the order of landlord Owner at the address provided by landlord-Owner. Tenant's rental payments to the Condominium Board in accordance with the foregoing shall be an absolute defense in any action or nonpayment proceeding commenced by landlord-Owner against Tenant for such rent in accordance with RPL §339-kk. Landlord-Owner covenants and agrees not to undertake any action or proceeding in violation hereof or RPL §339-kk.

The Condominium Board shall have the power to terminate or cancel this lease and to bring summary proceedings to evict or remove the Tenant hereunder in the name of the landlord-Owner in the event of: (i) a violation by Tenant of any of the provisions of the Declaration, the By-Laws or the Rules and Regulations, as each may be duly amended from time to time, unless remedied within the applicable grace period (if any); (ii) a foreclosure by the Condominium Board of its lien against said landlord-Owner's Unit in which the demised premises forms a part pursuant to Section 339-aa of the Condominium Act or the By-Laws; or (iii) the purchase or acquisition of said Unit by the Condominium Board or its nominee or designee, whether pursuant to the By-Laws or otherwise.

The foregoing provisions of this lease are for the benefit of, and shall be enforceable by, the Condominium Board as a third-party beneficiary and cannot be amended without the consent of the Condominium Board and any purported change thereto shall be null and void *ab initio*.

(c) each lease of a Sold Unit, but not a lease of an Unsold Unit:

(c-1) (in the case of a Sold Residential Unit) shall be in the then current prevailing form of lease of a residential condominium unit for non-regulated multiple dwellings in The City of New York (or other printed form of lease approved in writing by the Condominium Board, in its sole and absolute discretion), subject to such modifications as may be approved in writing by the Condominium Board (in its sole and absolute judgment);

(c-2) shall be for a term of not less than one year (unless the Condominium Board consents in writing to a shorter term or the lease is to a member of an Owner's immediate family or an officer, director, shareholder, member, partner, executor, administrator, guardian, legal representative, trust maker or beneficiary, government official or employee of the Owner of the Unit, or a member of the immediate family of any of the foregoing);

(c-3) shall not be amended, renewed or extended without obtaining the consent of the Condominium Board in each instance;

(c-4) shall not permit the Tenant to assign or transfer tenant's interest in such lease and if the Tenant is an entity, shall not permit the sale, assignment and/or transfer by the holder or holders of a Controlling Interest in such entity;

(c-5) shall not permit the Tenant to sublet the Unit demised thereunder or any part thereof, without obtaining the consent of the Condominium Board in each instance; and

(c-6) shall restrict the Sold Unit to be used only for the purposes set forth in the Declaration, and for no other purpose, and to be occupied in strict compliance with Article 9 of the Declaration;

(d) each lease of a Sold Unit or an Unsold Unit shall be for the entire Unit and not a portion thereof; and

(e) at or prior to entering into a lease with:

(e-1) a Foreign Government or Diplomat, or assigning or transferring a lease to a Foreign Government or Diplomat, of a Residential, Parking or Storage Unit, such Foreign Government or Diplomat (as applicable) shall comply with the terms of the Article 14 of the Declaration whereby, at or before executing the lease or the assignment or transfer of the lease, the Foreign Government or Diplomat (as applicable) shall duly execute and deliver to the Board an instrument (in form and substance acceptable to the Board) wherein the Foreign Government or Diplomat (as applicable) irrevocably and unconditionally confirms and agrees that the provisions of Article 14 of the Declaration are valid, fully enforceable in accordance with its terms and legally binding upon it, without defense; or

(e-2) a Foreign Person, or assigning or transferring a lease to a Foreign Person, such Foreign Person shall comply with the terms of Article 15 of the Declaration whereby, at or before executing the lease or the assignment or transfer of the lease, the Foreign Person shall, among other things:

(e-2.1) (if an entity) designate the Secretary of State of the State of New York as agent for service of legal process on it; or

(e-2.2) (if an individual) sign and deliver to the Condominium Board or its managing agent either: (i) an instrument (in form and substance acceptable to the Board) designating an attorney admitted to practice and maintaining an office in the State of New York as agent for service of legal process on such individual; or (ii) a certificate or other

instrument from a New York company whose business is to serve as agent for service of process evidencing it is acting agent for service of process on such individual.

The failure to comply with any of these lease restrictions shall be grounds for the Condominium Board, among other rights and remedies available at law and in equity, and those contained in these By-Laws, to withhold giving the certificate of waiver or exemption from the Board's Right of First Refusal to purchase the Unit and an estoppel certificate certifying as to the status of payment by the Unit Owner of Common Charges and the status of any violations by the Unit Owner of the Condominium Documents, without any manner of recourse against the Board or other Unit Owners by reason thereof.

Section 3.13.3 Fees and Deposits. The Condominium Board shall have the right to fix by resolution (without recording an amendment to the Declaration or these By-Laws) and collect as Additional Common Charges from a Sold Unit Owner (but not Sponsor or other Owner of an Unsold Unit or an Owner of a Retail Unit), before the consummation of any sale, transfer, conveyance, lease or sublease of such Owner's Sold Unit:

(a) a reasonable charge to cover the reasonable fees and expenses of the Condominium Board and/or its managing agent and/or any attorney retained by the Condominium Board in connection therewith, including the execution and delivery of a Statement of Common Charges and Indebtedness, a Certificate of Waiver or Exemption and an Estoppel Certificate;

(b) a reasonable charge to cover said reasonable fees and expenses in connection with a mortgage financing or mortgage refinancing of a Sold Unit if any Board action is requested in connection therewith; and

(c) a refundable security deposit in an amount fixed by the Board for potential damage to the Common Elements on moving into or out of a Sold Residential Unit in connection with a sale, conveyance, lease or sublease of such Sold Residential Unit.

The security deposit will initially be set at $2,500.00 and may change from time to time by the Condominium Board, but may not be increased without obtaining the prior written consent of Sponsor during only the Sponsor Veto Control Period. No such charges, fees or move-in or move-out security deposit may be imposed on a tenant of an Unsold Unit without obtaining the prior written consent of Sponsor in each instance.

Any security deposit collected by the Board shall be refunded to the party making the deposit with reasonable promptness following the move, after deducting therefrom the costs and expenses to repair any damage to the Common Elements caused by the move and to restore to as near as commercially reasonable and economically practicable the affected Common Elements to the condition existing immediately prior to the move. The security deposit shall not limit the amount recoverable in the event it is insufficient to fully pay the costs and expenses to repair and restore the affected Common Elements.

The Condominium Board shall in no event impose on any Unit Owner or purchaser of a Unit a so called "transfer fee", "exit fee", "flip tax", or "entrance fee" on the sale, transfer or conveyance of any Unit.

Section 3.13.4 Unsold Units. The only lease restrictions applicable to Sponsor and other Unsold Unit Owners are:

(a) to initially rent an Unsold Unit for a term of not less than six months;

(b) to subordinate the lease to the Condominium Documents; and

(c) to be current, within the applicable grace period, in the payment of all Common Charges (including Additional Common Charges) levied by the Condominium Board against the Unsold Unit in question.

Section 3.13.5 Retail Units. None of the restrictions contained in this Section 3.13 shall apply to the sale or lease of a Retail Unit, other than the following:

(a) the lease shall expressly state:

> THIS LEASE IS SUBORDINATE TO THE CONDOMINIUM DECLARATION ESTABLISHING THE CALYER GREENPOINT ("CONDOMINIUM"), LOCATED AT 171 CALYER STREET, BROOKLYN, NEW YORK, AND THE CONDOMINIUM BY-LAWS, AS EACH MAY BE AMENDED FROM TIME TO TIME. ANY CONFLICT, INCONSISTENCY OR AMBIGUITY BETWEEN THE TERMS OF THIS LEASE AND THE TERMS OF THE CONDOMINIUM DECLARATION OR BY-LAWS, AS AMENDED, SHALL BE RESOLVED IN ACCORDANCE WITH THE TERMS OF THE CONDOMINIUM DECLARATION OR BY-LAWS, AS AMENDED, WHICH SHALL GOVERN AND CONTROL;

(b) the Condominium Board shall be given at least ten (10) business days advance notice of any proposed sale or lease to a Foreign Government, Diplomat or Foreign Person;

(c) a sale of a Unit or a lease of all or part of a Unit:

(c-1) to a Foreign Government or a Diplomat shall be subject to the provisions of Article 14 of the Declaration and, if requested by the Condominium Board, at or before recording the deed of conveyance, the Foreign Government or Diplomat (as applicable) shall duly sign, notarize or acknowledge (as and if required by the Board) and deliver to the Board a certificate from such Foreign Government or Diplomat (as applicable), in form and substance satisfactory to the Board, waiving sovereign and diplomatic immunity and agreeing the provisions of said Article 14 are valid, fully enforceable in accordance with its terms and legally binding upon it, without defense; or

(c-2) to a Foreign Person shall be subject to the terms of Article 15 of the Declaration and, if requested by the Condominium Board, at or before recording the deed of conveyance or entering into a lease of all or part of a Unit (as applicable), the Foreign Person shall duly sign, notarize or acknowledge (as and if required by the Board) and deliver to the Board an instrument (in form and substance acceptable to the Board) wherein the Foreign Person irrevocably and unconditionally confirms and agrees that the provisions of said Article 15 are valid, fully enforceable in accordance with its terms and legally binding upon it, without defense, together with proof of designation of the New York Secretary of State (in the case of an entity) or a New York attorney maintaining an office

in the State of New York or a New York organization whose business includes to act as agent for service of process, with proof of such appointment and designation for service of process on such Foreign Person and such other instruments set forth in said Article 15; and

(d) at the time of closing title or entering into the lease (as applicable), the Owner of such Retail Unit shall be current, within the applicable grace period, in the payment of all Common Charges (including Additional Common Charges) levied by the Condominium Board against such Retail Unit.

Section 3.13.6 Compliance with By-Laws. A Sold Unit Owner shall not sell, transfer, convey or lease such Owner's Sold Unit, except in compliance with the applicable provisions of this Section 3.13. All references to a "sale, transfer or conveyance of a Unit", or words of similar import, shall mean and include (even though not expressly stated) a sale, transfer or assignment by the holder(s) of a Controlling Interest in the Owner of a Sold Unit, which transfer or assignment of said Controlling Interest in such entity-Owner shall conclusively be deemed, and shall be treated as, a sale of fee title to a Sold Unit for purposes of, and subject to compliance with the applicable provisions of, this Section 3.13. Any purported sale, transfer, conveyance or lease consummated in violation of the applicable terms of this Section 3.13 shall be voidable at the sole election and discretion of the Condominium Board for thirty (30) days after the Board receives actual notice thereof.

Section 3.13.7 Ejectment or Eviction. Each Sold Unit Owner, by accepting or recording a deed to such Owner's Sold Unit or otherwise succeeding to title to a Sold Unit (whether by gift, will, inheritance, transfer, merger, consolidation, liquidation, distribution or otherwise), shall thereupon automatically have, and conclusively be deemed to have, irrevocably authorized and designated the individuals who shall from time to time constitute the Condominium Board, collectively in their capacity as Managers, as agent and attorney-in-fact of such Sold Unit Owner, "coupled with an interest" and for valuable consideration, and with full power of substitution, to act on behalf as agent, and at the expense, of such Sold Unit Owner and in the name, place and stead of such Sold Unit Owner in any way in which such Owner could do if personally present, to the full extent such Owner is permitted by law to act through an agent, having the right, power and authority with respect only to the following, upon determination of the Condominium Board:

(a) in the case of a sale, transfer or conveyance in violation of this Section 3.13: to institute and prosecute through completion a court action or proceeding and all appeals therefrom to eject a purported successor Owner of the Sold Unit owned by such Sold Unit Owner; or

(b) in the case of a lease or occupancy agreement in violation of this Section 3.13: to evict or remove by summary dispossess proceedings or otherwise, a tenant of such Owner's Sold Unit.

The Condominium Board shall have the right (but not the obligation) to institute such court action or proceeding, which is in addition to all other rights and remedies available to the Board at law or in equity. The Payment and Collection Terms shall apply all amounts paid or incurred by the Board in accordance with the foregoing.

The exercise and enforcement of the provisions of this Section 3.13.7 and all disputes and controversies with the offending Sold Unit Owner which give rise to the exercise and enforcement hereof,

shall be resolved by court action or proceeding, unless the Board (in its sole discretion) consents to, or initiates, arbitration pursuant to Article 6 below.

Section 3.13.8 Mandatory Provision in Sale Agreement or Lease Agreement. Each agreement to sell a Sold Unit together with its appurtenant Common Interest, ("**Sale Agreement**") or to lease a Sold Unit ("**Lease Agreement**", together with the Sale Agreement, "**Sale or Lease Agreement**") shall be subject to the right of the Condominium Board to preempt such sale or lease and purchase or lease, or cause its designee or nominee to purchase or lease, the Sold Unit on the terms contained in Section 3.13.12 ("**Right of First Refusal**"). Accordingly, each Sale Agreement and each Lease Agreement and shall contain the following language:

> THIS TRANSACTION AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER ARE HEREBY EXPRESSLY SUBJECT TO THE RIGHT OF FIRST REFUSAL IN FAVOR OF THE BOARD OF MANAGERS OF THE CALYER GREENPOINT ("CONDOMINIUM"), AS PROVIDED IN THE CONDOMINIUM BY-LAWS, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.

Section 3.13.9 Sale or Lease Notice. Promptly after a Sale Agreement or a Lease Agreement for a Sold Unit is fully executed, the Owner of such Sold Unit ("**Offeror**") shall send the Condominium Board notice thereof ("**Sale or Lease Notice**") by certified or registered mail, return receipt requested, accompanied by a copy of such fully executed Sale Agreement or Lease Agreement (as applicable), or counterparts thereof. In giving such Sale or Lease Notice to the Board, the Offeror shall be deemed to represent and warrant to the Board that the Sale or Lease Agreement (as applicable) contains all of the writings of the terms offered in good faith by a bona fide purchaser or tenant. as applicable ("**Offeree**").

Section 3.13.10 Offer to Sell or Lease. The sending of the Sale or Lease Notice to the Condominium Board shall constitute an irrevocable offer by the Offeror to sell the Offeror's Sold Unit, together with its appurtenant Common Interest, or to lease the Offeror's Sold Unit (as applicable) to the Condominium Board or (at the exclusive option of the Board) to its designee or nominee, corporate or otherwise, upon the terms and conditions contained in such Sale Agreement or Lease Agreement (as applicable), as modified pursuant to Section 3.13.12.

Section 3.13.11 Other Submissions. The Sale or Lease Notice shall be accompanied by the housing, credit, financial and employment history of the Offeree and (if the Offeree is an entity) the individuals who alone or collectively hold more than a fifty percent (50%) equity or beneficial interest in such entity-Owner, the Offeree's income tax returns, credit reports, net worth statement, personal references, employer verification statement and (if applicable) current landlord good standing letter, and the Board's standard form of sale or lease application (collectively, "**Standard Document Package**"). The Offeror shall also submit to the Condominium Board or its managing agent (as directed by either), promptly following written request therefor, such additional documents and/or information as the Condominium Board may reasonably request with respect to the Offeree or the transaction.

Section 3.13.12 Right of First Refusal. Except for sale or lease transactions exempt from the Board's Right of First Refusal set forth in Section 3.13.12.1, the Condominium Board shall have a Right of

First Refusal for twenty (20) business days after receiving the Sale or Lease Notice together with the Sale or Lease Agreement, the Standard Document Package and such further documents and/or information as may have been requested pursuant to the preceding Section 3.13.11 ("**Option Period**"), to exercise the Right of First Refusal in a notice ("**Acceptance Notice**") given to the Offeror. In determining whether to elect to purchase or lease Offeror's Sold Unit, the Condominium Board shall not discriminate against an Offeree on the basis of race, creed, color, national origin, sex, sexual orientation, age, disability, marital status or other grounds prohibited by Laws. This prohibition also applies to the sale, lease, sublease or other disposition of Offeror's Sold Unit by the Condominium Board or its affiliate as the Owner or tenant (as applicable) thereof.

The Condominium Board, however, shall not exercise its Right of First Refusal to purchase or lease an Offeror's Sold Unit without first obtaining the consent of both Sponsor (during the Sponsor Veto Control Period) and a majority in Common Interest of all Owners of Residential, Parking and Storage Units or the affirmative vote of a majority in Common Interest of all such Owners attending a duly constituted meeting of said Owners called for such purpose at which a quorum is present, excluding the Common Interest of the Offeror's Sold Unit for quorum and voting purposes.

In the event that the Condominium Board shall timely elect and send the Acceptance Notice within the Option Period as provided above to purchase, or to cause its nominee or designee to purchase, Offeror's Sold Unit together with its appurtenant Common Interest, or to lease, or to cause its nominee or designee to lease, Offeror's Sold Unit (as applicable), the Offeror shall send to the Condominium Board for execution, within ten (10) days after the Acceptance Notice is given to the Offeror:

(a) the Sale Agreement, which shall be modified to:

(a-1) substitute name and address of the Board or its nominee or designee (as directed by the Board), as purchaser, and the name and address of the attorney for the Board or its nominee or designee (as applicable), as provided to the Offeror in the Acceptance Notice or otherwise;

(a-2) change the contract deposit to equal the lower of 10% of the purchase price of the Offeror's Sold Unit or the contract deposit stated in the original Sale Agreement;

(a-3) require such contract deposit to be held in escrow by the attorney for the Offeror, or if the Offeror does not have an attorney, by an attorney selected by the Condominium Board and to be disposed of in accordance with the terms of the Sale Agreement (as modified by this Section 3.13.12);

(a-4) hold the closing of title during a business hour and location to be determined exclusively by the Condominium Board and on a business day that shall be mutually agreeable to the Condominium Board and Offeror or (if they are unable to agree thereon within ten (10) business days from giving Offeror the Acceptance Notice) on a business day set by the Condominium Board on not less than five business days' notice to Offeror, but in no event later than sixty (60) business days after the day the Condominium Board gives the Offeror its Acceptance Notice;

(a-5) convey Offeror's Sold Unit and its appurtenant Common Interest to the Condominium Board or its designee or nominee (as applicable) by bargain and sale deed with covenant against grantor's acts and in the form required by Section 339-o of the Condominium Act;

(a-6) apportion as of 11:59 p.m. of the day preceding the closing of title, based on the actual number of days in the month of closing, the following items (if and to the extent applicable to Offeror's Sold Unit):

(a-6.1) real estate taxes (if Offeror's Sold Unit is not separately assessed at closing, the apportionment shall be based on the Offeror's Sold Unit's Tax Share as determined in accordance with Section 3.2.5 above);

(a-6.2) Common Charges, including the then current installment of any Condominium Special Assessment for the month or period in which title closes (such Special Assessment shall be apportioned based on the actual number of days in such month or other period);

(a-6.3) mortgage interest;

(a-6.4) electricity (if separately metered or submetered); and

(a-6.5) rent paid or payable under any existing lease or tenancy; and

(a-7) limit the liability of the Board or its designee or nominee (as applicable) for a default under the modified Sale Agreement that is not remedied within any applicable cure period after giving written notice thereof, to the contract deposit and any interest earned thereon as and for liquidated damages and in full settlement, satisfaction, release and discharge of all claims of the Offeror for any damages incurred or suffered by reason thereof, without any manner of recourse by the Offeror against the Board or (if applicable) its designee or nominee, or Unit Owners, or the respective Related Parties of each of the foregoing; or

(b) the Lease Agreement, which shall be modified to:

(b-1) substitute the name and address of the Board or its nominee or designee (as directed by the Board) as the tenant;

(b-2) (in the case of a Lease Agreement for a Sold Residential Unit) be consistent with the then current prevailing printed form of lease of a condominium unit for non-regulated multiple dwellings in The City of New York, which shall govern any conflict with the provisions of the printed form original Lease Agreement with the Offeree, unless waived by the Condominium Board, in its sole and absolute discretion, together with such rider provisions, not materially inconsistent with such form lease, as those included by the Offeree in the original Lease Agreement, unless waived by the Condominium Board, in its sole and absolute discretion;

(b-3) give the Board (or its designee or nominee, if and as applicable), as tenant, the unfettered right to freely sublet the Sold Unit one or more times, without the Offeror participating in, or sharing, the rent under such sublease or collecting any manner of fee or charge in connection

therewith, notwithstanding any prohibition or restriction against subletting in such prevailing form lease or in the original Lease Agreement with the Offeree;

(b-4) commence the term of the modified Lease Agreement and the obligation to pay rent, on a date mutually agreeable to the Condominium Board and Offeror, or (if they are unable or fail to agree thereon within ten (10) business days from giving Offeror the Acceptance Notice) on the *later* of:

(b-4.1) the date the term commences in the original Lease Agreement; or

(b-4.2) the date that falls on the sixtieth (60th) business day after the Condominium Board gives the Offeror its Acceptance Notice; and

(b-5) limit the liability of the Board or its designee or nominee (if and as applicable) for a default in the payment, performance or observance of any provision of the modified Lease Agreement that is not remedied within any applicable cure period after giving written notice thereof, to canceling the modified Lease Agreement and retaining any rent security deposited thereunder, together with any interest earned thereon, as and for liquidated damages and in full settlement, satisfaction, release and discharge of all claims of the Offeror for any damages incurred or suffered by reason thereof, without any manner of recourse against the Board or (if applicable) its designee or nominee, or Unit Owners, or the respective Related Parties of each of the foregoing.

The Offeror and the Condominium Board shall duly execute and deliver to each other the Sale Agreement, as modified in accordance with clause (a) above, or the Lease Agreement, as modified in accordance with clause (b) above, as applicable, at a business hour and location to be determined exclusively by the Condominium Board and on a business day that shall be mutually agreeable to the Condominium Board and Offeror or (if they are unable to agree thereon within ten (10) business days after the properly modified Sale or Lease Agreement (as applicable) is received by the Board), on a business day set by the Condominium Board on not less than five business days' notice to Offeror, but in no event later than twenty (20) business days after the day the Board receives the properly modified Sale Agreement or Lease Agreement (as applicable).

If the Condominium Board declines to exercise its Right of First Refusal or fails to send the Acceptance Notice within said twenty (20)-business day Option Period, the Sold Unit Owner shall have ninety (90) days thereafter to consummate the transaction, failing which the Sale or Lease Agreement (as applicable) shall automatically be deemed null and void and any subsequent sale of lease of Offeror's Sold Unit shall be subject to the Condominium Board's Right of First Refusal to purchase or lease (as applicable) the Sold Unit.

Section 3.13.12.1 Exempt Transactions. An Offeror of the following sales, transfers, conveyances and leases shall be exempt from the Condominium Board's Right of First Refusal:

(a) (if Offeror is an individual) a sale, transfer, conveyance or lease of such Offeror's Sold Unit to:

(a-1) an adult member of such Offeror's immediate family; or

(a-2) a fiduciary for the benefit of such Offeror or a member of such Offeror's immediate family; or

(a-3) a corporation, partnership, limited liability company or other entity in which such Offeror owns the Controlling Interest;

(a-4) (if Offeror is an entity) a sale, transfer, conveyance or lease of Offeror's Sold Unit to:

(a-4.1) any entity in which such Offeror owns the Controlling Interest; or

(a-4.2) the individual(s) and/or entity(ies) who collectively own the Controlling Interest in such Offeror;

(a-5) a transfer, conveyance or lease of any Sold Unit to any person as a gift or as an heir, legatee or distributee under the Offeror's last will and testament or by intestacy; and

(a-6) a transfer, conveyance or lease to such Offeror's legal guardian or representative;

(b) a sale, transfer, conveyance or lease of any Unsold Unit or any Retail Unit to any person, or any such transaction of any Sold Unit to Sponsor or other Unsold Unit Owner;

(c) a sale, transfer, conveyance or lease of any Sold Unit to the Condominium Board (or its nominee or designee) or by the Condominium Board (or its affiliate) to any person;

(d) a sale, transfer or conveyance of any Sold Unit by a court-appointed referee or other officer or other person conducting a lien foreclosure sale of a mortgage, or the lien of the Condominium Board under Section 339-z of the Condominium Act, or other lien foreclosure sale, to any person;

(e) a transfer or conveyance of a Sold Unit by deed in lieu of foreclosure to the holder of a mortgage encumbering Offeror's Sold Unit or to its nominee or designee, or to the Condominium Board, or to its nominee or designee;

(f) a sale, transfer or conveyance of a Sold Unit acquired by a holder of a mortgage or its nominee or designee, or by the Condominium Board or its affiliate, to any person; and

(g) a sale, transfer, conveyance or lease of Sold Parking Unit or a Sold Storage Unit to a Residential Unit Owner or a lease or rental of a Sold Parking Unit or a Sold Storage Unit to a resident of the Building.

Section 3.13.12.2 Board Decisions. The Residential Managers, in the name and on behalf of the Condominium Board, shall make all decisions concerning an Offeror's Sold Unit, including whether or not to exercise the Right of First Refusal and all decisions relating to the disposition of Offeror's Sold Unit while owned or leased by the Condominium Board or its affiliate (if and as applicable). These decisions include:

(a) the use of Offeror's Sold Unit (provided such use shall be in accordance with the Declaration and these By-Laws);

(b) the occupancy of Offeror's Sold Unit (provided such occupancy shall be in accordance and compliance with the occupancy requirements set forth in Section 9.6 of the Declaration); and

(c) if owned by the Board or its affiliate:

(c-1) whether to sell, lease, repair, restore, alter or otherwise operate such Sold Unit;

(c-2) the terms of any sale or lease;

(c-3) all decisions to repair, restore, alter and otherwise operate such Sold Unit; and

(c-4) whether to mortgage such Sold Unit (subject to compliance with Section 3.13.12.3(a) below); and

(c-5) if leased by the Board or its affiliate, the sublease of such Sold Unit and the terms of the sublease.

Section 3.13.12.3 Funds to Acquire. The Board may obtain funds to purchase a Sold Unit (including the costs and expenses to close title) from the following sources, or any combination of them:

(a) a loan secured by a mortgage on only such Sold Unit or as authorized by Section 399-jj of the Condominium Act; provided, however, in either case that the prior written consent is obtained from Sponsor (during only the Sponsor Veto Control Period) and the loan documents shall expressly provide that:

(a-1) the Residential, Parking and Storage Owners shall have no personal liability under the loan documents and their liability thereunder shall be pro rata to their respective Common Interests and limited to each such Owner's interest in its Unit; and

(a-2) the Retail Owners shall have no liability under the loan documents; and/or

(b) a Special Assessment imposed on only the Residential, Parking and Storage Owners (other than the selling Sold Unit Owner).

Section 3.13.12.4 Existing Mortgage. In the case of a Sale Agreement, if the Offeree is to assume or to take title to Offeror's Sold Unit subject to the Offeror's existing mortgage or mortgages, the Condominium Board or its affiliate may purchase Offeror's Sold Unit and assume or take title subject to such mortgage or mortgages on condition that:

(a) the written consent of Sponsor is obtained during the Sponsor Veto Control Period; and

(b) the mortgage or mortgages shall expressly provide, or be modified to provide, that the Residential, Parking and Storage Owners shall have no personal liability under the loan documents and their liability thereunder shall be pro rata to their respective Common Interests and limited to each such Owner's interest in its Unit, and the Retail Owners shall have no liability thereunder, as required in Section 3.13.12.3(a).

Section 3.13.12.5 Funds to Operate. The funds to maintain, repair, restore, alter, and otherwise operate and make any disposition of a Sold Unit purchased or leased by the Condominium Board (or its affiliate) shall be derived from rents realized from any tenant to whom such Sold Unit is leased, if any. If no such rents are realized or are insufficient, such funds or any deficit shall be derived and paid

from the Residential Common Charges assessed to only all Residential, Parking and Storage Owners pro rata to their respective Common Interests (other than the Sold Unit owned by the Board in the case of a Sold Unit purchased by the Board under its Right of First Refusal or otherwise).

Section 3.13.12.6 Proceeds on Disposition. All rents and any other revenues derived from a Sold Unit while owned or leased by the Condominium Board or its affiliate, after paying the costs and expenses to own or lease and operate such Sold Unit, and all proceeds realized on the resale of Sold Unit owned by the Board or its affiliate, after paying the costs and expenses of such resale, shall be applied to defray the Common Expenses payable by only the Residential, Parking and Storage Owners or other appropriate purpose that benefits only the Residential, Parking and Storage Units or their Owners, as determined by the Residential Managers in the name and on behalf of the Condominium Board, in their sole judgment.

Section 3.13.12.7 Waiver of Partition, Use and Occupancy. In the event that any Unit shall be acquired or leased by the Condominium Board, or its affiliate, such Unit shall automatically become part of the Association's Assets and the ownership or lease of such Unit (as applicable) shall be deemed held on behalf of all Unit Owners, as tenants-in-common, and all Owners shall conclusively be deemed to have irrevocably and unconditionally waived all rights of partition, use and occupancy with respect to such Unit.

Section 3.13.12.8 Certificate of Waiver or Exemption. Except as otherwise provided in Section 3.13.12.14, if the Condominium Board declines or fails to exercise or waives its Right of First Refusal or the proposed sale, transfer, conveyance or lease is exempt from the Board's Right of First Refusal, the Condominium Board shall furnish, or cause its managing agent to furnish, to the applicable Offeror a written certificate to such effect ("**Certificate of Waiver or Exemption**") within the following applicable ten (10)-day period:

(a) (if the transaction is not exempt from the Right of First Refusal) within ten (10) days after expiration of the twenty (20)-business day Option Period set forth in Section 3.13.12 above; or

(b) (if the transaction is exempt from the Right of First Refusal) within ten (10) days after the Condominium Board or its managing agent is given a reasonably detailed written request for such Certificate of Waiver or Exemption, setting forth in reasonable detail the grounds the transaction is exempt from the Board's Right of First Refusal.

Section 3.13.12.9 Content of Certificate of Waiver or Exemption. The Certificate of Waiver or Exemption shall state in effect that the provisions of the By-Laws have been met by the Offeror and as a result:

(a) the Right of First Refusal provided for therein has been duly released or waived by the Condominium Board or that the transaction is exempt from the Board's Right of First Refusal (as applicable); and

(b) the rights of the Condominium Board under said Section 3.13.12 have terminated or are not applicable (as the case may be).

Section 3.13.12.10 Effect of Certificate of Waiver or Exemption. The Certificate of Waiver or Exemption shall be conclusive upon the Condominium Board and all Unit Owners in favor of all persons who rely upon such Certificate of Waiver or Exemption in good faith. After the due issuance of such Certificate of Waiver or Exemption, the Offeror's Unit to which the same relates, together with its appurtenant Common Interest, may be conveyed or leased (as applicable) free and clear of the terms and conditions contained in this Section 3.13.12.

Section 3.13.12.11 Deemed Termination of Right of First Refusal. The Right of First Refusal shall be deemed terminated, released or waived by the Condominium Board, without the Certificate of Waiver or Exemption, if the Offeror shall have strictly and faithfully complied with the provisions of this Section 3.13.12 and, through no fault of the Offeror, the Condominium Board shall fail to:

(a) timely and properly exercise the Right of First Refusal by sending the Acceptance Notice within the twenty (20)-business day Option Period set forth in Section 3.13.12; or

(b) timely enter into and exchange with the Offeror the properly modified Sale Agreement (or counterparts thereof) pursuant to Section 3.13.12 or to consummate the closing of title thereunder; or

(c) timely enter into and exchange with the Offeror the properly modified Lease Agreement (or counterparts thereof) pursuant to Section 3.13.12;

as applicable.

The consummation of the Sale or Lease Agreement or the exempt transaction (as applicable) without the Board signing and delivering the Certificate of Waiver or Exemption strictly in accordance with the provisions of this Section 3.13.12.12 shall not affect the validity or enforceability of said Sale or Lease Agreement or the exempt transaction (as applicable).

Section 3.13.12.12 Estoppel Certificate. Subject to Section 3.13.12.14, the Condominium Board shall execute and deliver to a Unit Owner within ten (10) business days after written request therefor is received by the Board, a written certificate ("**Estoppel Certificate**") addressed to the requesting Unit Owner, certifying:

(a) the then current annual Common Charges and any Special Assessment levied on such Owner's Unit, the date to which Common Charges and any Special Assessments levied by the Board have been paid and the amount(s) thereof, and of any unpaid indebtedness owed by such Unit Owner under the Declaration or these By-Laws;

(b) whether or not, to the best of the actual conscious knowledge of the current Managers:

(b-1) the requesting Unit Owner is in violation (beyond all pertinent notice, grace and cure periods, if and as applicable) in any respect under the Declaration, these By-Laws or the Rules and Regulations, as each of same may then be amended, and if in violation setting forth in reasonable detail the specific nature and basis of such violation; and

(b-2) any dispute is pending between the requesting Unit Owner and the Condominium Board, and if a dispute is pending setting forth in reasonable detail the specific nature and basis of such dispute;

(c) any other matters reasonably requested by the requesting Owner, including whether a:

(c-1) mortgagee of a Unit is a Registered Mortgagee having the rights and benefits of a Registered Mortgagee as set forth in the Declaration or these By-Laws, as duly amended from time to time; or

(c-2) lender to the holder of a Controlling Interest of an Owner of an Unsold Unit or a Retail Unit is a Registered Mezzanine Lender having the rights and benefits of a Registered Mezzanine Lender, as set forth in the Declaration or these By-Laws, as duly amended from time to time

(c-3) tenant of a Retail Unit is a Registered Tenant having the rights and benefits of a Registered Tenant as set forth in the Declaration or these By-Laws, as duly amended from time to time; and

(d) the estoppel certificate shall be conclusive upon the Condominium Board and all Unit Owners in favor of all persons who rely thereon in good faith.

Section 3.13.12.13 Execution of Statements and Certificates. The Statement of Common Charges and Indebtedness, the Certificate of Waiver or Exemption, and the Estoppel Certificate shall be executed and notarized by the following in the name and on behalf of the Condominium Board:

(a) in the case of a Sold Unit: any Residential Manager or any Officer elected by the Condominium Board, or the managing agent; or

(b) in the case of an Unsold Unit: any Sponsor Manager or any Officer elected by a Sponsor Manager, or the managing agent;

(c) in the case of a Retail Unit: any Retail Manager or any Officer elected by a Retail Manager, or the managing agent.

Section 3.13.12.14 Prerequisites for Giving Statements and Certificates. The Condominium Board shall have the right to refuse to execute and deliver a Statement of Common Charges and Indebtedness, a Certificate of Waiver or Exemption and/or an Estoppel Certificate, without any manner of recourse against the Board or Unit Owners, or their respective Related Parties, for any losses or damages, if:

(a) the Unit Owner is in default in the payment of Common Charges or Additional Common Charges (including Special Assessments), if any, or in the payment or performance of a substantial or material obligation under the Condominium Documents, including this Section 3.13.12;

(b) the Owner's Unit is subject to an unpaid lien (other than a Permitted Mortgage);

(c) the Offeree is a Foreign Government or Diplomat and fails to comply with the requirements of, or violates, Article 14 of the Declaration;

(d) the Offeree is a Foreign Person and fails to comply with, or violates, the requirements of Article 15 of the Declaration;

(e) the proposed purchaser or tenant of a Unit fails to first give the Board its contact information (including name, address, email address, telephone and mobile phone) for notices or emergencies;

(f) the purchaser or tenant of a Sold Unit fails to first represent in writing to the Board either:

(f-1) it is not a Foreign Government, Diplomat or Foreign Person; or

(f-2) it is a Foreign Government or Diplomat and shows proof of compliance with Article 14 of the Declaration; or

(f-3) it is a Foreign Person and shows proof of compliance with Article 15 of the Declaration; or

(g) the Offeror of a Sold Unit (but not Sponsor or other Owner of an Unsold Unit or Owner of a Retail Unit) shall fail to pay or reimburse the Condominium Board (as directed by the Board), in accordance with the Payment and Collection Terms, for the reasonable fees and expenses of the Condominium Board's managing agent and/or attorney as required in Section 3.13.3.

Upon curing the default or violation of this Section 3.13.12.14, the Condominium Board shall execute and delver to the Owner with commercially reasonable promptness the Statement of Common Charges and Indebtedness, the Certificate of Waiver or Exemption and/or the Estoppel Certificate (as applicable).

Section 3.13.12.15 Gifts, Devises and Intestacy. Any Unit Owner shall be free to convey or transfer the Owner's Unit, together with its appurtenant Common Interest, by gift, or to devise the same by will or to have the same pass by intestacy, without restriction and without compliance with this Section 3.13.12. Each succeeding Unit Owner shall be bound by, and such Owner's Unit shall be subject to, the provisions of this Section 3.13.12.

Section 3.14 Registered Tenant.

Section 3.14.1 Registered Tenant. A "**Registered Tenant**" is a bona fide tenant who has entered into an arms-length lease for all or a portion of a Retail Unit, and who or whose Related Parties have no direct or indirect relationship with the Owner of such Retail Unit or said Owner's Related Parties (by family, employment or business), and who is registered with the Condominium Board by the Owner furnishing the Board in writing with the tenant's contact information (including name, address, email address, telephone and mobile phone) for notices or emergencies, the date of its lease, a description of the premises demised to it, and the last date on which such lease is scheduled to expire, accompanied by a true and complete non-redacted copy of the fully executed lease (which shall contain he subordination provision set forth in Section 3.13.5 (a)), including any riders and written understandings with respect thereto, and

other documentary proof acceptable to the Condominium Board that the lease requirements contained in Section 3.13.5(b) and (c) are met.

Section 3.14.2 Subordination, Non-Disturbance and Attornment Agreement. A subordination, non-disturbance and attornment agreement ("**SNDA**") is an agreement among the Condominium Board, an Owner and a Registered Tenant of all or a portion of such Owner's Retail Unit in which:

(a) the Registered Tenant shall agree that the lease and the Registered Tenant's interest in the lease are subject to the Declaration, these By-Laws, the Rules and Regulations, as each may be duly amended from time to time, and to the Board's lien on the Unit for unpaid Common Charges and Additional Common Charges, as provided in these By-Laws and the Condominium Act;

(b) the Condominium Board shall agree that so long as the Registered Tenant is not in default or violation under any of the terms, covenants or conditions of the lease after the giving of any required notice and the expiration of any applicable notice and grace period:

(b-1) the Condominium Board shall not join the Registered Tenant in any action to enforce the Board's lien or any rights granted to the Board under the Declaration or these By-Laws (as each may have been duly amended from time to time), at law, in equity or otherwise, unless such joinder is required by Laws, but such joinder shall not disturb the Registered Tenant's possession of the demised premises;

(b-2) the Condominium Board shall not assert the Board's lien against the personal property, goods or chattels of the Registered Tenant in or on the demised premises;

(b-3) the Registered Tenant's right to use and occupy the demised premises in accordance with and subject to the terms of the lease shall not be terminated, disturbed or interfered with in any way by reason of any action to enforce the Board's lien or any rights granted to the Board under the Declaration or these By-Laws (as each may have been duly amended from time to time), at law, in equity or otherwise; and

(b-4) the lease and the Registered Tenant's leasehold estate and rights thereunder shall not be terminated as a result of any Board foreclosure action, or any sale pursuant to any such Board foreclosure action, or the delivery of a deed in lieu of foreclosure or other acquisition of the Owner's interest in the Retail Unit as a result of a default under the Declaration, these By-Laws or the Rules and Regulations, or any then existing amendment thereto, or the exercise of any other remedy available to the Board pursuant to the Declaration or these By-Laws, as each may have been duly amended;

(c) the Registered Tenant shall irrevocably and unconditionally agree:

(c-1) upon receiving notice of the name and address of the person who acquires title to the Retail Unit by reason of foreclosure of the Board's lien or a deed given in lieu thereof or other means ("**New Owner**"), whether such New Owner is the Board or its affiliated or non-affiliated designee or nominee, a purchaser at the Board's lien foreclosure sale, or otherwise, the Registered Tenant shall have the right to rely upon such notice without investigation and shall attorn to, and recognize,

and shall be bound to the New Owner (including its successors and assigns), as its landlord for the unexpired balance of the term of the lease, including any renewal and extension of the term expressly provided therein, in each case, upon the same terms and conditions as set forth in the lease, with the same force and effect as if the New Owner were the then Owner under the lease;

(c-2) such attornment shall be effective and self-operative without the execution of any further instruments by any party thereto, and to confirm such attornment, the Registered Tenant shall, within ten (10) business after written request by the New Owner (or its successors and assigns), execute a written agreement, prepared by the New Owner at the reasonable expense of, and reasonably acceptable to, the Registered Tenant whereby the Registered Tenant shall attorn to such New Owner, affirm the Registered Tenant's obligations to the New Owner under the lease, including to pay all rent and other sums due or to become due under the lease to the New Owner;

(d) the New Owner (or its successors and assigns) shall not be:

(d-1) bound by any rent which the Registered Tenant might have paid for more than the then current month to any prior Owner under the lease;

(d-2) liable for any previous act or omission of any prior Owner under the lease;

(d-3) liable for any defaults, actions or omissions of any prior Owner under the lease;

(d-4) subject to any defense, or abatement or set-off against the rent previously accrued in favor of the Registered Tenant against any prior Owner under the lease based on any act, omission, default or violation of such prior Owner under the lease or otherwise;

(d-5) bound by any amendment, modification, change or waiver of any of the terms of the lease without obtaining the Condominium Board's consent in each instance; and

(d-6) liable or accountable for the return of any deposit, rental security or any other sums deposited with any prior Owner under the lease that have not been given to the New Owner;

(e) to the extent such deposit, rental security or any other sum deposited with any prior Owner under the lease has not been given to the New Owner, the Registered Tenant shall give to the New Owner, within five business days after being given written notice of its name, address and ownership of the Unit and demand therefor, a new deposit, rental security or any other sum in the amount set forth in said lease;

(f) if the Condominium Board is the New Owner, the liability of the Condominium Board and the Unit Owners, and their respective Related Parties, under the lease shall be limited to the Board's interest in the Unit; and

(g) the terms of the SNDA shall inure to the benefit of, and shall be enforceable by, the New Owner.

The SNDA shall contain such other, additional or different terms and requirements as shall be required in the judgment of the Condominium Board, provided such terms and requirements are non-discriminatory. If the Condominium Board shall adopt a form SNDA for the Building, the terms and

requirements of such SNDA to be given to the Registered Tenant shall be consistent herewith in all material respects.

The Condominium Board, at the request of a Retail Owner, shall enter into a SNDA with such Retail Owner and its Registered Tenant if no notice to said Retail Owner for nonpayment of Common Charges or Additional Common Charges, or other violation of a provision of the Declaration, these By-Laws or the Rules and Regulations is outstanding (other than a *de minimis* violation), both at the time of the request and at the time of execution of the SNDA. The SNDA shall be prepared by, and at the sole cost and expense of, such Retail Owner, but shall be in form and substance consistent with the foregoing provisions or on the form SNDA adopted by the Board for the Building (as applicable).

The requesting Retail Owner shall pay or reimburse the Condominium Board (as directed by the Board), in accordance with the Payment and Collection Terms, for the Legal Expenses incurred by the Condominium Board to review the SNDA and consult with the Condominium Board with respect to the proposed terms of the SNDA and any changes or revisions thereto. No other fee or charge shall be imposed by the Condominium Board on the requesting Retail Owner or the Registered Tenant with respect to the SNDA.

The Condominium Board shall duly execute, notarize and deliver to said Retail Owner a SNDA, or counterparts thereof, within ten (10) business days after the Condominium Board is g an SNDA consistent with the terms of this Section 3.14.2, duly executed and notarized by said Retail Owner and its Registered Tenant, together with a good collectible unendorsed check of the Retail Owner in full payment of the Condominium Board's Legal Expenses (if any) to review the SNDA and consult with the Condominium Board with respect to the proposed terms of the SNDA and any changes or revisions thereto.

If the requirements of this Section 3.14.2 are not met, the Condominium Board shall give the requesting Retail Owner, within said ten (10)-business day period after the Board receives the proposed SNDA, duly executed and notarized by said Retail Owner and its Registered Tenant, a reasonably detailed notice specifying the violation of this Section 3.14.2. If the Retail Owner notifies the Board that it disputes the Board's finding of a violation of this Section 3.14.2 and the two parties do not mutually resolve the dispute within five business days thereafter, the dispute shall be resolved by Baseball Arbitration as provided in Article 6.

Section 3.15 Security Interests.

Section 3.15.1 Mortgages and Mezzanine Loans. Each Owner shall have the right, without the consent of the Condominium Board or other Owners, to mortgage its Unit and its appurtenant Common Interest with one or more mortgages. Each holder of a Controlling Interest in an Owner of an Unsold Unit or a Retail Unit (but not a Sold Unit) shall have the right, without the consent of the Condominium Board or other Owners, to securitize such Controlling Interest in said Owner.

Section 3.15.2 Registration of Mortgage and Mezzanine Loan. A "**Registered Mortgage**" is a duly recorded mortgage encumbering a Unit which is registered by the Owner of such Unit in a notice to the Condominium Board setting forth the name and address for notices of the lender, accompanied by copy of the recorded mortgage and at the time of recording such Owner is current and in good standing in paying,

performing and meeting Owner's obligations under the Condominium Documents. A "**Registered Mortgagee**" is the lender identified in Registered Mortgage. A Registered Mortgage that is a first mortgage lien encumbering a Unit is a "**Registered First Mortgage**" and the lender identified therein is a "**Registered First Mortgagee**".

A "**Registered Mezzanine Loan**" is a duly filed security interest in the Controlling Interest in an entity-Owner which is registered by a holder of such Controlling Interest in a notice to the Condominium Board setting forth the name and address for notices of the lender, accompanied by copies of the fully executed security agreement and the filed UCC-1 Statement. The lender identified in the security agreement is a "**Registered Mezzanine Lender**".

Upon notice to the Condominium Board of the name and address of a master servicer and/or a sub-servicer who has been appointed as an administrative agent or a loan servicing agent to administer a Registered Mortgage or a Registered Mezzanine Loan (as applicable), such master servicer and/or sub-servicer (as applicable) shall be regarded as the Registered Mortgagee or the Registered Mezzanine Lender, respectively.

Promptly after receiving the notice required by this Section 3.15.2, the Board shall acknowledge in writing to the applicable Unit Owner or holder of a Controlling Interest (as applicable) that the Board received the information and documentation necessary to recognize the Registered Mortgagee or the Registered Mezzanine Lender (including a master servicer and/or a sub-servicer), as applicable, as such. Any duly recorded mortgage on a Unit owned by Sponsor and any duly filed security interest in a holder of a Controlling Interest in Sponsor at the date of recording the Declaration in the City Register's Office shall automatically and conclusively be considered a Registered Mortgage and a Registered Mortgagee or a Registered Mezzanine Loan and a Registered Mezzanine Lender, respectively, regardless of compliance with the foregoing.

A Unit Owner who satisfies a mortgage encumbering the Owner's Unit shall so notify the Condominium Board in writing accompanied by a conformed copy of the satisfaction of the mortgage. Similarly, the holder of a Controlling Interest in an Owner who satisfies a security interest in said Controlling Interest shall so notify the Condominium Board in writing accompanied by a conformed copy of the UCC-3 termination statement or other evidence thereof. The Secretary of the Condominium shall maintain all such information and documents in a book entitled Registered Security Interests.

The failure of a Unit Owner or a holder of a Controlling Interest in an Owner to comply with the foregoing shall not affect the validity or enforceability of the mortgage or the mezzanine loan, or the priority of its lien as to other lien holders.

Section 3.15.3 Rights and Benefits. The rights and benefits of this Section 3.15.3 are afforded to only a Registered Mortgagee and a Registered Mezzanine Lender (each, "**Registered Lender**") as a "third-party beneficiary" for so long as it continues to hold a Registered Mortgage or a Registered Mezzanine Loan, respectively. If more than one Registered Mortgage encumbers a Unit, the holder of a Registered First Mortgage shall have preference and priority over all other holders of Registered Mortgages to exercise a right or benefit of a Registered Mortgagee. If both a Registered Mortgagee and a Registered

Mezzanine Lender seek to exercise a right or benefit, a Registered Mortgagee shall have preference and priority over a Registered Mezzanine Lender. A reference below to an Owner shall mean the Owner of the Unit encumbered by the Registered Mortgage or the holder of the Controlling Interest in an Owner encumbered by a Registered Mezzanine Loan (as applicable). A reference below to a Registered Lender shall mean the Registered Mortgagee of the Owner's Unit or the pledgee of a security interest in the holder of the Controlling Interest in an Owner (as applicable).

Section 3.15.3.1 Notice of Delinquency. Whenever an Owner fails, for more than sixty (60) days or two consecutive months (whichever is longer), to pay Common Charges or Additional Common Charges, or to perform or fulfill an obligation under the Declaration or these By-Laws after being given notice thereof and such failure continues an additional ten (10) days after giving such notice, the Condominium Board shall give notice thereof to a Registered Lender with commercially reasonable promptness thereafter.

Section 3.15.3.2 Notice of Default. Whenever a default notice is given to an Owner for nonpayment of Common Charges or Additional Common Charges, or for violating an obligation under the Declaration, these By-Laws or the Rules and Regulations (as each may be duly amended), a copy of such notice shall be sent simultaneously to the Registered Lender.

Section 3.15.3.3 Right to Remedy a Violation. The Condominium Board shall accept from a Registered Lender (if permitted under the terms of the Registered Mortgage or the Registered Mezzanine Loan, as applicable), under the terms set forth below, the payment of any amount owed, and the performance of any obligation to be performed, by an Owner under the Declaration, these By-Laws and the Rules and Regulations (as each may be duly amended) with the same force and effect as though paid and performed by said Owner. The Registered Lender shall have the right, but not the obligation, to remedy the violation within ten (10) days after being given notice thereof. If, however, a non-monetary violation cannot be performed with commercially reasonable diligence and continuity to completion within such ten (10)-day period, the Registered Lender shall have thirty (30) days after being given notice thereof to perform such obligation. If due to its nature, the Registered Lender cannot perform the non-monetary obligation without acquiring title to the Unit or the Controlling Interest in the Owner (as applicable), the Registered Lender shall be afforded ten (10) business days after being given notice of the nature of such violation, to commence foreclosure or other appropriate action or proceeding to acquire title to the Unit or the Controlling Interest in the Owner (as applicable), and thereafter to diligently prosecute any such action or proceeding with continuity to conclusion. During the prosecution of said action or proceeding, the Registered Lender shall fully pay all monetary obligations of the Owner owed to the Board as and when due and shall faithfully perform all other non-monetary obligations of the Owner under the Declaration, these By-Laws and the Rules and Regulations that do not require possession of the Unit. After gaining possession of the Unit or the Controlling Interest in the Owner (as applicable), the Registered Lender, as the Owner of the Unit or the holder of the Controlling Interest of the Owner (as applicable), shall perform (if and to the extent capable), with prompt diligence and continuity to completion, all defaulted obligations of the Owner as to which a notice of default was given and shall pay and perform all obligations accruing thereafter as and when required under the Declaration, these By-Laws and the Rules and Regulations. The

Board shall not commence any action or proceeding to foreclose its lien against the Unit if, within ten (10) business days after the Registered Lender is given notice of the Owner's violation, the Board receives notice from the Registered Lender of its intention to remedy the violation and thereafter timely complies with the foregoing. All time periods within which the Registered Lender is to act or perform under this Section 3.15.3.3 are deadlines. A written undertaking by a Registered Lender to pay and/or perform an obligation of an Owner shall be legally binding upon, and enforceable by the Board against, the Registered Lender.

Section 3.15.3.4 Lien Foreclosure. The Condominium Board shall not commence any action or proceeding to foreclose its lien against a Unit encumbered by a Registered Mortgage or a Unit of an Owner in which the holder(s) of a Controlling Interest in such Owner have given a security interest in the Controlling Interest, without giving a Registered Lender at least ten (10) business days' advance notice of its intention to do so.

Section 3.15.3.5 Insurance Notice. If an insurance policy or fidelity insurance or fidelity bond required to be maintained by the Condominium Board or a Unit Owner under these By-Laws shall lapse or terminate or adversely and materially be modified, or the Board receives advance notice from an insurer or bond issuer of any forthcoming lapse, termination or adverse and material modification of said insurance policy or fidelity policy or fidelity bond required to be maintained the Board or a Unit Owner, the Board shall give notice thereof to the appropriate impacted Registered Lender within three business days thereafter.

Section 3.15.3.6 Substantial Destruction or Damage. Within three business days after a majority of Managers in number have actual conscious knowledge of Substantial Destruction or Damage to the Units and the Common Elements, the Condominium Board shall give notice thereof to all Registered Lenders.

Section 3.15.3.7 Taking. Within three business days after a majority of Managers in number have actual conscious knowledge of a Taking in condemnation or by eminent domain of all or a portion of a Unit or a Common Element, the Condominium Board shall give notice thereof to all Owners and all Registered Lenders.

Section 3.15.3.8 Termination of Condominium. The Condominium Board shall give each Registered Lender not less than thirty (30) days' notice prior to the effective date the Condominium is to terminate.

Section 3.15.3.9 Dispute or Litigation. Whenever the Condominium Board gives an Owner a notice of a dispute or serves an Owner with a notice to arbitrate or with a summons with notice or a complaint, a copy thereof shall be sent simultaneously and in like manner to each Registered Lender impacted thereby (if any). If an Owner shall fail to select an arbitrator or to appear in any court action or proceeding (as applicable) or otherwise fails to proceed or take action in such arbitration or court action or proceeding (as applicable) as may be required or permitted by such Owner, such impacted Registered Lender (if permitted under the terms of the Registered Mortgage or the Registered Mezzanine Loan, as applicable) shall have the right (but not the obligation) to select the arbitrator in said arbitration or appear in said litigation, and all procedures and actions taken in said arbitration or court action or proceeding (as

applicable) by such Registered Lender shall be accepted and recognized by the Condominium Board and the other Unit Owners with the same force and effect in all respects as though all of same had been exercised and taken by said Registered Lender's Unit Owner. Any determination and award made in such arbitration or order or judgment in such court action or proceeding (as applicable) shall be binding upon said Registered Lender's Unit Owner, said Registered Lender, the Condominium Board and all other Unit Owners.

Section 3.15.3.10 Notices. Any notice given to a Unit Owner that is required to be given to such Unit Owner's Registered Lender under the Declaration or these By-Laws (as each may be duly amended) shall not be deemed given to, or effective against, such Unit Owner until given to said Unit Owner's Registered Lender.

Section 3.15.3.11 Cooperation. The Condominium Board agrees to cooperate reasonably with any requesting Unit Owner in order satisfy the requests or requirements by such Unit's or Owner's Registered Lender (as applicable); provided, however, such cooperation will be at the sole cost and expense of the requesting Unit Owner, and provided, further, that Condominium Board will not be obligated to accede to any request or requirement that adversely affects, beyond a *de minimis* extent, the rights, powers, easements, privileges or benefits of the Condominium Board or another Unit Owner under the Declaration or these By-Laws, as amended.

Section 3.15.3.12 Immunity. In no event, however, shall the Condominium Board or Unit Owners, or their respective Related Parties, be liable or accountable for any claims, litigations or damages due to any delay or failure, through oversight or negligence, in notifying a Registered Lender of any of the matters contained in this Section 3.15.3. Nonetheless, with reasonable promptness after discovering such delay or failure, the Condominium Board shall advise such Registered Lender of such delay or failure and (in the case of Section 3.15.3.4) if at that time the Condominium Board shall have already foreclosed its lien on such Owner's Unit, the Condominium Board shall pay to such Registered Lender the extent of any undistributed net proceeds realized on said foreclosure sale then held by the Board (after deducting all costs and expenses, including Legal Expenses, incurred in connections therewith and payments to holders of liens on the Unit in the lien priority set forth in Section 3.11.5 and Laws), but not more than the sum as shall be due and owing to such Registered Lender.

Section 3.15.4 Subordination. The lien of any mortgage of a Unit recorded after the date of recording the Declaration in the City Register's Office shall automatically be subordinate to the terms and provisions of the Declaration, these By-Laws and the Rules and Regulations, and any such mortgage that fails to provide for such subordination shall nonetheless conclusively be deemed to irrevocably and unconditionally provide for such subordination. Such subordination shall be effective and self-operative without the execution of any further instruments by the holder of such mortgage. If requested by the Condominium Board, the holder of such mortgage, without fee, charge, restriction, limitation or condition, shall promptly execute, acknowledge in recordable form and deliver to the Board such instruments as the Board may require to confirm said subordination. The failure, however to do so, shall not affect such subordination, it being agreed that a holder of such mortgage, by accepting said mortgage or succeeding to the interests of a preceding holder of such mortgage, shall conclusively be deemed to have automatically, irrevocably and unconditionally agreed to such subordination.

Section 3.16 General Operating Matters.

Section 3.16.1 Compliance with Laws. Each Owner, at its sole cost and expense, with reasonable diligence and continuity to completion, shall comply with all Laws (including remedying governmental violations) applicable to its Unit and/or the Limited Common Elements restricted to its exclusive use.

The Board, as a General Common Expense, or the Residential Managers, a Residential Common Expense, or the Retail Managers, as a Retail Common Expense, with reasonable diligence and continuity to completion, shall comply with all Laws (including remedying governmental violations) applicable to: (a) the General Common Elements, and (subject to Section 9.4 of the Declaration) the sidewalks; or (b) the Residential Common Elements; or (c) the Retail Common Elements, respectively.

However, a condition constituting an emergency or a hazardous governmental violation or having a material adverse effect on the Common Elements or a Unit or its Owner or tenant, or the business being conducted in a Unit, shall be remedied with commercially prompt diligence and continuity to completion.

With reasonable diligence after the responsible party remedies a governmental violation, such party shall thereafter endeavor in good faith and at its expense to cause such violation to be removed of record.

Section 3.16.2 Contest. Except for a Law that constitutes an emergency or a hazardous governmental violation having a material adverse effect on the General, Residential or Retail Common Elements, or a Unit or its Owner or tenant, or the business being conducted in a Unit, the party responsible to comply with a Law pursuant to Section 3.16.1 shall have the exclusive right to contest such Law and to defer compliance with such Law if, and on condition that:

(a) such responsible party prosecutes such contest in good faith with reasonable diligence and continuity by appropriate proceedings and shall have furnished such security, if any, as may be required in the proceedings, unless compliance with such requirement shall have been excused or exempted by a valid nonconforming use permit, waiver, extension or forbearance exempting such responsible party from such requirement; and

(b) such contest or noncompliance does not involve any threat or danger of:

(b-1) foreclosure, forfeiture or loss of any part of the Property; or

(b-2) civil or criminal liability, fine or penalty being imposed on the Condominium Board or any Manager or Officer of the Board, any Unit Owner or any mortgagee or tenant of a Unit; or

(b-3) the creation of any lien, encumbrance or other charge against any part of the Property; or

(b-4) impairment of any insurance under Section 3.9.

Section 3.16.3 Building Employees, etc. The Condominium Board shall have the authority (without the approval or consent of Unit Owners) to make all decisions concerning the employment, compensation and dismissal of employees, and the terms of engagement of agents (including a managing agent or property manager), Construction Parties, service providers and attorneys, as the Board considers

to be necessary or appropriate, in its sole business judgment, to perform its duties and obligations or to implement its rights, easements and remedies set forth in the Declaration or these By-Laws. The wages and related benefits and payroll costs of the Building employees (if any) and the fees, charges and amounts payable to agents, Construction Parties, service providers and attorneys, shall be included in the:

(a) General Common Expenses and assessed to the applicable Units as a Specially Allocated Expense in accordance with RPL Section 339-m; or

(b) Residential Common Expenses and assessed to only the Residential, Parking and Storage Units pro rata to their respective Common Interests; or

(c) Retail Common Expenses and assessed to only the Retail Owners pro rata to their respective Common Interests,

as applicable, in accordance with the First Year's Budget or (if not included in the First Year's Budget) these By-Laws.

Section 3.16.4 Refuse Disposal. Each Owner, at its sole cost and expense, shall comply with all Laws applicable to the disposal of garbage, trash and refuse generated in its Unit (including environmental Laws and governmental requirements for the separation, disposal or recycling of paper, bottles, cans, plastics or other refuse) and the Rules and Regulations, as duly amended from time to time; failing which the offending Owner, at its sole cost and expense, shall remove any governmental violation noted or issued against the Building that is attributable to its Unit, and any related interest, fines and penalties assessed against the Building by a Governmental Authority having competent jurisdiction over the Property.

Section 3.16.5 Rules and Regulations. The Rules and Regulations (attached as EXHIBIT E to the Declaration) contain the administrative details to operate and use the Common Elements and to prohibit offensive or disturbing activities or conduct of Owners or tenants of Units that adversely impacts the Common Elements or another Unit or its Owner, or tenant. All Owners and tenants of Units are obligated to comply with the Rules and Regulations, as they may be amended from time to time by the Condominium Board, without recording an amendment to the Declaration or these By-Laws. No change to the Rules and Regulations shall by binding upon, or enforceable against, Sponsor or an Owner or tenant of an Unsold Unit or a Retail Unit without the consent of Sponsor or the Owner thereof.

Any changes to the Rules and Regulations shall become effective against, and binding upon, Owners and Unit Users of Units on the tenth (10th) day (or such later date as may be specified by the Board) after a copy of the complete text thereof shall be given to each Owner in accordance with Article 7. The Board shall not be responsible to give a tenant a copy of the changes to the Rules and Regulations, which shall be the obligation of the Owner of the Unit occupied by the tenant.

The Condominium Board shall all of the rights and remedies contained in Article 5 against an Owner or anyone for whom an Owner is responsible or accountable who violates the Rules and Regulations, as duly amended from time to time.

Section 3.16.6 Records. The books and records of the Condominium Association are listed below and shall be retained by the Board for at least three years.

The Treasurer of the Condominium Association, or the managing agent or property manager (if and as applicable) under the supervision of such Treasurer, shall keep full, detailed and accurate records and books of account with respect to the financial affairs and business of the Condominium Association and the Condominium Board including:

(a) a chronological listing of all receipts of, and expenditures by, the Condominium Board and the managing agent or property manager (if and as applicable), together with cancelled checks, check register, statements, bills and invoices; and

(b) a separate listing for each Unit, setting forth, among other things, the amount of each assessment of Common Charges and Additional Common Charges levied against such Unit, the date when due, the amounts paid thereon and the balance, if any, remaining unpaid, a copy of the lease with a Registered Tenant of such Unit (if any) and a copy of any Registered Mortgage encumbering such Unit (if any) or a Registered Mezzanine Loan encumbering the holder of a Controlling Interest in an Owner (if any), together with the notices given to the Board in connection therewith.

The Secretary of the Condominium Association, or the managing agent or property manager (if and as applicable) under the supervision of the Secretary, shall keep detailed records of minutes of, and the actions taken at, regular and special meetings of, the Condominium Board, committees of the Board, and Owners, including any resolutions adopted, and the outcome of any matters voted upon, thereat.

Section 3.16.7 Examination. Each Owner and its representatives shall be permitted to examine (without charge) and to copy (at a reasonable charge):

(a) minutes of, and the actions taken at, regular and special meetings of the Condominium Board, committees of the Board, and Owners, including any resolutions adopted, and the outcome of any matters voted upon, thereat;

(b) annual reports and financial statements (if any);

(c) current copies of the Declaration, these By-Laws and the Rules and Regulations, and all amendments thereto;

(d) a list of Unit Owners and their addresses for notices;

(e) records or receipts and expenditures arising from operation of the Condominium Association, including the General, Residential and Retail Common Elements and the Condominium Association's assets, together with vouchers authorizing payments thereof; and

(f) such other information, documents and records as may be in the possession or under the control of the Condominium Board that the Board may determine, in its sole business judgment, to make available to Unit Owners and their representatives, other than the personal financial files of a Unit Owner, a prospective purchaser or a prospective tenant of a Unit, or Building employee files.

At the request of an Owner or the holder of a Controlling Interest in an Owner, an existing or prospective Registered Mortgagee, Registered Tenant, or purchaser of such Owner's Unit, or an existing or prospective Registered Mezzanine Lender or a purchaser of such holder's Controlling Interest in said Owner, and the respective representatives of each of the foregoing, shall be permitted to examine (without charge) and to copy (at a reasonable charge) the items listed only in clauses (a), (b) and (c) above.

All such examinations shall be conducted at the office of managing agent or property manager (if and as applicable) or other location reasonably convenient to the Property or elsewhere in Brooklyn or Manhattan, as specified by the Board, and in a manner that shall not unreasonably interfere with the operation of the Condominium Association, the Condominium Board, the managing agent or the property manager (if and as applicable). The examinations shall occur during business hours, on business days and upon reasonable advance notice, but not more frequently than once a month (such examination shall not extend over more than an aggregate of three business days in any thirty (30)-day period) as to each party listed above.

Section 3.16.8 Tax Returns. The Condominium Board, as a General Common Expense assessed to all Owners pro rata to their respective Common Interests shall:

(a) cause to be prepared and filed all requisite federal, state and city income tax, franchise tax, unincorporated business tax and any other tax returns, and shall pay all resulting taxes, on a timely basis and before the imposition of interest, charges or penalties for late filing or late payment, relating to the Condominium Association, or the Common Charges or Additional Common Charges, or the operation of the Common Elements or the Association's Assets, or conducting the affairs and business of the Condominium Association; and

(b) pay the expenses to prepare and file such tax returns and to attend or defend any audit or litigation in connection therewith.

Section 3.16.9 Annual Financial Statements. Within four months after the end of each fiscal year of the Condominium Association, the Condominium Board, as a General Common Expense assessed to all Unit Owners pro rata to their respective Common Interests, shall give to each Unit Owner and, if so requested by an Owner or the holder of a Controlling Interest in an Owner, to a Registered Lender of such Owner's Unit or said Controlling Interest holder (as applicable), an annual report of assets and liabilities and the operation of the Condominium Association, including the Common Elements, the Association's Assets and the Property generally, and the sidewalks, including the receipts and expenditures of the Condominium Board with appropriate line items and notes detailing Common Expenses for such fiscal year. Each such annual report shall be prepared and certified by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied or (at the Board's exclusive option) AICPA standards consistently applied. The provisions of this Section 3.16.9 may be waived while all the Units are commonly controlled by a manager, member or principal of an Owner or with the consent of eighty percent (80%) of the Owners (including both Retail Owners) in number and Common Interest.

Section 3.16.10 Tenants Entitled To Receive Building Services. The Condominium Board shall provide to each tenant of all or a portion of a Unit, without discrimination, all of the same Building Services and amenities as are required to be provided to the Owner of such Unit pursuant to the Declaration, these By-Laws or applicable Laws without levying against said tenant or the Owner of such Unit, a separate fee, charge, imposition or expense for such Building Services and amenities.

Section 3.16.11 Real Property Law Section 339-kk. Pursuant to RPL §339-kk, a Residential Owner who does not occupy its Residential Unit ("**Non-Occupying Owner**") and the Condominium Board shall comply with the following:

(a) if a Non-Occupying Owner rents its Residential Unit to a tenant and then fails to make payments due for Common Charges, Special Assessments or other Additional Common Charges (including late fees) for such Residential Unit within sixty (60) days of the expiration of any grace period after they are due, upon notice thereof to such tenant, all rental payments from the tenant shall immediately and directly be payable to the Condominium Board on behalf of the Condominium Association at the address listed in the notice;

(b) where a majority of the Condominium Board 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 Board on behalf of the Condominium Association;

(c) at such time as payments for Common Charges, Special Assessments and other Additional Common Charges (including late fees) from the Non-Occupying Owner are once again current, notice of such fact shall be given within three business days thereafter to said rental tenant and Non-Occupying Owner, and thereafter, all rental payments shall be made payable to the Non-Occupying Owner or such Owner's designated agent;

(d) a Non-Occupying Owner who disputes the Condominium Board's claim to rental payments pursuant to said RPL §339-kk shall be 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 of the date that the Board receives notice that such Owner seeks to dispute such claim;

(e) nothing in said RPL §339-kk shall limit any rights of Residential Unit Owners or of the Condominium Board existing under any other Laws or agreement; and

(f) payment by a rental tenant to the Board made in connection with said RPL §339-kk 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 nonpayment proceeding commenced by such Non-Occupying Owner against such tenant for such rent.

The Non-Occupying Owner shall continue to have the obligations to the tenant under the lease and applicable Laws.

Section 3.16.12 Cooperation and Assurances. The provisions of Article 16 of the Declaration regarding the covenant to cooperate and give assurances shall apply to these By-Laws are hereby incorporated herein with the same force and effect as if set forth at length.

ARTICLE 4
AMENDMENTS TO DECLARATION AND BY-LAWS

Section 4.1 Application to Declaration and By-Laws. This Article 4 shall apply to, and shall govern and control, the requirements to execute, acknowledge and record amendments to the Declaration and these By-Laws.

Section 4.2 General Requirement. To be valid, an amendment to the:

(a) Declaration shall be duly executed, acknowledged and recorded in the Kings County City Register's Office in accordance with the legal requirements to record a deed; and

(b) the By-Laws shall be set forth in an amendment to the Declaration in accordance with the preceding clause (a).

Section 4.3 Required Votes or Consents of Owners.

Section 4.3.1 Amendments Generally. Subject to Section 4.3.3, the vote or consent, or the deemed vote or consent (as provided in Section 4.3.2), of not less than sixty-six and two-thirds percent (66-2/3rds%) of all Unit Owners (including both Retail Unit Owners), in number and Common Interest, shall be required to amend the Declaration or these By-Laws.

Section 4.3.2 Certain Amendments. Sponsor, as the initial Owner of all Units, and each succeeding Owner of a Unit, by accepting or recording a deed to such Unit or otherwise succeeding to title to said Unit (whether by gift, descent, inheritance, distribution, transfer, merger, consolidation, liquidation, dissolution, bankruptcy, insolvency, reorganization or otherwise), shall conclusively be deemed to unanimously consent automatically, unconditionally and irrevocably to the following amendments to the Declaration and/or these By-Laws by the parties indicated:

(a) the Condominium Board or Sponsor with respect to an amendment:

(a-1) to reflect changes required by an Institutional Lender holding, or having issued a written commitment for, a Unit mortgage; or a Governmental Authority having competent jurisdiction over the Property or the Condominium Association; or a title insurer of a Unit; or

(a-2) to comply with the Condominium Act or other applicable statute or ordinance; or

(a-3) to correct any conflict, inconsistency or ambiguity between, or scrivener's errors in, the Declaration, these By-Laws and/or the Floor Plans; or

(a-4) to reform the Condominium Documents as provided in Section 21.2 of the Declaration;

(b) each Owner with respect to an amendment to implement a Unit Change to its Unit as set forth in Section 3.7.1 on the terms contained in Section 3.7.2; or

(c) Sponsor or other the Excess Development Rights Owner (if any) with respect to an amendment to utilize, sell or transfer all or a portion the Excess Development Rights.

Section 4.3.3 Required Consents. An amendment to the Declaration or these By-Laws that purports to:

(a) change the Common Interest (except in connection with a Taking as provided in Section 3.11.6), size or configuration, or the permitted use or occupancy, of a Unit, shall not be valid or enforceable against the Owner of such Unit without its consent, duly executed, acknowledged and recorded with such amendment;

(b) eliminate, delete, modify, dilute, impair, infringe, prejudice, restrict, limit, condition, qualify or otherwise change or impact the rights, powers, easements, exemptions, indemnities, remedies, protections, privileges or other benefits of Sponsor, an Unsold Unit Owner or a Retail Owner under the Declaration or these By-Laws, shall not be valid or enforceable against such party without its consent, duly executed, acknowledged and recorded with such amendment;

(c) adversely affect the priority, validity or enforceability of the lien of an existing Registered Mortgage or a Registered Mezzanine Loan, or the rights and benefits of a Registered Lender under Section 3.15.3, shall not be valid or enforceable against the impacted Registered Lender without its consent, duly executed, acknowledged and recorded with such amendment;

(d) interfere with a potential or proposed sale, lease, mortgage or other disposition of an Unsold Unit or Retail Unit, shall not be valid or enforceable against such Owner of such Unit without its consent, duly executed, acknowledged and recorded with such amendment;

(e) to impose any new, different or discriminatory charge, fee or other imposition or obligation on Sponsor, an Unsold Unit Owner or a Retail Unit, or a Unit User of an Unsold Unit or a Retail Unit, shall not be valid or enforceable against Sponsor or the Owner or Unit User of such Unsold Unit or Retail Unit (as applicable) without the consent of such party, duly executed, acknowledged and recorded with such amendment;

(f) limit, restrict, abridge, infringe, prejudice, impose conditions or new requirements or otherwise amend the permitted use or occupancy of an Unsold Unit or a Retail Unit, or the share of the Common Expenses fairly attributable to an Unsold Unit or a Retail Unit, shall not be valid or enforceable against the Owner of such Unit without its consent, duly executed, acknowledged and recorded with such amendment;

(g) adversely affect the value, marketing or other disposition of an Unsold Unit or a Retail Unit shall not be valid or enforceable against the Owner of such Unit without its consent, duly executed, acknowledged and recorded with such amendment;

(h) otherwise adversely affect an Unsold Unit or a Retail Unit, shall not be valid or enforceable against the Owner of such Unit without its consent, duly executed, acknowledged and recorded with such amendment;

(i) otherwise adversely affect Sponsor, an Unsold Unit Owner or a Retail Owner, shall not be valid or enforceable against such party without its consent, duly executed, acknowledged and recorded with such amendment; or

(j) to eliminate, delete, modify, impair, infringe, prejudice, restrict, limit, condition, qualify, dilute or otherwise change or impact the Excess Development Rights or the benefits derived therefrom, shall not be valid or enforceable against Sponsor or other Development Rights Owner without its consent, duly executed, acknowledged and recorded with such amendment.

Section 4.4 Execution and Recording Requirements. A permitted amendment to the Declaration or these By-Laws pursuant to:

(a) Section 4.3.1, must be executed and acknowledged in recordable form by the President or the Vice-President, and by either the Secretary or an Assistant Secretary, and recorded together with the duly executed and acknowledged consents of not less than eighty percent (80%) in number and Common Interest of all Owners (including both Retail Owners) or (in lieu thereof) a duly executed, acknowledged and recorded certification of the Secretary or an Assistant Secretary certifying that not less than eighty percent (80%) in number and Common Interest of all Owners (including both Retail Owners) voted for, or consented to the amendment; or

(b) Section 4.3.2(a), must be duly executed and acknowledged in recordable form by the following:

(b-1) in the case of the Board, the President or the Vice-President, and by either the Secretary or an Assistant Secretary; or

(b-2) in the case of Sponsor, its elected Officer or Manager;

(c) Section 4.3.2(b), must be duly executed and acknowledged and recorded in accordance with Section 4.4(a) together with the duly executed and acknowledged consent of the applicable Owner of the Unit involved in the Unit Change;

(d) Section 4.3.2(c), must be duly executed, acknowledged and recorded by an authorized member, manager, officer, representative or signer of Sponsor or the Excess Development Rights Owner (as applicable).

An amendment to the Declaration or these By-Laws that requires the consent of the party indicated in each of Sections 4.3.3(a) through 4.3.3(j), must be duly executed and acknowledged in recordable form by such party or the amendment must be accompanied by such party's consent, duly executed and acknowledged in recordable form.

Section 4.5 Preparation and Expenses. An amendment to the Declaration or these By-Laws pursuant to:

(a) Section 4.3.1 shall be prepared and recorded by the Condominium Board as a General Common Expense assessed to all Owners pro rata to their respective Common Interests or as a Residential Common Expense assessed to all Residential, Parking and Storage Owners pro rata to their respective Common Interests (as applicable); or

(b) Section 4.3.2(a) through Section 45.3.2(c) shall be prepared and recorded by, and at the sole cost and expense of, the party implementing such amendment.

Section 4.6 **Floor Plans**. The Owner implementing a Unit Change to its Unit pursuant to Section 4.3.2(b) shall also have the right, without obtaining the consent or approval of the Board or other Owners, to cause an amendment to the Floor Plan of its Unit to be prepared by an architect or engineer chosen by such Owner, processed with and certified by the applicable Governmental Authorities (including the Tax Map Specialist of the New York City Land Records Division or a successor with similar function) and filed in the City Register's Office.

Section 4.7 **Filing with Condominium Association**. The party recording an amendment to the Declaration, these By-Laws and (if applicable) the Floor Plans shall promptly thereafter file a conformed copy thereof with the Secretary or an Assistant Secretary of the Condominium Association or the Condominium's managing agent or property manager (if and as applicable).

Section 4.8 **Filing with Secretary of State**. With reasonable promptness following the recording of an amendment to the Declaration or these By-Laws, the party recording such amendment, at its expense, shall file a copy of the recorded amendment with the Department of State of the State of New York, if and as required by the Condominium Act (including Section 339-s thereof) and the rules, regulations or requirements of the said Department of State. If the Condominium Board is recording the amendment, then the expense to file the amendment the Department of State shall be included in the General Common Expenses and charged to each Unit Owner pro rata to its Common Interest.

ARTICLE 5
REMEDIES

Section 5.1 **Board's Remedies**.

Section 5.1.1 Nonpayment of Common Charges. In the event the Common Charges or Additional Common Charges assessed to an Owner is not paid within ten (10) days from date payment is due, the Board shall have the remedies set forth in Sections 3.3.1 through 3.3.6 against the delinquent Owner, in addition to all other remedies available at law and in equity in the appropriate courts located in County, City and State of New York.

Section 5.1.2 Non-Monetary Violations. Absent an emergency, if an Owner or anyone for whom an Owner is responsible or accountable shall violate a provision of the Declaration, these By-Laws or the Rules and Regulations and such Owner does not cure the violation within ten (10) days after being given notice thereof by or on behalf of the Condominium Board, or with respect to any violation not reasonably susceptible to cure within such ten (10)-day period, fails to diligently commence such cure within said ten (10)-day period and thereafter, in the business judgment of the Board, fails to prosecute such cure with prompt due diligence and continuity to completion, the Condominium Board shall have the following rights and remedies against the offending Owner, in addition to all other legal and equitable rights and remedies:

(a) to enjoin, abate or otherwise remedy the continuance or repetition of any such violation, and to compel specific performance, by appropriate court action or proceeding;

(b) to levy fines and assess the expenses, including Legal Expenses, paid or incurred in connection with such violation; and

(c) to enter such Owner's Unit and, at expense and for the account of such offending Owner, to summarily abate, remove a condition causing, or otherwise cure or remediate such violation without Condominium Board or Unit Owners, or their respective Related Parties, or Construction Parties being deemed guilty or liable for trespass or otherwise by reason thereof; provided, however, the offending Owner shall be given not less than five business days' notice of the Board's intention to enter the Unit and remedy the violation for the account and at the expense of the Owner.

In the case of an emergency, the Condominium Board may take such action in clause (c) above immediately, without prior notice or allowing the offending Owner any period of time within which to cure or to commence to cure such violation, and without the Condominium Board or Unit Owners, or their respective Related Parties, or Construction Parties being deemed guilty or liable for trespass or otherwise by reason thereof.

If the Board elects to remediate the violation in accordance with the foregoing, the Board shall make all reasonable efforts to protect the safety of the Owner and any Unit Users of the Unit, and to protect from damage any property located in the portion of the Unit where the work is being performed.

The offending Owner shall reimburse the Condominium Board, pursuant to the Payment and Collection Terms, for any losses or damages sustained by reason of such violation together with the reasonable costs and expenses, including Legal Expenses, paid or incurred to implement its rights and remedies pursuant to this Section 5.1.2. All amounts billed by the Condominium Board pursuant to the foregoing shall be regarded as Additional Common Charges assessed to, and payable by, such offending Unit Owner.

Section 5.2 Owner's Remedies. If the use and enjoyment of a Unit, or the business being conducted therein, is significantly and demonstrably impaired, infringed or interrupted due to a violation of the Declaration, these By-Laws or the Rules and Regulations by the Condominium Board or another Owner, or for whom the Board or another Owner is responsible and accountable pursuant to the Declaration or these By-Laws, then in addition to all other legal and equitable rights and remedies, the aggrieved Owner shall have the right to enjoin or abate the continuance or repetition of any such violation, and to compel specific performance by appropriate court action or proceeding. The offending Board or Owner (as applicable) shall reimburse the aggrieved Owner, pursuant to the Payment and Collection Terms, for the losses or damages sustained by reason of such violation together with the reasonable costs and expenses, including Legal Expenses, paid or incurred to implement its rights and remedies under this Section 5.2.

Section 5.3 Remedies Cumulative. The remedies specifically granted to an aggrieved party in this Article 5 or elsewhere in the Declaration or these By-Laws shall be cumulative, shall be in addition to all other remedies available at law or in equity, and may be exercised at one time or at different times, concurrently or in any order, in the sole discretion of such aggrieved party. Further, the exercise of any remedy shall not operate as a waiver, or preclude the exercise, of any other remedy.

Section 5.4 **Disputes**. The exercise and enforcement of the provisions of this Article 5 and all disputes and controversies underlying a violation which give rise to the exercise and enforcement hereof, shall be shall be resolved by court action or proceeding, unless the aggrieved party (in its sole discretion) consents to, or initiates, arbitration pursuant to Article 6 below.

ARTICLE 6
ARBITRATION

Section 6.1 **Requirement to Arbitrate**. This Article 6 shall constitute an irrevocable written agreement by and among the Condominium Board and all Owners to resolve their disputes under the Declaration, these By-Laws and the Rules and Regulations to expedited arbitration (referred to herein as "**Baseball Arbitration**"), and not court action or proceedings, conducted in the County, City and State of New York in accordance with the terms of this Article 6, unless: arbitration is expressly prohibited; or the dispute involves a third party; or the disputes are between Owners only; or all parties to the dispute unanimously agree to vary any of the terms of this Article 6 or unanimously agree to resolve their dispute in any other manner (including the manner set forth in Section 3031 of the New York Civil Practice Law and Rules and known as "New York Simplified Procedure for Court Determination of Disputes" or an equivalent statute).

To the extent not inconsistent with this Article 6, arbitration shall be conducted by JAMS or its successor, in the City and State of New York, in accordance with the then applicable Expedited Procedures for Comprehensive Arbitration Rules and Procedures; provided, however, the terms of this Article 6 shall govern and control any conflict, inconsistency or ambiguity with the terms thereof. If JAMS or its successor is not then in existence, the arbitration shall be conducted in accordance with these terms by another organization at the time most commonly utilized in the New York City metropolitan area for the arbitration of commercial disputes (JAMS or its successor or said other organization is hereafter, the "**Appointing Authority**").

Section 6.2 **Notice of Arbitration**. The party seeking to submit the dispute to arbitration shall give notice to the other disputant(s) setting forth with meticulousness the dispute sought to be arbitrated and shall, in addition, comply with any applicable requirements of said commercial arbitration rules of the Appointing Authority that supplement, without conflicting with, the foregoing notice requirement.

Section 6.3 **Selection of Arbitrator**. All disputes submitted to Baseball Arbitration shall be resolved by one independent, disinterested arbitrator, having no direct or indirect family, employment, economic or business relationship with any of the disputants or their respective Related Parties. Any disputant may apply to the Appointing Authority to provide a list of potential arbitrators to be chosen by the disputants. The protocol of the Appointing Authority for the disputants to choose the arbitrator shall be followed. The disputants shall have seven business days from being given a list of potential arbitrators to choose an arbitrator, failing which either disputant may apply to the Appointing Authority to have it select the arbitrator. Preferably, the arbitrator shall be an attorney, former judge, owner, developer, operator or

manager having not less than ten (10) years' recent experience in commercial real property in New York City relevant to the mater in dispute.

If the arbitrator selected pursuant to the foregoing shall fail, refuse or be unable to act, his or her successor shall be appointed in accordance with the foregoing procedure. None of the parties to the arbitration shall raise any challenge or objection as to the full power and jurisdiction of the Appointing Authority to entertain such application and to appoint an arbitrator in accordance with the provisions of this Article 6.

Section 6.4 Baseball Arbitration.

Section 6.4.1 Monetary Dispute. The following provisions shall apply to Baseball Arbitration to resolve a monetary dispute:

(a) within ten (10) business days after the appointment of the arbitrator, each disputant shall submit to the arbitrator and the other disputant(s) its final and best monetary offer ("**Best Offer**") together with such affidavits, appraisals, reports, briefs, memorandum of law, case citations, exhibits and other documentation relating thereto (together, "**Supporting Documents**") as such disputant deems appropriate;

(b) if a disputant fails to send its Best Offer to the arbitrator and the other disputant(s) within said ten (10)-business day period and does not cure such failure within a deadline of five business days after being given notice of such failure by the arbitrator or another disputant (as applicable), such disputant shall conclusively be deemed to have irrevocably waived its right to send a Best Offer and the arbitrator shall accept, decide and award based strictly on the Best Offer timely delivered by the other disputant(s);

(c) no disputant may increase, decrease or otherwise change its Best Offer or Supporting Documents after receiving the Best Offer and Supporting Document submitted by another disputant, nor submit any rebuttal to the Supporting Documents submitted by another disputant or seek discovery with respect to the Best Offer or Supporting Documents submitted by another disputant, which shall conclusively be deemed waived; and

(d) the arbitrator shall not hold any hearings.

Section 6.4.2 Non-Monetary Dispute. The following provisions shall apply to Baseball Arbitration to resolve a non-monetary dispute:

(a) within ten (10) business days after the appointment of the arbitrator, each disputant shall submit to the arbitrator and the other disputant(s), its written position on the dispute at issue ("**Position Memorandum**"), together with such Supporting Documents as such disputant deems appropriate;

(b) within ten (10) business days after a disputant receives a Position Memorandum from another disputant, such recipient disputant shall have a one-time right to send to the arbitrator and to the other disputant(s) a memorandum rebutting such Position Memorandum ("**Rebuttal Memorandum**"), together with such Supporting Documents as the rebutting disputant deems appropriate;

(c) if a disputant fails to send its Position Memorandum or Rebuttal Memorandum to the arbitrator and the other disputant(s) within either of said ten (10)-business day periods and does not cure

such failure within a deadline of five business days after being given notice of such failure by the arbitrator or another disputant (as applicable), then:

(c-1) such disputant shall conclusively be deemed to have irrevocably waived its right to send a Position Memorandum or Rebuttal Memorandum (as applicable);

(c-2) in the case of a failure to send a Position Memorandum, the arbitrator shall accept, decide and award based strictly on the one Position Memorandum timely delivered by another disputant; or

(c-3) in the case of a failure to send a Rebuttal Memorandum, the arbitrator shall decide and award as provided in Section 6. 4.3 below;

(d) no disputant may add to, delete from or otherwise change its Position Memorandum, any Rebuttal Memorandum or any Supporting Documents after receiving the Position Memorandum, any Rebuttal Memorandum and any Supporting Documents submitted by another disputant, nor seek discovery with respect to the Position Memorandum, any Rebuttal Memorandum or any Supporting Documents submitted by another disputant, which shall conclusively be deemed waived; and

(e) the arbitrator shall not hold any hearings.

Section 6.4.3 Decision. The arbitrator shall decide the dispute and award the applicable disputant based strictly on only (in the case of a monetary dispute) the one Best Offer and Supporting Documents or (in the case of a non-monetary dispute) the one Position Memorandum, Rebuttal Memorandum and Supporting Documents (as applicable) that the arbitrator believes is the most:

(a) consistent with the Laws of the State of New York, without regard to principles of conflict of Laws, and the provisions of the Declaration, these By-Laws and the Rules and Regulations, it being intended and agreed that the arbitrator shall not have the power to vary or modify any of the provisions of the Declaration, these By-Laws or the Rules and Regulations; and

(b) accurate or correct:

(b-1) Best Offer and Supporting Documents; or

(b-2) Position Memorandum, Rebuttal Memorandum and Supporting Documents, as applicable, on the dispute in question, it being intended and agreed that the arbitrator shall not have the power to increase, decrease or otherwise modify such Best Offer or add to, subtract from or otherwise modify a Position Memorandum or Rebuttal Memorandum (as applicable).

If the Board is a disputant and the dispute involves a matter expressly stated in the Declaration or these By-Laws to be determined in accordance with the Board's business judgment or words of similar import, then the so-called "business judgment rule" articulated in *Levandusky v. One Fifth Ave Corp*. (75 NY2d 530 [1990]) shall apply. In all other cases, the "business judgment rule" shall not apply and the dispute shall be determined solely in accordance with this Section 6.4.3, without any deference, weight or favorable assumption being given to the Board.

Within ten (10) business days after receiving the last or (if applicable) the only Best Offer and any Supporting Documents or last or (if applicable) the only Position Memorandum, Rebuttal Memorandum and Supporting Documents (as applicable), the arbitrator shall deliver to all disputants, in writing, the decision and award, including the rationale to select one disputant's Best Offer and any Supporting Documents or last or (if applicable) the only Position Memorandum, Rebuttal Memorandum and Supporting Documents (as applicable) over that of the other disputant(s), and whether any damages or expenses (including Legal Expenses and Per Diem Interest) are to be awarded in connection therewith.

The decision of the arbitrator shall be final, binding and conclusive upon the disputants and shall constitute an "award" by the arbitrator within the meaning of the rules of the Appointing Authority. Judgment may be entered thereon in any court of competent jurisdiction.

The decision and award shall be effective and implemented immediately after being received, without delay or postponement pending confirmation of the arbitrator's decision or award or entry of judgment upon the decision or award, notwithstanding any challenge or contest by a disputant with respect to the decision or award, and notwithstanding any application or other request by a disputant that the arbitrator or any court or other body stay, set aside, nullify or otherwise change the decision or award.

The disputants shall make no request or other application to the arbitrator or any court or other body for any injunction, stay or other relief that would be contrary to the foregoing, and agree that the court and any other body shall have no jurisdiction or other authority to consider any request or other application for, or to grant, any injunction, stay or other relief that would violate any of the foregoing provisions.

If any decision of the arbitrator shall be set aside, nullified, modified or otherwise changed after the disputants receive a copy of the original decision or award, the disputants shall thereupon comply with the action setting aside, nullifying, modifying or otherwise changing the original decision or award, with such changes and adjustments by the disputants in actions taken pursuant to the original decision as may be necessary for such purpose.

Section 6.4.4 Immunity. The arbitrator shall be immune from liability to all disputants by reason of the arbitrator's participation and in any decision or award made hereunder. The disputants, jointly and severally, shall indemnify the arbitrator from and against any and all claims, litigations, liabilities, losses and damages (including Legal Expenses) asserted against the arbitrator by reason of such arbitrator's participation in arbitration or the decision or award rendered.

Section 6.4.5 Expenses of Arbitration. The losing disputant(s) in any arbitration shall pay all expenses of such arbitration, together with the Legal Expenses of the winning disputant, pursuant to the Payment and Collection Terms, if awarded by the arbitrator.

Section 6.4.6 Condominium Board. If the Condominium Board is involved in the arbitration, then:

(d) the amounts owed to the Board shall constitute Additional Common Charges; or

(e) the amounts to be paid by the Condominium Board shall constitute a General Common Expense and charged to all Unit Owners pro rata to their respective Common Interests or a Residential

Common Expense and charged to all Residential, Parking and Storage Unit Owners pro rata to their respective Common Interests, as applicable.

ARTICLE 7
NOTICES

Section 7.1 **Notices**. All notices (i.e., demands, directions, notifications, requests, petitions, approvals, consents or other communications) required or desired to be given hereunder, the Declaration or the Rules and Regulations, unless otherwise expressly provided, shall be sent to the following address of each party:

If to the Condominium Board:	If to Sponsor:	If to any other Owner:
Board of Managers The Calyer Greenpoint 171 Calyer Street. Brooklyn, New York 11222 Attention: [Insert Name], President with a copy sent simultaneously and in like manner to the then managing agent or property manager of the Property or (if none) to the person sending statements or invoices for Common Charges	171 Calyer Street Project LLC 463 Seventh Avenue, 4th Floor New York, New York 10018 Attention: Mark Adjmi	Addressed to the Owner at the address specified by the Owner in a notice to the Board or (if none) the address of the Building.

Each party may from time to time, by notice to another party, designate a different address to which future notices are to be sent and add an addressee to whom copies of notices are to be sent simultaneously and in like manner when giving a notice to such party.

Each notice shall conclusively be deemed given, received and effective:

(a) when sent by electronic mail (with electronic confirmation of transmission) or text message to a mobile phone followed by sending the original notice the same day by any other method permitted herein, except if not so emailed on a business day and received during business hours, the first business day thereafter; or

(b) the first business day after being sent by Federal Express or other nationally recognized overnight courier service for next day delivery; or

(c) the fifth (5th) business day after being mailed by registered or certified mail (with or without return receipt requested), in a properly addressed postage prepaid wrapper in any post office or branch post office regularly maintained by the United States Postal Service; except a notice mailed from outside the United States or a notice of a change of address or an additional addressee shall not be considered effective until actually received.

The refusal or failure to accept a notice shall be deemed receipt of the notice and shall not affect the effectiveness, validity or enforceability of the notice, nor excuse or justify delaying the performance of an

act or obligation. A written waiver of notice, signed by the party entitled to such notice, whether before or after the time a notice is to be sent, shall be deemed the equivalent of having timely received such notice.

Any notice given by a party's attorney (including a partner, associate or counsel authorized by a party's attorney) shall be deemed given by such party. The attorney shall identify in the notice the party on whose behalf the attorney is acting.

ARTICLE 8
GENERAL

Section 8.1 **Certain References**. All references in these By-Laws to:

(a) the words "Article", "Section", "provision", "paragraph", "clause" or similar words refer to an Article, Section, provision, paragraph and clause of these By-Laws, unless otherwise expressly stated;

(b) the words "hereof", "herein", "above", "below" and similar terms mean these By-Laws;

(c) a Section, provision, paragraph or clause of these By-Laws shall include the text of such Section, provision, paragraph or clause with the same force and effect as though set forth at length herein; and

(d) an exhibit, schedule, document, instrument or agreement shall include all provisions thereof and all attachments thereto.

Section 8.2 **Grammar**. Any number (plural or singular), or gender (masculine, feminine or neuter) or tense (past, present or future) used herein shall be deemed to include any other number, any other gender and any other tense, as the context may require or to correct a grammatical error.

Section 8.3 **Table of Contents and Headings**. The Table of Contents, and the Article and Section headings, of these By-Laws are for convenience and reference only and do not, and shall not be construed to, affect the scope, meaning or interpretation of any provision of these By-Laws.

END OF BY-LAWS

EXHIBIT D TO DECLARATION OF CONDOMINIUM

RULES AND REGULATIONS OF THE CALYER GREENPOINT

The Rules and Regulations are intended to complement and supplement the Declaration and the By-Laws, as well as the Condominium Act and all other applicable Laws. The provisions of the Declaration, the By-Laws, the Condominium Act or other applicable Laws shall govern and control any conflicting, inconsistent or ambiguous provisions of these Rules and Regulations. All references to a Sold Unit or a Sold Residential Unit shall be applicable to only all Sold Units and all Sold Residential Units, but not to Unsold Units, Unsold Residential Units or Retail Units, which are expressly excluded. The capitalized terms used but not defined herein shall have the meanings given to them in the Declaration.

1. No Owner shall allow or suffer anything whatever to fall from the windows of its Unit or sweep or throw from the Unit or roof any dirt or other substance on or into any of the Common Elements (except for the use of waste lines in the manner for which intended and not prohibited under the Declaration or the By-Laws) or on to any yard, court, alley or sidewalk adjacent to the Building or the Property.

2. No Owner shall place a load upon any floor of its Unit that exceeds the floor load per square foot area that it was designed to carry and that is allowed by applicable Laws. All equipment (including appliances, cooling/heating equipment, and objects that generate noise or vibration) shall be placed and maintained by each Owner, at its sole cost and expense, in settings sufficient to absorb and prevent unreasonable noise or vibration.

3. Water closets, sinks and other plumbing apparatus in the Building: shall not be used for any purpose other than those for which they were designed or constructed; no sweepings, rubbish, rags or any other article shall be thrown into the same; and any damage resulting from misuse, neglect, negligence or abuse thereof shall be promptly repaired and paid for by the Owner of such Unit.

4. No Owner shall damage, impair, destroy or otherwise adversely and materially affect the General or Residential Common Elements.

5. The Owner shall submit for inspection by the Condominium Board any governmental permits or licenses required for the lawful conduct of any permitted business being conducted in such Owner's Unit.

6. No employee or agent of the Condominium Board shall be sent out of the Building by any Owner at any time for any purpose.

7. Complaints by an Owner regarding services or operation of the Building shall be made in writing to the Condominium Board or its managing agent or property manager (if and as applicable).

8. The fiscal year of the Condominium Association shall be a calendar year beginning on the first day of January or such other fiscal year as the Condominium Board may establish from time to time.

9. No vehicle belonging to an Owner or to an agent, employee or Construction Party of such Owner or a tenant of such Owner's Unit, shall be parked in such manner as to impede or prevent ready access to or from any entrance or exit to or from another Unit or the Building.

10. Each Owner shall comply with, and shall cause a Unit User of Owner's Unit to comply, with all environmental Laws requiring refuse to be separated into "recyclable" and "non-recyclable" materials. The Condominium Board may designate from time to time types of materials which must be separated by Residential Owners or their tenants for recycling, the types of containers or bags to be used for disposal of designated recyclable or non-recyclable materials and the locations where recyclable or non-recyclable materials shall be deposited. Each Residential Owner shall comply with, and shall cause a tenant of such Owner's Residential Unit to comply with all other rules and regulations that the Condominium Board may establish from time to time for disposal and recycling of refuse. Any costs and expenses incurred by the Condominium Board as a result of a violation of this rule by, or the enforcement of this rule against, a Sold Unit Owner or such Owner's tenant (including, Legal Expenses to pursue, enforce, uphold, protect and defend the Board's rights hereunder and to collect the amounts owed, and any fines and penalties imposed on the Condominium Board by any Governmental Authority having jurisdiction) shall be payable by said Sold Unit Owner as Additional Common Charges in accordance with the Payment and Collection Terms or (at the exclusive option of the Board) with the next monthly payment of Common Charges due and payable. Sponsor or other Unsold Unit Owner shall not be obligated to reimburse the Condominium Board for any costs and expenses incurred by the Board as a result of a violation of this rule by a tenant of an Unsold Unit or the enforcement of this rule against Sponsor or other Unsold Unit Owner or a tenant of an Unsold Units by reason of said violation.

11. Cartage of garbage, refuse and trash from: (a) the Residential Units shall be arranged by the Condominium Board, as a Residential Common Expense to be picked up by the New York City Department of Sanitation; or (b) a Retail Unit shall be arranged separately by, and at the sole cost and expense of, each Owner thereof with a private hauler. The Board and a Retail Owner shall store containers or plastic bags designed to hold garbage, refuse or trash generated by Residential Units or said Owner's Retail Unit on only the sidewalk at a location, and only on the same day or the immediately preceding evening of the day it is to be picked up, as shall be determined by the Condominium Board, in its sole business judgment, but subject to compliance with Laws. In no event shall garbage, refuse or trash, or any container or plastic bag or other material holding same, be placed or stored at or in front of the entrance or storefronts of a Retail Unit without obtaining consent of the Owner of such Unit, or stored at or in front of a loading dock without obtaining the consent of the Condominium Board.

12. An Owner may apply to the Condominium Board for a temporary waiver of one or more of these Rules and Regulations. Such temporary waiver may be granted by the Board in its sole discretion, for good cause shown; provided, however, the waiver shall not adversely affect the use and enjoyment of another Unit by its Owner or its tenants, unless the consent of such affected Owner is obtained. At the discretion of the Board, the waiver may be made conditional and may also be amended at any time.

13. The sidewalk adjacent to the Property, the public or common areas of the General and Residential Common Elements, and a Unit's street entrance (if and as applicable) shall not be obstructed or encumbered by refuse or otherwise used for any purpose other than in connection with temporary loading or unloading of cartons, furniture, equipment, materials, supplies and other items, or temporary collection and removal of refuse.

14. There shall be no barbecuing within the interior of a Residential Unit, unless allowed by Laws.

15. All copiers, and other office equipment, radio, television, appliances and other electrical, electronic, cellular or telecommunication equipment of any kind or nature installed or used in a Unit shall fully comply with all rules, regulations, requirements, or recommendations of the New York Board of Fire Underwriters and the Governmental Authorities having competent jurisdiction over the Building. The Owner alone shall be liable for any damage or injury caused thereby.

16. No article (including garbage cans, bottles or mats) shall be placed or stored by an Owner or tenant in the residential vestibule or lobby, or any of the public halls or corridors, or on any of the public stairs, or their landings, of the Building, nor shall any public stairs or landings be obstructed in any manner.

17. There shall be no playing or lounging in the Residential Common Elements, including the vestibule, lobby, elevator, egress stairs or other public areas, except in areas designed for such purpose, and then only in accordance and compliance with the requirements established by the Condominium Board.

18. No Owner or tenant shall be allowed to use any room or area of the General or Residential Common Elements for storage or staging of construction equipment, materials or supplies without obtaining the consent of the Condominium Board, in each instance. If use thereof is permitted: (a) the supervision, management and control of the moving in, storing or staging and removal thereof from such room or area in the General or Residential Common Elements is vested in the Condominium Board; (b) the use of such room or area in said General or Residential Common Elements shall be at the sole risk of the Owner or tenant (as applicable); and (c) the Condominium Board, its employees and agents (including the managing agent and property manager, if any), or other Owners, shall not be liable for any injury to person, loss by theft or otherwise, or damage to property, whether due to the negligence of the Condominium Board, its employees agents, the managing agent, or otherwise.

19. The Condominium Board may, from time to time, redesign, curtail or relocate portions of the General or Residential Common Elements, if any, devoted to storage, recreation or service purposes in the Building.

20. No Owner or tenant shall operate, permit or suffer to be operated, a sound system or other loudspeaker device in such Owner's Unit that is audible in another Unit or on a sidewalk.

21. No bird, reptile or other animal shall be permitted, raised, bred, kept, or harbored in a Sold Residential Unit, other than domestic dogs and domestic cats (not to exceed four (4) in the aggregate), unless, in each instance, the same shall have been expressly permitted in writing by the Condominium Board. Any such consent, if given, shall be revocable at any time by the Condominium Board, in its sole discretion. No Sold Residential Unit shall be used for the breeding of animals or pets for commercial purposes. No dangerous or poisonous reptiles, insects or other animals shall be kept in any Sold Residential Unit. No pigeons or other birds or animals shall be fed by Owners or tenants of Sold Residential Units from a Sold Residential Unit's windows or terrace (if any), or from public portions of the Building, or on any yards, courts, alleys, sidewalk or street adjacent to the Building. This paragraph is not applicable to Unsold Units.

22. Any permitted pet whose behavior is a nuisance to occupants of other Residential Units or is the cause of an unsanitary condition or an offensive odor affecting occupants of other Residential Units or the Common Elements shall be removed unless such behavior or condition is corrected within fifteen (15) days after written notice thereof is given and is not repeated more often than twice in any twelve (12)-month period. This paragraph is not applicable to Unsold Units.

23. No group tour or exhibition of any Sold Residential Unit or its contents shall be conducted, nor shall any auction sale be held in any Sold Residential Unit, without obtaining the consent of the Condominium Board in each instance. This paragraph is not applicable to Unsold Units.

24. No clients or other invitees of Sold Residential Units shall be permitted to wait in the Residential Common Elements, including the vestibule, lobby, public hallways or corridors. This paragraph is not applicable to Unsold Units.

25. Each Residential Owner shall give the Condominium Board or its managing agent (as directed by either) a key to the entrance door to its Residential Unit immediately after becoming the Owner thereof and immediately after any new lock that might be installed from time to time. The Board shall have the right to access the Owner's Residential Unit using such key if access to the Residential Unit is denied in violation of the Declaration or By-Laws, without the Board, its managing agent or Construction Parties, or other Owners, or the Related Parties of each of the foregoing, being guilty or liable for trespass or otherwise. If no key is provided in violation hereof and access to the Residential Unit is permitted pursuant to the Declaration or By-Laws, then (unless in the case of an emergency) upon giving such Owner at least five business days advance notice of its intention to forcibly enter the Owner's Residential Unit, the Board, its employees, agents

and Construction Parties may enter the Residential Unit by force, without incurring any liability for damages or being guilty for trespass or otherwise. In the case of an emergency, access by force may be immediate, without incurring any liability for damages or being guilty for trespass or otherwise. During entry to a Residential Unit, reasonable care shall be given to the personal property of the occupants.

26. If a Residential Owner or a tenant, or any agent or employee of such Owner or tenant, entrusts any key (other than a key to the entrance door of a Residential Unit) to an employee of the Condominium Association or to the Building's managing agent or property manager (if and as applicable), whether for such person's Unit, vehicle, trunk or other item of personal property, the acceptance of the key shall be at the sole risk of such party and neither the Condominium Board or another Owner, or their respective Related Parties, shall be liable for bodily injury or property damage of any nature whatsoever, directly or indirectly resulting therefrom or in connection therewith.

27. No Owner (other than Sponsor), tenant or occupant of a Unit shall at any time enter upon any roof or roof setback, other than terrace or community terrace designed and intended for occupancy by the foregoing.

28. Smoking, E-Smoking, Smoke and Vapors (defined below) are prohibited in every indoor and on every outdoor area of a Common Element (collectively, "**Smoking and E-Smoking Ban**"). Ashtrays are prohibited in and on all areas of the Common Elements.

"**E-Smoking**" means electronic cigarettes or e-smoking (i.e., a battery-operated device that heats a liquid, gel, herb or other substance and produces vapor for people to inhale).

"**Smoke**" means the byproduct of Smoking.

"**Smoking**" means exhaling, burning or carrying any lighted or heated cigar, cigarette, little cigar, pipe, water pipe or hookah, herbal cigarette, non-tobacco smoking product (e.g., marijuana or non-tobacco shisha), or any similar form of lighted object or device designed for people.

"**Vapors**" mean the byproduct of E-Smoking.

This Smoking and E-Smoking Ban in and on the areas of the Common Elements shall apply to all Owners, Unit Users, the Board's agents and employees, the contractors and subcontractors engaged by or on behalf of the Board, and their respective employees, and any other person at any time in or on the Common Elements. Each Unit Owner shall be responsible and accountable to ensure that such Owner's Unit Users are informed of this Smoking and E-Smoking Ban and shall not permit or suffer (whether knowingly or unknowingly), a violation of this Smoking and E-Smoking Ban by a Unit User of its Unit.

The Smoking E-Smoking Ban does not apply to Smoking, E-Smoking, Smoke and Vapors in or on a Unit; provided, however, any Smoke or Vapors that emanates beyond the Unit must be abated immediately by the Unit's Owner at its sole cost and expense. Such abatement may include the sealing of openings, the purchase and installation of "smoke-enders" to be installed in each

room of the Unit, and the purchase and installation of air purifiers. The effectiveness of such abatement must be satisfactory to the Condominium Board. The failure by an Owner to effectively abate any such Smoke or Vapors to permeate into the Common Elements or other Units following notice by the Condominium Board shall be a violation of this Smoking and E-Smoking Ban by such Unit Owner.

The Condominium Board shall not permit or suffer (whether knowingly or unknowingly), and shall be responsible and accountable for, a violation of this Smoking and E-Smoking Ban attributable to a Board's agents and employees, the contractors and subcontractors engaged by or on behalf of the Board, and their respective employees.

The Condominium Board shall post a copy of this Smoking and E-Smoking Ban in a prominent location in the Building or deliver this Smoking and E-Smoking Ban to all Unit Owners at least annually.

This Smoking and E-Smoking Ban shall be disclosed by an Owner to a tenant of Owner's Unit and shall be incorporated in each lease or agreement to sell the Owner's Unit.

A violation of this Smoking and E-Smoking Ban by an Owner or a Unit User of Owner's Unit shall entitle the Board, in addition to all rights and remedies available at law or in equity, to:

(a) all of the remedies set forth in Article 5 of the By-Laws;

(b) (in the case of a violation by a tenant of Owner's Unit or a Unit User of a tenant), implement all remedies available under the tenant's lease by reason of such violation in the name and on behalf and at the expense of the Owner of the Unit leased to such tenant, including to terminate the lease and evict the tenant by summary proceedings or otherwise; and

(c) levy upon the Owner, as Additional Common Charges:

(c-1) a fine equal to the maximum lawful daily rate, but not to exceed $75.00 a day for each day such violation occurs one or more times;

(c-2) a charge of $250 for each notice of said violation of this Smoking and E-Smoking Ban is given by counsel engaged by Board in order to reimburse the Board for the Legal Expenses incurred, which charge shall constitute liquidated or agreed upon damages incurred by the Board in connection with such notice; and

(c-3) an amount equal to all expenses (including Legal Expenses) paid or incurred by the Board to remedy such violation as evidenced by invoices, statements or other documentary proof thereof.

The Payment and Collection Terms shall apply to all amounts owed the Board hereunder.

A violation of this Smoking and E-Smoking Ban by the Condominium Board shall entitle an Owner to all of the remedies set forth in Article 5 of the By-Laws. All amounts payable by the

Board due to such violation occurring in a Common Element shall be assessed to those Owners entitled to use such Common Element.

Each Owner shall indemnify all other Owners and the Board, on the terms set forth in Article 19 of the Declaration, from and against any and all claims, litigations, liabilities, losses and damages attributable to a violation of this Smoking and E-Smoking Ban by such Owner or a Unit User of said Owner's Unit.

END OF RULES AND REGULATIONS

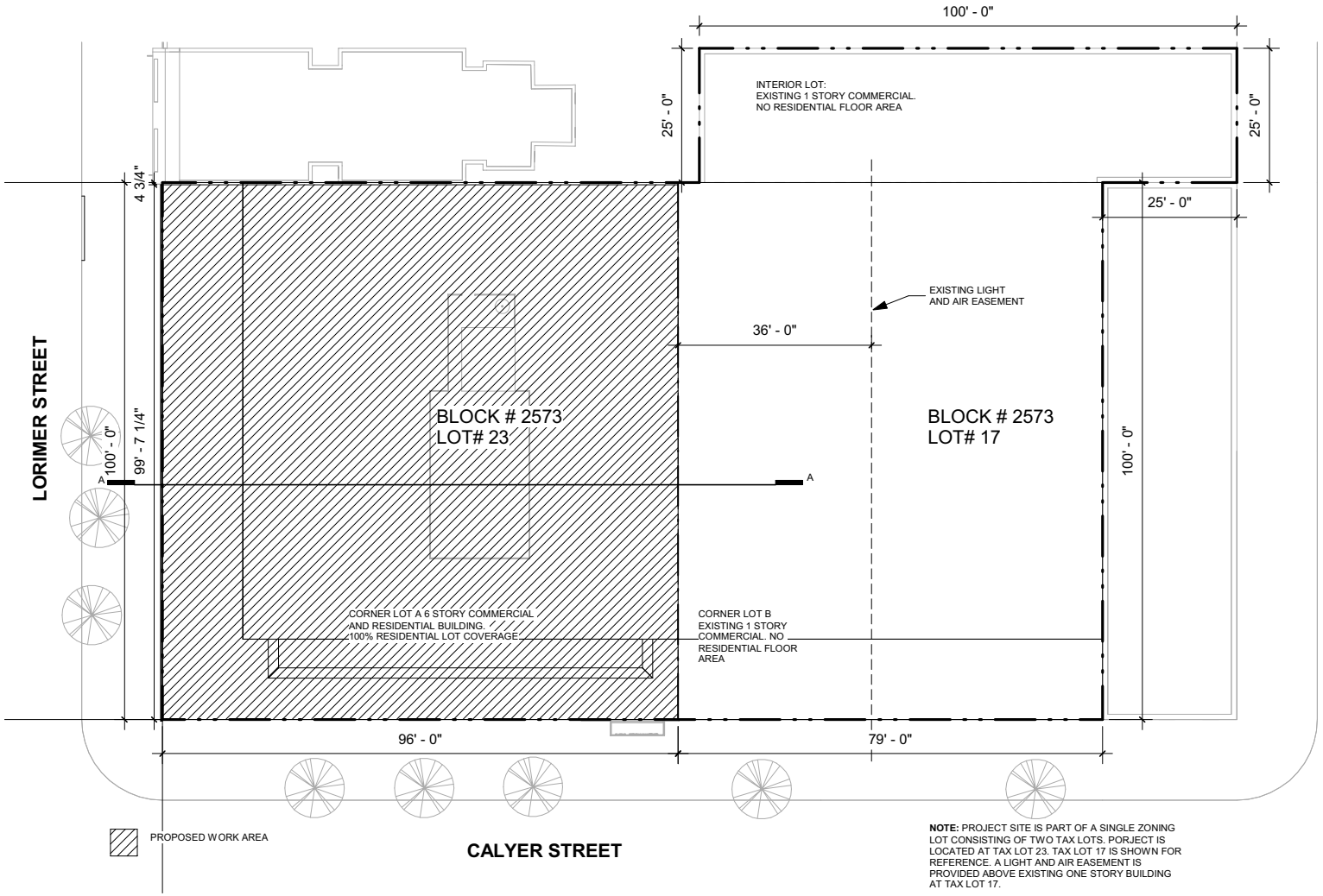
EXHIBIT E

TO

DECLARATION OF CONDOMINIUM
ESTABLISHING THE CALYER GREENPOINT

DIAGRAMS OF UNITS AND COMMON ELEMENT

(*ATTACHED*)



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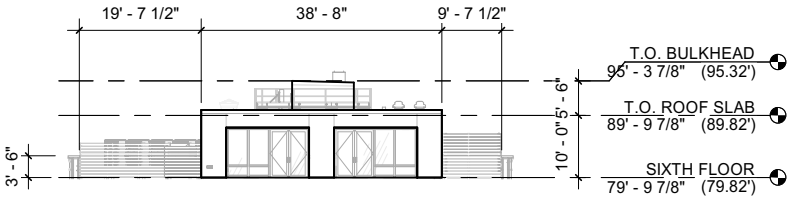
171 CALYER STREET
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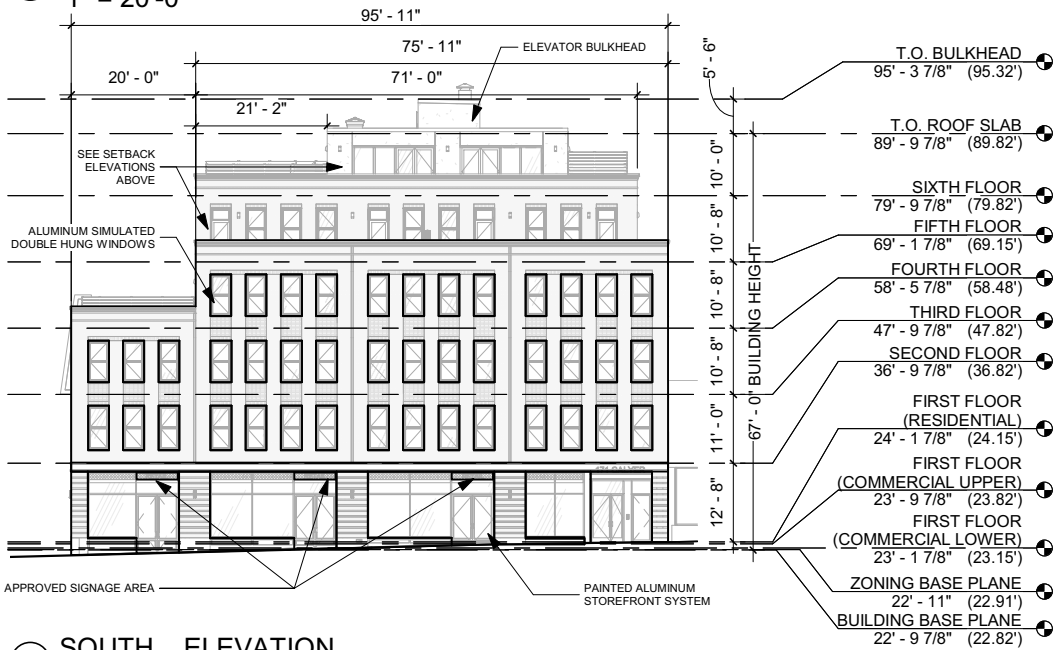
SITE PLAN



3 SOUTH ELEVATION - SIXTH FLOOR SETBACK
1" = 20'-0"



2 SOUTH ELEVATION - FIFTH FLOOR TERRACE SETBACK
1" = 20'-0"



1 SOUTH ELEVATION
1" = 20'-0"

SOUTH/ CALYER ST. FACADE		
COMMERCIAL UNITS		AREA
MAIN FACADE	WINDOW WALL SURFACE	740 SF*
	EXT. WALL SURFACE	299 SF
TOTAL:		1,039 SF

*SIGNAGE: PIN-MOUNTED LETTERS IN FRONT OF STOREFRONT, 23 SF

RESIDENTIAL UNITS - FENESTRATION		AREA
MAIN FACADE	RES. ENTRY /EGRESS DOOR	113 SF
	WINDOW SURFACE	968 SF
FIFTH FLOOR	STOREFRONT SURFACE	114 SF
	WINDOW SURFACE	156 SF
SIXTH FLOOR	STOREFRONT SURFACE	213 SF
TOTAL:		1,564 SF

RESIDENTIAL UNITS - EXTERIOR WALL		AREA
MAIN FACADE	EXT. WALL SURFACE	2,415 SF
FIFTH FLOOR	-	723 SF
SIXTH FLOOR	-	205 SF
BULKHEAD	-	46 SF
TOTAL:		3,389 SF

TOTAL SOUTH FACADE SURFACE AREA	5,992 SF

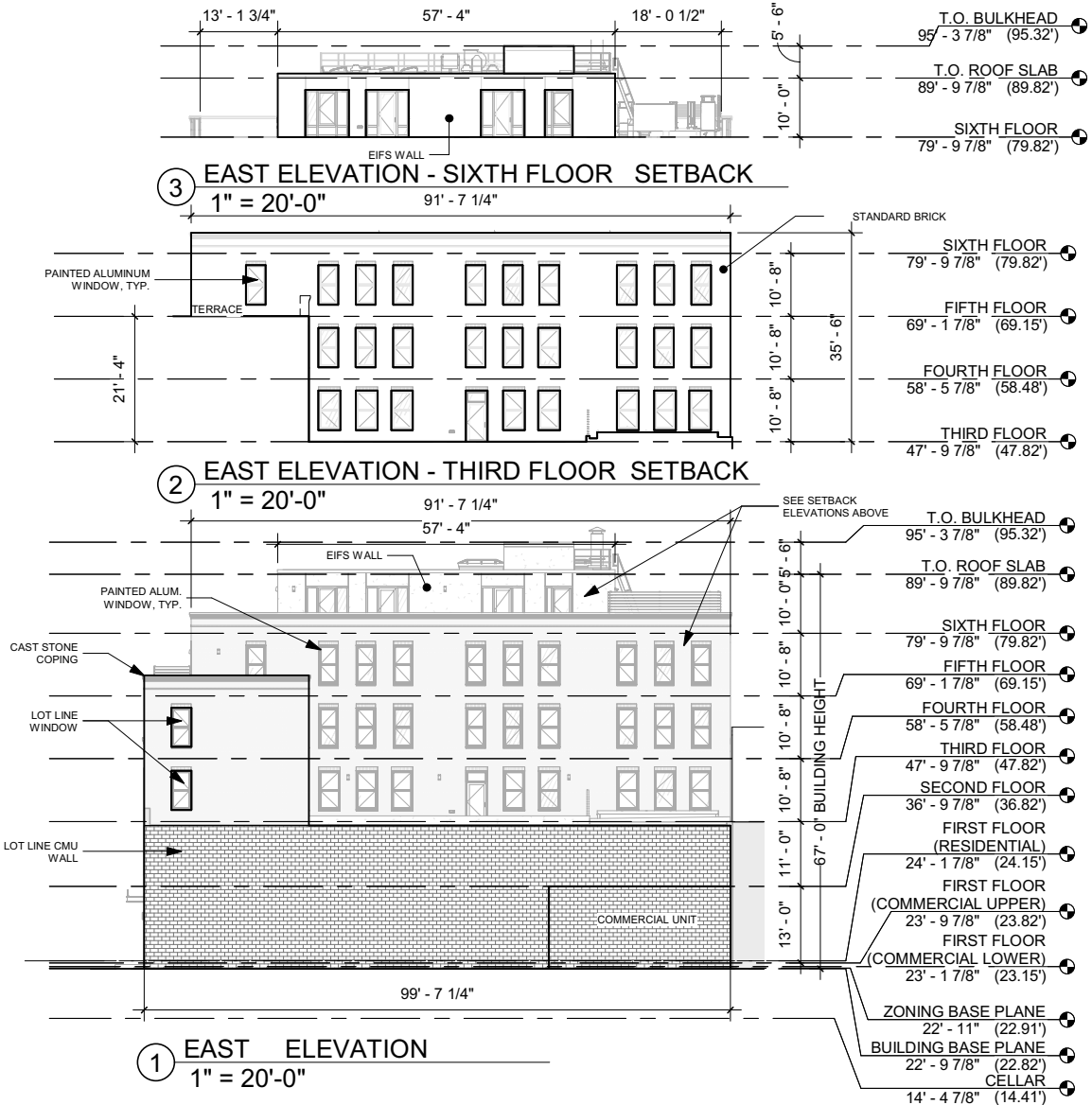
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SOUTH ELEVATION



EAST / LOT LINE FACADE		
COMMERCIAL UNITS - EXTERIOR WALL		AREA
MAIN FACADE	EXT. WALL SURFACE	432 SF

RESIDENTIAL UNITS - EXTERIOR WALL		AREA
MAIN FACADE	EXT. WALL SURFACE	2,662 SF
THIRD FLOOR	-	2,129 SF
SIXTH FLOOR	-	404 SF
BULKHEAD	-	57 SF
TOTAL:		5,252 SF

RESIDENTIAL UNITS - FENESTRATION		AREA
MAIN FACADE	WINDOW SURFACE	45 SF
THIRD FLOOR	DOOR AND TRANSOM	114 SF
	WINDOW SURFACE	626 SF
SIXTH FLOOR	WINDOW WALL	214 SF
TOTAL:		999 SF

TOTAL SOUTH FACADE SURFACE AREA	**6,683 SF**

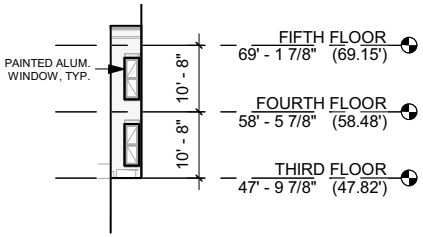
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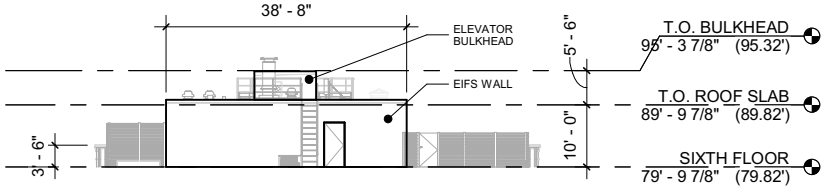
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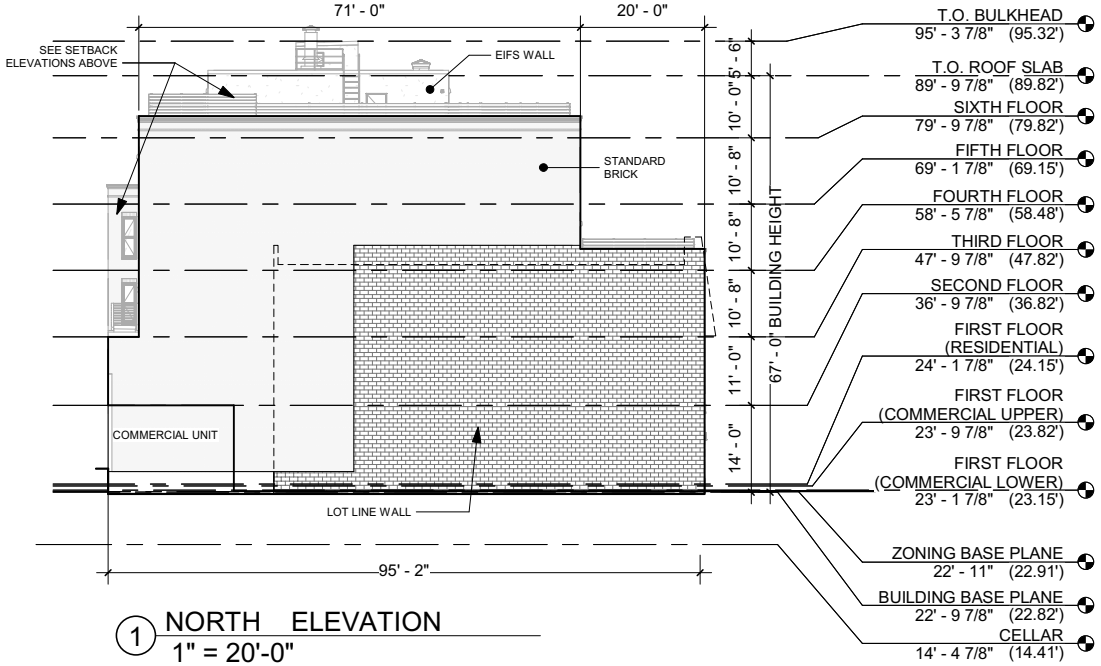
EAST ELEVATION



2 NORTH ELEVATION THIRD FLOOR SETBACK
1" = 20'-0"



3 NORTH ELEVATION - SIXTH FLOOR SETBACK
1" = 20'-0"



1 NORTH ELEVATION
1" = 20'-0"

NORTH / LOT LINE FACADE		
COMMERCIAL UNITS		AREA
MAIN FACADE	EXT. WALL SURFACE	195 SF

RESIDENTIAL UNITS - EXTERIOR WALL		AREA
MAIN FACADE	EXT. WALL SURFACE	4,906 SF
THIRD FLOOR	-	89 SF
SIXTH FLOOR	-	393 SF
BULKHEAD	-	46 SF
TOTAL:		5,434 SF

RESIDENTIAL UNITS - FENESTRATION		AREA
THIRD FLOOR	WINDOW SURFACE	32 SF
SIXTH FLOOR	DOOR SURFACE	24 SF
TOTAL:		56 SF

TOTAL SOUTH FACADE SURFACE AREA	5,685 SF

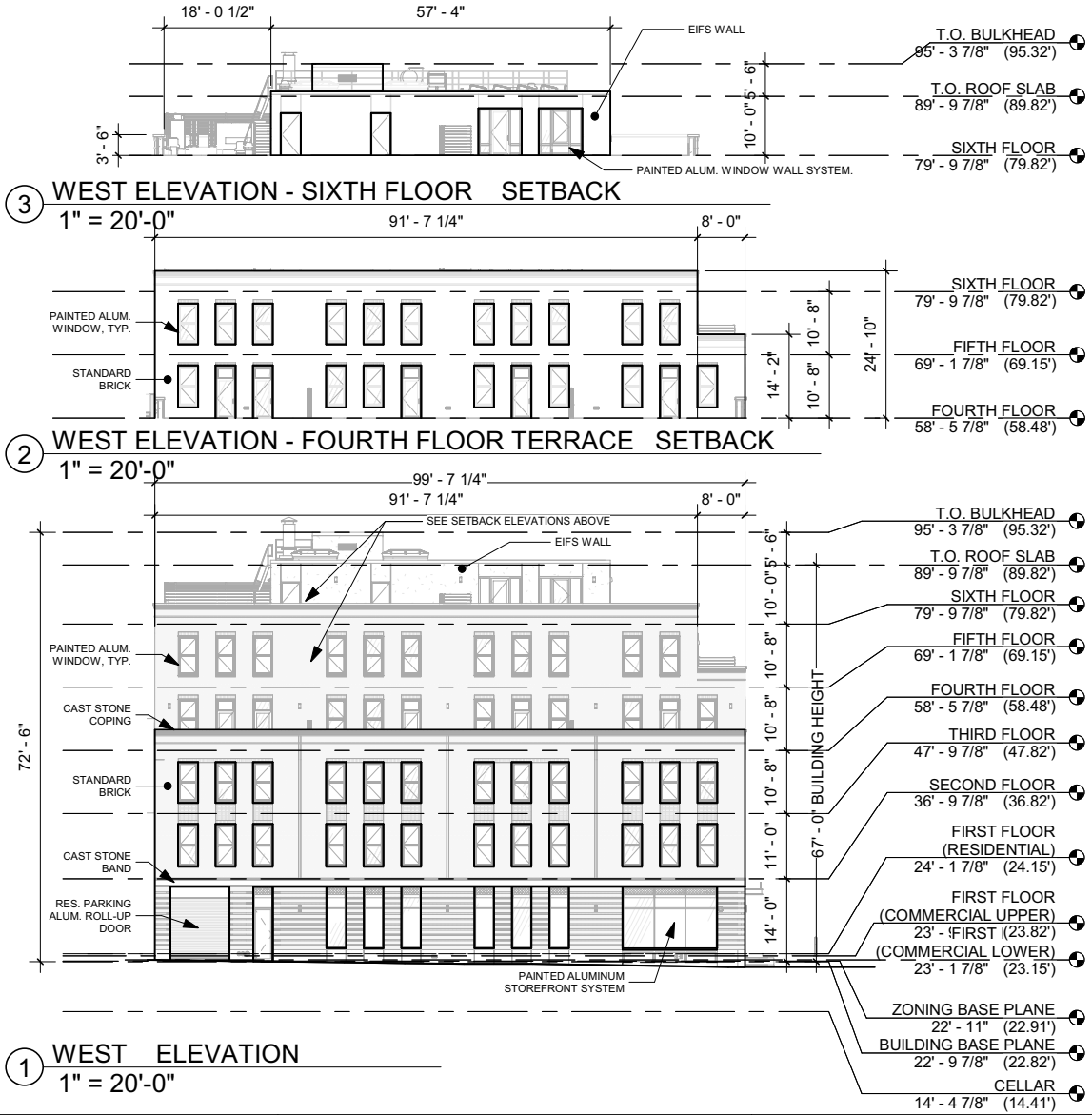
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NORTH ELEVATION



WEST / LORIMER ST. FACADE		
COMMERCIAL UNITS		AREA
MAIN FACADE	WINDOW WALL	375 SF
	EXT. WALL SURFACE	663 SF
TOTAL:		1,038 SF

RESIDENTIAL UNITS - EXTERIOR WALL		AREA
MAIN FACADE	EXT. WALL SURFACE	2,155 SF
FIFTH FLOOR	-	1,828 SF
SIXTH FLOOR	-	454 SF
BULKHEAD	-	56 SF
TOTAL:		4,493 SF

RESIDENTIAL UNITS - FENESTRATION		AREA
MAIN FACADE	WINDOW WALL	42 SF
	WINDOW SURFACE	567 SF
	DOOR SURFACE	125 SF
FIFTH FLOOR SETBACK	DOOR AND TRANSOM	153 SF
	WINDOW SURFACE	424 SF
SIXTH FLOOR SETBACK	WINDOW WALL	117 SF
	EXT. WALL SURFACE	454 SF
	DOOR SURFACE	48 SF
TOTAL:		1,930 SF

TOTAL SOUTH FACADE SURFACE AREA	**7,461 SF**

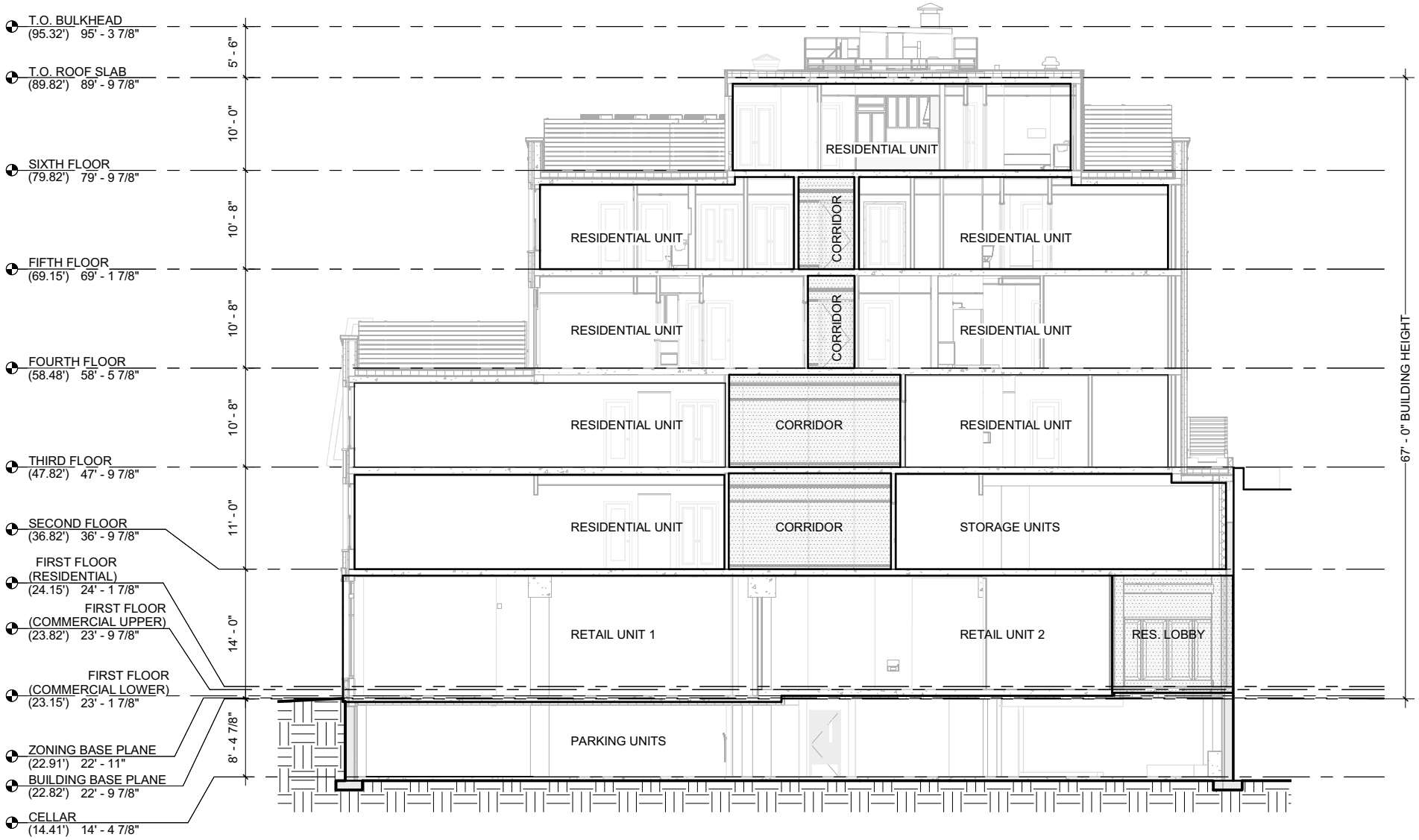
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WEST ELEVATION



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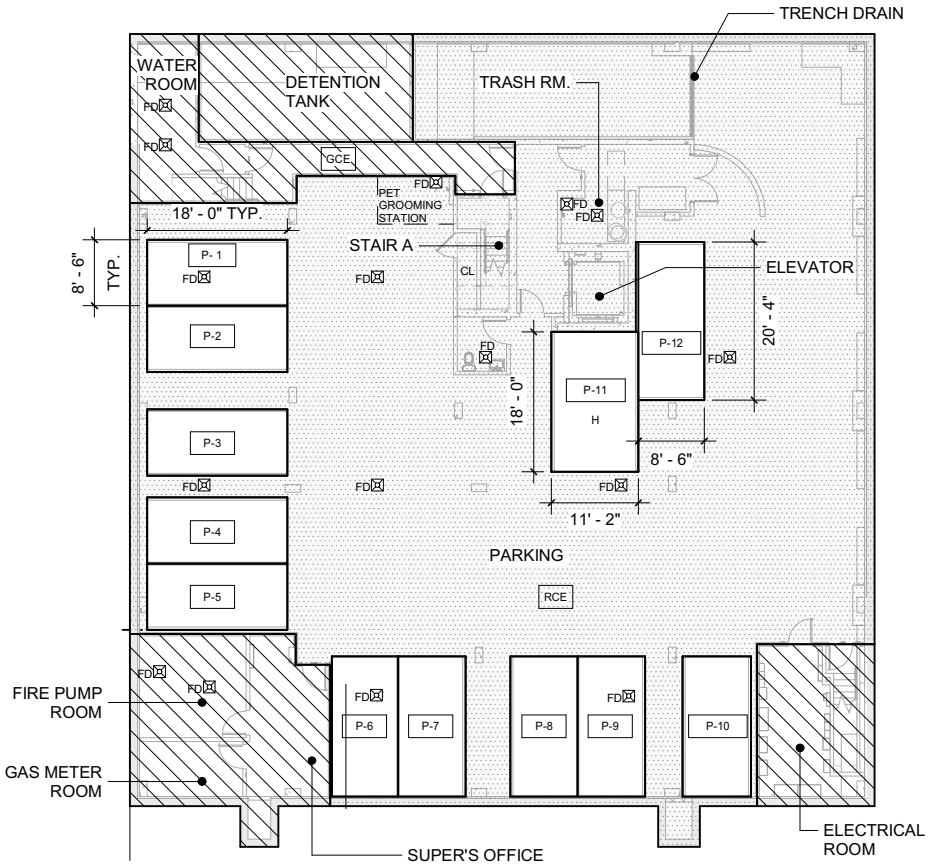
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BUILDING SECTION A-A

LEGEND:

- RETAIL UNIT (RET)
- RESIDENTIAL (R)
- STORAGE UNIT (S)
- RESIDENTIAL COMMON ELEMENT (RCE)
- GENERAL COMMON ELEMENT (GCE)
- PARKING UNIT (P)
- FD FLOOR DRAIN
- H: HANDICAPPED



PARKING UNITS		
UNIT	PROPOSED TAX LOT #	AREA
P.1	1022	153 SF
P.2	1023	153 SF
P.3	1024	153 SF
P.4	1025	153 SF
P.5	1026	153 SF
P.6	1027	153 SF
P.7	1028	153 SF
P.8	1029	153 SF
P.9	1030	153 SF
P.10	1031	153 SF
P.11(H)	1032	201 SF
P.12	1033	173 SF
TOTAL:		1,904 SF
RESIDENTIAL COMMON ELEMENT		5,935 SF
GENERAL COMMON ELEMENT		1,711 SF

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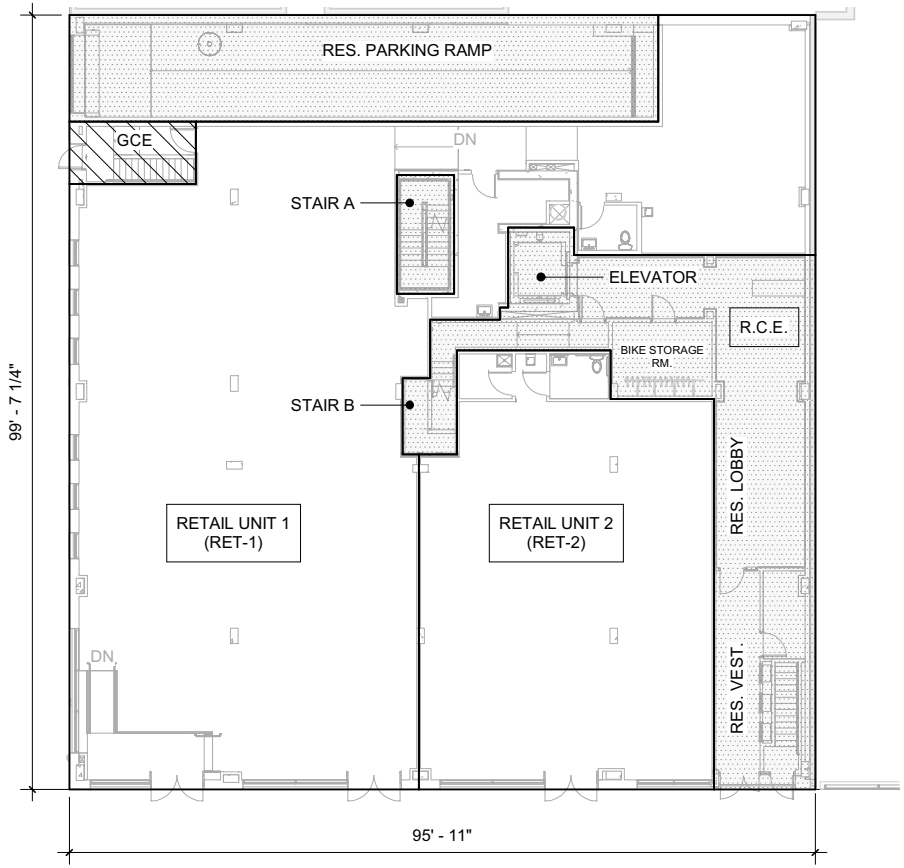
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CELLAR PLAN

LEGEND:

- RETAIL UNIT (RET)
- RESIDENTIAL (R)
- STORAGE UNIT (S)
- RESIDENTIAL COMMON ELEMENT (RCE)
- GENERAL COMMON ELEMENT (GCE)
- PARKING UNIT (P)



COMMERCIAL UNITS		
UNIT	PROPOSED TAX LOT #	AREA
RET-1	1049	4,820 SF
RET-2	1050	1,994 SF
TOTAL:		6,814 SF
RESIDENTIAL COMMON ELEMENT		2,610 SF
GENERAL COMMON ELEMENT		130 SF

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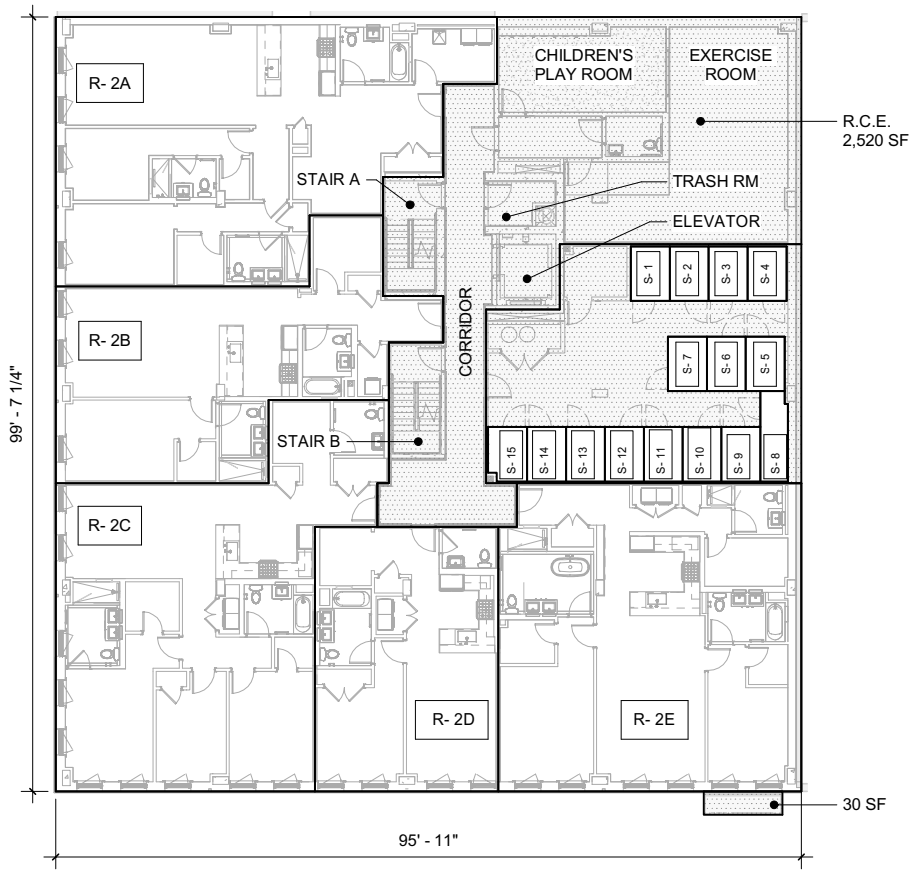
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FIRST FLOOR PLAN

LEGEND:

- ☐ RETAIL UNIT (RET)
- ☐ RESIDENTIAL (R)
- ☐ STORAGE UNIT (S)
- ▨ RESIDENTIAL COMMON ELEMENT (RCE)
- ▨ GENERAL COMMON ELEMENT (GCE)
- ☐ PARKING UNIT (P)



RESIDENTIAL UNITS		
UNIT	PROPOSED TAX LOT #	AREA
R- 2A	1001	1,593 SF
R- 2B	1002	1,047 SF
R- 2C	1003	1,531 SF
R- 2D	1004	803 SF
R- 2E	1005	1,531 SF
TOTAL:		6,505 SF
STORAGE UNITS		
S- 1	1034	35 SF
S- 2	1035	35 SF
S- 3	1036	35 SF
S- 4	1037	35 SF
S- 5	1038	35 SF
S- 6	1039	35 SF
S- 7	1040	35 SF
S- 8	1041	40 SF
S- 9	1042	35 SF
S- 10	1043	35 SF
S- 11	1044	35 SF
S- 12	1045	35 SF
S- 13	1046	35 SF
S- 14	1047	35 SF
S- 15	1048	34 SF
TOTAL:		529 SF
RESIDENTIAL COMMON ELEMENT		2,520 SF

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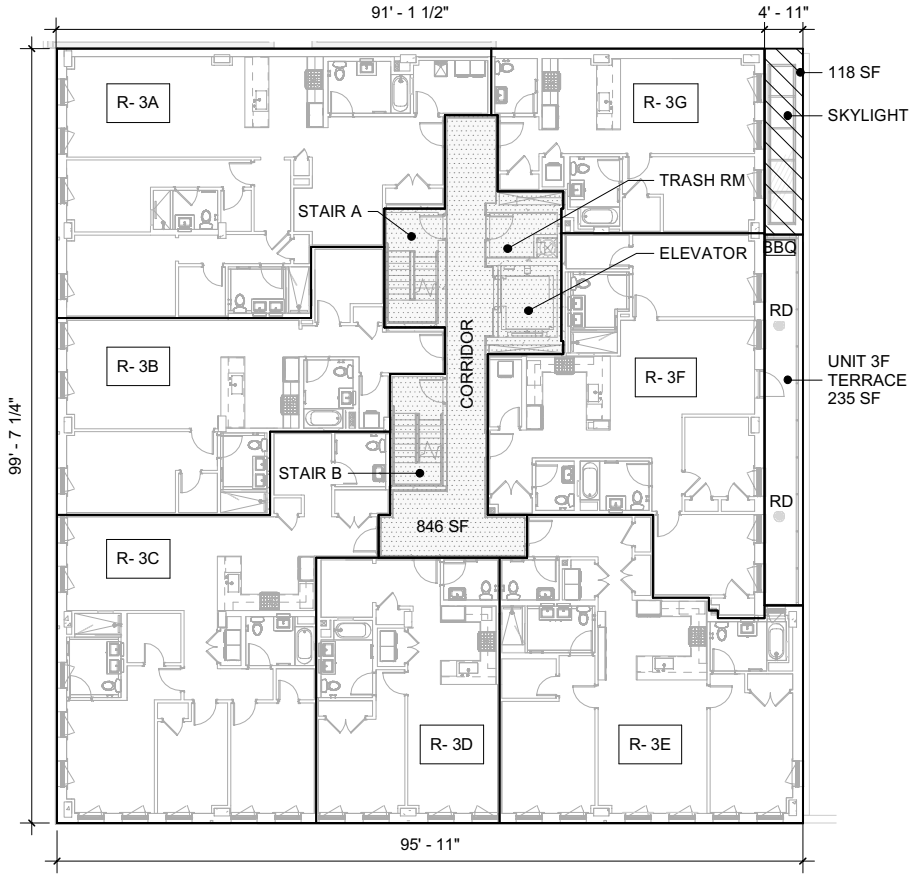
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SECOND FLOOR PLAN

LEGEND:

- RETAIL UNIT (RET)
- RESIDENTIAL (R)
- STORAGE UNIT (S)
- RESIDENTIAL COMMON ELEMENT (RCE)
- GENERAL COMMON ELEMENT (GCE)
- PARKING UNIT (P)
- BBQ — GAS GRILLE
- RD — ROOF DRAIN



RESIDENTIAL UNITS		
UNIT	PROPOSED TAX LOT #	AREA
R- 3A	1006	1,585 SF
R- 3B	1007	1,047 SF
R- 3C	1008	1,531 SF
R- 3D	1009	803 SF
R- 3E	1010	1,297 SF
R- 3F	1011	UNIT: 1,313 SF
		TERRACE: 235 SF
R- 3G	1012	778 SF
TOTAL:		8,589 SF
RESIDENTIAL COMMON ELEMENT		846 SF
GENERAL COMMON		118 SF

PKSB Architects, PC
PKSB ARCHITECTS, PC
630 NINTH AVENUE, SUITE 1200
NEW YORK, NY 10036
212 594 2010
www.pksb.com

171 CALYER STREET
BROOKLYN, NY 11222

5' 10' 15' 20'

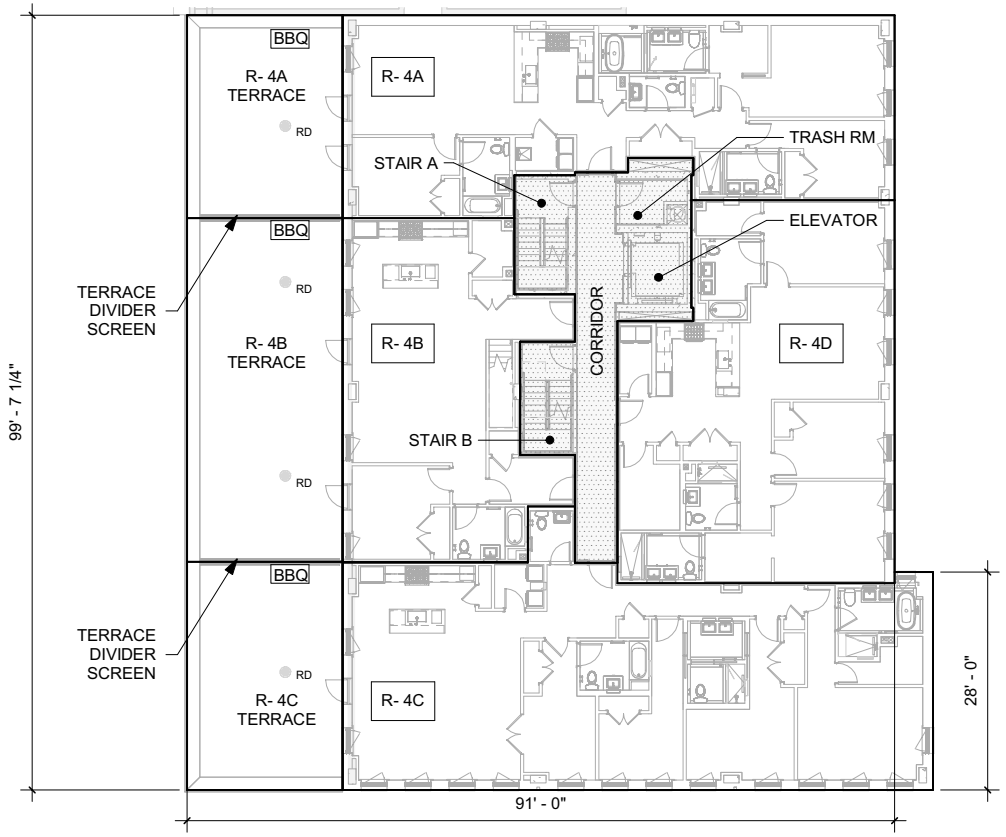
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03/08/2023

THIRD FLOOR PLAN

LEGEND:

- RETAIL UNIT (RET)
- RESIDENTIAL (R)
- STORAGE UNIT (S)
- RESIDENTIAL COMMON ELEMENT (RCE)
- GENERAL COMMON ELEMENT (GCE)
- PARKING UNIT (P)
- BBQ GAS GRILLE
- RD ROOF DRAIN



RESIDENTIAL UNITS		
UNIT	PROPOSED TAX LOT #	AREA
R- 4A	1013	UNIT:1,645 SF
		TERRACE: 522 SF
R- 4B	1014	UNIT:1,099 SF
		TERRACE: 884 SF
R- 4C	1015	UNIT:2,160 SF
		TERRACE: 586 SF
R- 4D	1016	1,608 SF
TOTAL:		8,504 SF
RESIDENTIAL COMMON ELEMENT		695 SF

PKSB Architects, PC
PKSB ARCHITECTS, PC
630 NINTH AVENUE, SUITE 1200
NEW YORK, NY 10036
212 594 2010
www.pksb.com

171 CALYER STREET
BROOKLYN, NY 11222

5' 10' 15' 20'

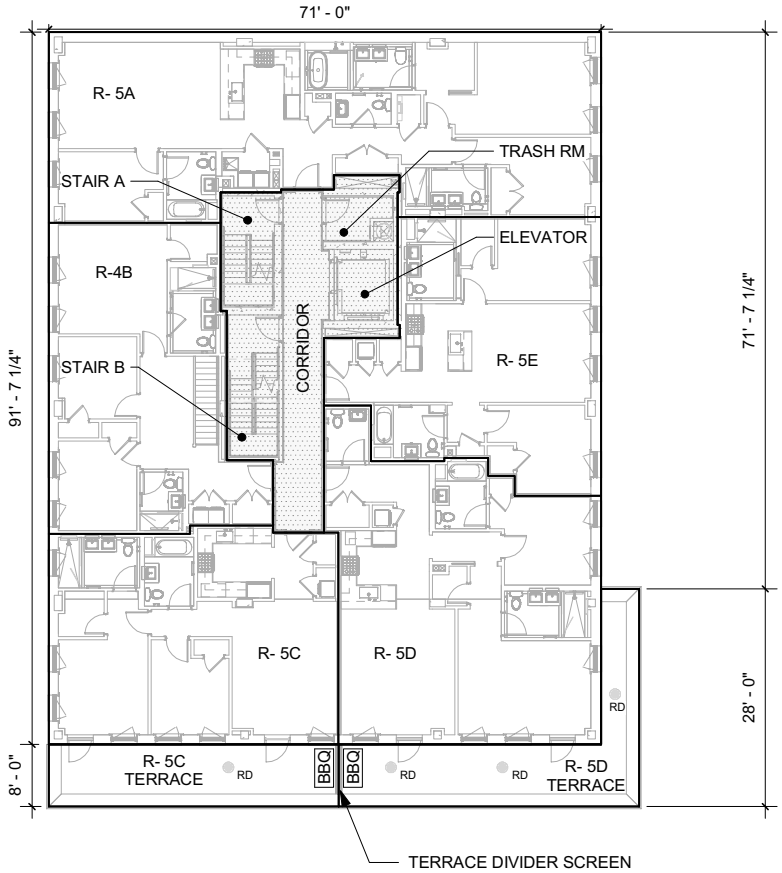
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03/08/2023

FOURTH FLOOR PLAN

LEGEND:

- RETAIL UNIT (RET)
- RESIDENTIAL (R)
- STORAGE UNIT (S)
- RESIDENTIAL COMMON ELEMENT (RCE)
- GENERAL COMMON ELEMENT (GCE)
- PARKING UNIT (P)
- BBQ GAS GRILLE
- RD ROOF DRAIN



RESIDENTIAL UNITS		
UNIT	PROPOSED TAX LOT #	AREA
R- 5A	1017	1,611 SF
R- 4B	1014	952 SF
R- 5C	1018	UNIT:1,021 SF
		TERRACE: 298 SF
R- 5D	1019	UNIT:1,238 SF
		TERRACE: 407 SF
R- 5E	1020	981 SF
TOTAL:		6,508 SF
RESIDENTIAL COMMON ELEMENT		703 SF

PKSB Architects, PC
PKSB ARCHITECTS, PC
630 NINTH AVENUE, SUITE 1200
NEW YORK, NY 10036
212 594 2010
www.pksb.com

171 CALYER STREET
BROOKLYN, NY 11222

5' 10' 15' 20'

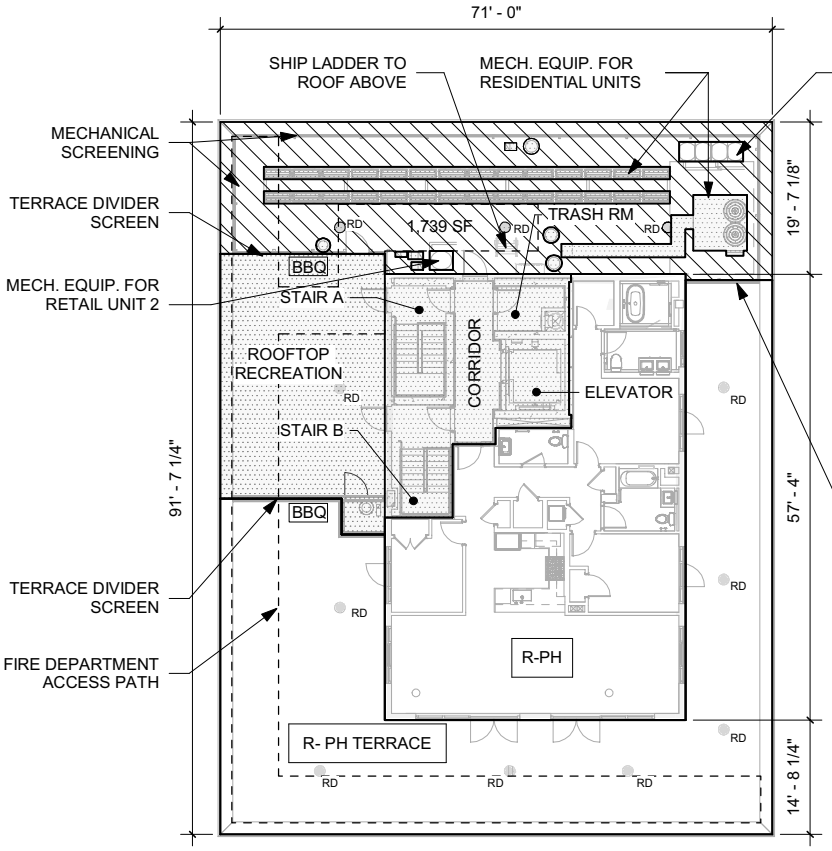
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FIFTH FLOOR PLAN

LEGEND:

- RETAIL UNIT (RET)
- RESIDENTIAL (R)
- STORAGE UNIT (S)
- RESIDENTIAL COMMON ELEMENT (RCE)
- GENERAL COMMON ELEMENT (GCE)
- PARKING UNIT (P)
- BBQ GAS GRILLE
- RD ROOF DRAIN
- PH: PENTHOUSE



RESIDENTIAL UNITS		
UNIT	PROPOSED TAX LOT #	AREA
PH	1021	UNIT:1,637 SF
		TERRACE: 2,252SF
TOTAL:		3,889 SF
RESIDENTIAL COMMON ELEMENT		1,548 SF
RETAIL UNIT 1		20 SF
RETAIL UNIT 2		7 SF
GENERAL COMMON ELEMENT		1,040 SF

TERRACE DIVIDER SCREEN

PKSB Architects, PC
PKSB ARCHITECTS, PC
630 NINTH AVENUE, SUITE 1200
NEW YORK, NY 10036
212 594 2010
www.pksb.com

171 CALYER STREET
BROOKLYN, NY 11222

5' 10' 15' 20'

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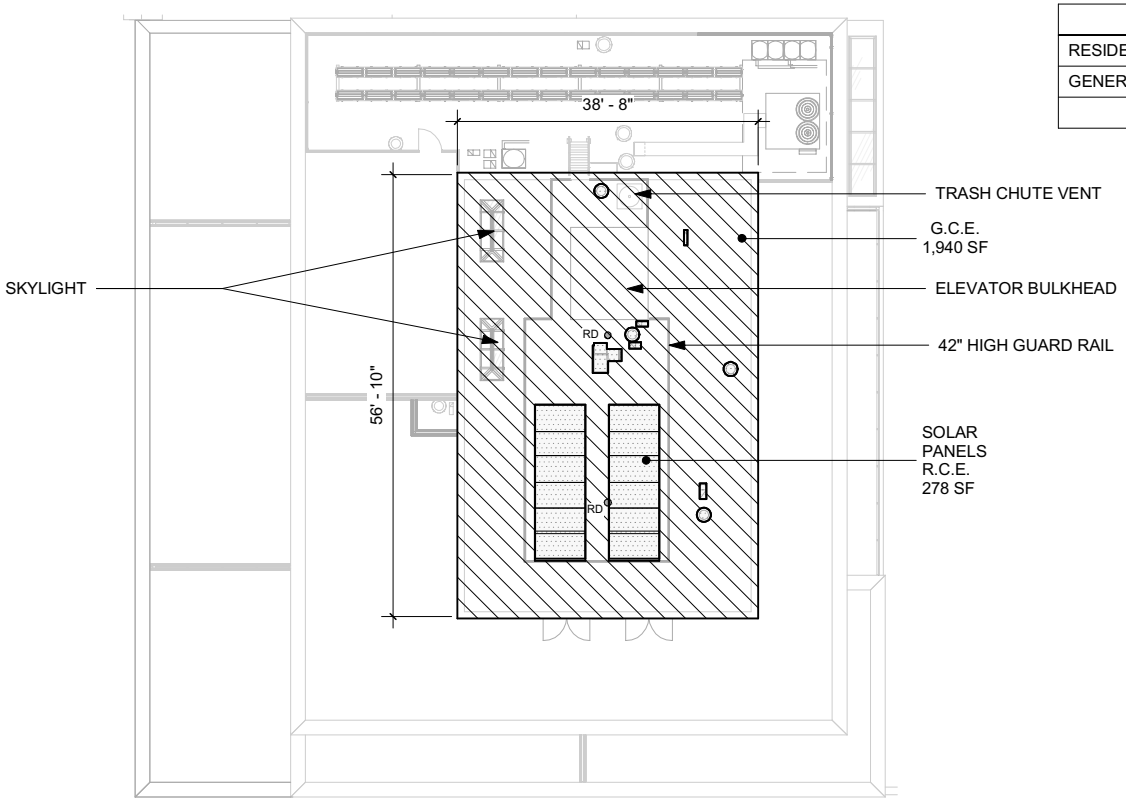
03/08/2023

SIXTH FLOOR PLAN

LEGEND:

- ☐ RETAIL UNIT (RET)
- ☐ RESIDENTIAL (R)
- ☐ STORAGE UNIT (S)
- ⬚ RESIDENTIAL COMMON ELEMENT (RCE)
- ⧅ GENERAL COMMON ELEMENT (GCE)
- ☐ PARKING UNIT (P)
- BBQ GAS GRILLE
- RD ROOF DRAIN

ROOF AREA DISTRIBUTION	
RESIDENTIAL COMMON ELEMENT	278 SF
GENERAL COMMON ELEMENT	1,940 SF



PKSB Architects, PC
PKSB ARCHITECTS, PC
630 NINTH AVENUE, SUITE 1200
NEW YORK, NY 10036
212 594 2010
www.pksb.com

171 CALYER STREET
BROOKLYN, NY 11222

5' 10' 15' 20'

N

03/08/2023

ROOF/ BULKHEAD PLAN

DOCUMENT 8A

CERTIFICATION BY SPONSOR AND SPONSOR'S PRINCIPALS PURSUANT TO PART 20, SECTION 20.4(b) OF TITLE 13 NYCRR

TO:	New York State Department of Law Real Estate Finance Bureau	
FROM	**"Sponsor":**	171 Calyer Street Project LLC, having an office at 463 Seventh Avenue, 4th Floor, New York, New York 10018
		And
	"Principals":	The undersigned individuals signing in their capacity as the principals of Sponsor
RE:	**"Property":**	The Calyer Greenpoint 171 Calyer Street Brooklyn, New York 11222
DATE:	March 28, 2023	

We are the Sponsor and the Principals of the Sponsor of the condominium offering Plan ("**Offering Plan**") for the captioned Property.

We understand that we have primary responsibility for compliance with the provisions of Article 23-A of the General Business Law, the regulations promulgated by the Department of Law in Part 20 and such other laws and regulations as may be applicable.

We have read the entire Offering Plan. We have investigated the facts set forth in the Offering Plan and the underlying facts. We have exercised due diligence to form a basis for this certification. We jointly and severally certify that the Offering Plan does, and that documents submitted hereafter by us which amend or supplement the Offering Plan will:

(i) set forth the detailed terms of the transaction and be complete, current and accurate;

(ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment;

(iii) not omit any material fact;

(iv) not contain any untrue statement of a material fact;

(v) not contain any fraud, deception, concealment, suppression, false pretense or fictitious or pretended purchase or sale;

(vi) not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and

(vii) not contain any representation or statement which is false, where we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth, or (d) did not have knowledge concerning the representation or statement made.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

SPONSOR:

171 Calyer Street Project, LLC
By: M&M Calyer LLC, Managing Member

By: _____
Mark Adjmi, Managing Member

Sworn or Affirmed to before me this 28
day of March, 2023

_____
Notary Public

ORIN MANSKY
Notary Public, State of New York
No. 01MA6221063
Qualified in Nassau County
Commission Expires April 26, 2026

PRINCIPALS OF SPONSOR:

Signature: _____
Name: Mark Adjmi

Sworn or Affirmed to before me this 28
day of March, 2023

_____
Notary Public

ORIN MANSKY
Notary Public, State of New York
No. 01MA6221063
Qualified in Nassau County
Commission Expires April 26, 2026

Signature: _____
Name: Salomon Cojab Moadeb

Sworn or Affirmed to before me this 17th
day of March, 2023

_____
Notary Public

KENNETH D. MARTINEZ
Notary Public - State of Florida
Commission # HH 132486
My Comm. Expires Sep 15, 2025
Bonded through National Notary Assn.

171 Calyer Main Owner LLC

By: _____
Salomon Cojab Moadeb, Member

Sworn or Affirmed to before me this 17th
day of March, 2023

_____
Notary Public

KENNETH D. MARTINEZ
Notary Public - State of Florida
Commission # HH 132486
My Comm. Expires Sep 15, 2025
Bonded through National Notary Assn.

P K
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CERTIFICATION BY ARCHITECT
PURSUANT TO PART 20, SECTION 20.4(c)
OF TITLE 13 NYCRR

TO: New York State Department of Law
Real Estate Finance Bureau

FROM: PKSB Architects, PC

RE: **"Property":** The Calyer Greenpoint
171 Calyer Street
Brooklyn, New York 11222

"Sponsor": 171 Calyer Street Project, LLC

"Offering Plan": The Condominium Offering Plan for the captioned Property

Date: June 1, 2023

The Sponsor of the Offering Plan to convert the captioned Property to condominium ownership retained our firm to prepare a report describing the construction of the Property (the "**Report**"). We visually inspected existing portions of the Property on April 23, 2023 at which time construction was in progress, and we examined the building plans and specifications that were prepared by us dated February 10, 2022 (Issue for Construction), May 2, 2022 (Amended Filing Drawings), and September 20, 2022 (Amended Filing drawings), Mechanical, Plumbing, Sprinkler, Fire Alarm, and Electrical plans prepared by Sharon Engineering dated April 6, 2022 and May 31, 2022 (amended Plumbing Filing drawings)Structural plans prepared by Titan Engineering dated February 16, 2022, and prepared the Report dated June 1, 2023, a copy of which is intended to be incorporated in the Offering Plan so that the prospective Purchaser may rely on the Report.

We are a registered architect in the State in which the Property is located.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 20 insofar as they are applicable to this Report.

We have read the entire Report and investigated the facts set forth in the Report and the facts underlying it with due diligence in order to form a basis for this certification. This certification is made for the benefit of all persons to whom this offer is made.

We certify that the Report:

(i) sets forth in narrative form the description and/or physical condition of the entire Property as it will exist upon completion of construction, provided that construction is in accordance with the plans and specifications that we prepared;

(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

SHERIDA E. PAULSEN, FAIA
TIMOTHY WITZIG, AIA

PKSB ARCHITECTS
630 NINTH AVENUE
SUITE 1200
NEW YORK NY 10036
212 594 2010
WWW.PKSB.COM

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construction, provided that construction is in accordance with the plans and specifications that we prepared;

(iii) does not omit any material fact;

(iv) does not contain any untrue statement of a material fact;

(v) does not contain any fraud, deception, concealment or suppression;

(vi) does not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and

(vii) does not contain any representation or statement which is false, where we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; or (d) did not have knowledge concerning the representations or statement made.

We further certify that we are not owned or controlled by and have no beneficial interest in the Sponsor and that our compensation for preparing this Report is not contingent on the conversion of the Property to a condominium or on the profitability or price of the offering. This statement is not intended as a guarantee or warranty of the physical condition of the Property.

PKSB Architects, PC

By: _____

Name: Sherida E. Paulsen
Title: Principal

REGISTERED ARCHITECT
SHERIDA E. PAULSEN
017708
STATE OF NEW YORK

Sworn to before me this
6th day of June, 2023

_____
Notary Public
(Affix Stamp)

NANCY CUSACK
Notary Public, State of New York
No. 01CU6044996
Qualified in New York County
Commission Expires July 17, 2026

SHERIDA E. PAULSEN, FAIA
TIMOTHY WITZIG, AIA

PKSB ARCHITECTS
630 NINTH AVENUE
SUITE 1200
NEW YORK NY 10036
212 594 2010
WWW.PKSB.COM

DOCUMENT 8C

CERTIFICATION BY EXPERT ON ADEQUACY OF BUDGET PURSUANT TO PART 20, SECTION 20.4 (d) OF TITLE 13 NYCRR

TO:	New York State Department of Law Real Estate Finance Bureau	
FROM:	Flatiron Real Estate Advisors, LLC	
RE:	**"Property":**	The Calyer Greenpoint 171 Calyer Street Brooklyn, New York 11222
	"Sponsor":	171 Calyer Street Project LLC
	"Offering Plan":	The Condominium Offering Plan for the captioned Property
DATE:	February 22, 2023	

The Sponsor of the Condominium Offering Plan for the captioned Property retained our firm to prepare Schedules B and B-1 containing projections of income and expenses for the first year of condominium operation.

Flatiron Real Estate Advisors, LLC was formed in January 2000. We currently manage 44 properties, comprising 599 units, including the following Manhattan residential cooperative or condominiums properties located at 110 Madison Avenue, 264 West 22nd Street and 1402 York Avenue, and the Brooklyn residential rental property located at 143 Skillman Street.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 20 insofar as they are applicable to Schedules B and B-1.

We have reviewed the Schedules and investigated the facts set forth in the Schedules and the facts underlying them with due diligence in order to form a basis for this certification. We also have relied on our experience in managing residential buildings.

We certify that the projections in Schedules B and B-1 appear reasonable and adequate under existing circumstances, and the projected income appears to be sufficient to meet the anticipated operating expenses for the projected first year of condominium operation.

We certify that the Schedules:

(i) set forth in detail the projected income and expenses for the first year of condominium operation;

(ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the first year of condominium operation;

(iii) do not omit any material fact;

(iv) do not contain any untrue statement of a material fact;

(v) do not contain any fraud, deception, concealment or suppression;

(vi) do not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and

(vii) do not contain any representation or statement which is false, where we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth, or (d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by the Sponsor. We understand that a copy of this certification is intended to be incorporated into the Offering Plan. This statement is not intended as a guarantee or warranty of the income and expenses for the first year of condominium operation.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

Flatiron Real Estate Advisors, LLC

By:_____
Steven Ancona, Manager

Sworn or Affirmed to before me
this 22 day of February, 2023

_____
Notary Public
(Affix Stamp)

LENA KOSTRYKINA
Notary Public, State of New York
Reg. No. 01KO6367112
Qualified in Kings County
Commission Expires November 13, 2025

DOCUMENT 8D

CERTIFICATION BY EXPERT ON ADEQUACY OF COMMON CHARGES PAYABLE BY COMMERCIAL UNIT OWNERS PURSUANT TO PART 20, SECTION 20.4 (d) OF TITLE 13 NYCRR

TO:	New York State Department of Law Real Estate Finance Bureau	
FROM:	Flatiron Real Estate Advisors, LLC	
RE:	**"Property":**	The Calyer Greenpoint 171 Calyer Street Brooklyn, New York 11222
	"Sponsor":	171 Calyer Street Project LLC
	"Offering Plan":	The Condominium Offering Plan for the captioned Property
DATE:	February 22, 2023	

The Sponsor of the Condominium Offering Plan for the captioned Property retained our firm to prepare Schedule B which includes projections of common charges payable by the owners of the commercial units.

Flatiron Real Estate Advisors, LLC was formed in January 2000. We currently manage 44 properties, comprising 599 units, including the following Manhattan residential cooperative or condominiums properties located at 110 Madison Avenue, 264 West 22nd Street and 1402 York Avenue, and the Brooklyn residential rental property located at 143 Skillman Street.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 20 insofar as they are applicable to the commercial units listed in Schedule B.

We have reviewed the Schedule as it impacts upon the commercial units and investigated the facts underlying it with due diligence in order to form a basis for this certification. We also have relied on our experience in managing residential buildings.

We certify that the projections in Schedules B for common charges payable by the owners of commercial units appear reasonable and adequate under existing circumstances to meet the anticipated operating expenses fairly attributable to such commercial units for the projected first year of condominium operation and the allocation of common charges attributable to the commercial units also reflects special or exclusive use or availability or exclusive control of particular common areas.

We certify that the estimates in Schedule B for the common charges payable by the owners of the commercial units :

(i) set forth in detail the projected common charges for the commercial units for the first year of condominium operation;

(ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the common charges payable by the owners of the commercial units;

(iii) do not omit any material fact;

(iv) do not contain any untrue statement of a material fact;

(v) do not contain any fraud, deception, concealment or suppression;

(vi) do not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and

(vii) do not contain any representation or statement which is false, where we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth, or (d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by the Sponsor. We understand that a copy of this certification is intended to be incorporated into the Offering Plan. This statement is not intended as a guarantee or warranty of the common charges fairly attributable to the commercial units for the first year of condominium operation.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

Flatiron Real Estate Advisors, LLC

By:_____
Steven Ancona, Manager

Sworn or Affirmed to before me
this 22 day of February, 2023

_____
Notary Public
(Affix Stamp)
LENA KOSTRYKINA
Notary Public, State of New York
Reg. No. 01KO6367112
Qualified in Kings County
Commission Expires November 13, 2025