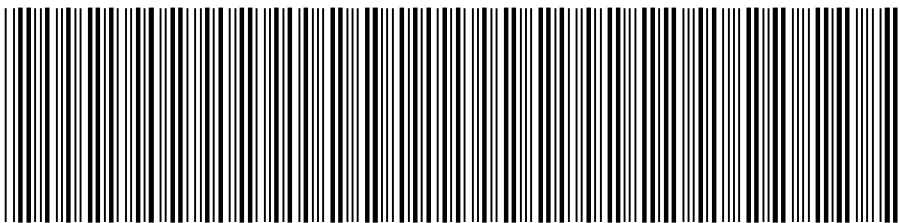


**NYC DEPARTMENT OF FINANCE
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2012121900491001003E0F03

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 74

Document ID: 2012121900491001

Document Date: 10-22-2012

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Document Type: CONDO DECLARATION

Document Page Count: 72

PRESENTER:

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1501 BROADWAY
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NEW YORK, NY 10036
212-221-5700
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PROPERTY DATA

Borough	Block	Lot	Unit	Address
MANHATTAN	210	1001	Entire Lot	UPPER 332 CANAL STREET

Property Type: COMMERCIAL CONDO UNIT(S)

Borough	Block	Lot	Unit	Address
MANHATTAN	210	1002	Entire Lot	LOWER 332 CANAL STREET

Property Type: COMMERCIAL CONDO UNIT(S)

x Additional Properties on Continuation Page

CROSS REFERENCE DATA

CRFN: 2008000257423

PARTIES

PARTY 1:

THE CANAL STREET CONDOMINIUM
332 CANAL STREET
NEW YORK, NY 10013

FEES AND TAXES

Mortgage		Filing Fee:	
Mortgage Amount:	\$ 0.00	\$	0.00
Taxable Mortgage Amount:	\$ 0.00	NYC Real Property Transfer Tax:	\$ 0.00
Exemption:		NYS Real Estate Transfer Tax:	\$ 0.00
TAXES: County (Basic):	\$ 0.00		
City (Additional):	\$ 0.00		
Spec (Additional):	\$ 0.00		
TASF:	\$ 0.00		
MTA:	\$ 0.00		
NYCTA:	\$ 0.00		
Additional MRT:	\$ 0.00		
TOTAL:	\$ 0.00		
Recording Fee:	\$ 403.00		
Affidavit Fee:	\$ 0.00		



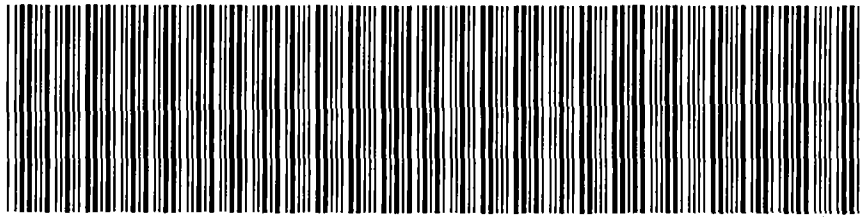
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OF THE CITY REGISTER OF THE
CITY OF NEW YORK**

Recorded/Filed 12-20-2012 15:38
City Register File No.(CRFN):
2012000499003

Annette McMill

City Register Official Signature

**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**



2012121900491001003C0D83

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 2 OF 74

Document ID: 2012121900491001

Document Date: 10-22-2012

Preparation Date: 12-20-2012

Document Type: CONDO DECLARATION

PROPERTY DATA

Borough	Block Lot	Unit	Address
MANHATTAN	210 8	Entire Lot	332 CANAL STREET

Property Type: APARTMENT BUILDING



CONDOMINIUM NO. 2351

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF ECONOMIC JUSTICE
REAL ESTATE FINANCE BUREAU

September 20, 2012

Lewis Kuper, Esq.
Goldberg Weprin Finkel Goldstein LLP
1501 Broadway; 22nd floor
New York, New York 10036

Re: The Canal Street Condominium
Index No. NA12-0085
(2 units/commercial and residential)

Dear Mr. Kuper:

The Department of Law has reviewed your application for a no-action letter concerning a transaction involving the above premises, submitted on June 18, 2012.

On the basis of the facts and circumstances stated in your letter and supporting documentation, the Department has determined that it will not take any enforcement action because the described transaction occurs without filing or registration pursuant to Section 352-e and Section 359-e of the General Business Law. We understand that it is your opinion as counsel that the transaction is not subject to those registration and filing requirements.

This position is based solely upon the limited information supplied and representations made in your letter and supporting documentation. Any different set of facts or circumstances might result in the Department's taking a different position. In addition, this letter expresses the Department's position on enforcement action which could arise from this transaction only, occurring without filing or registration, and does not purport to express any legal conclusion on any subsequent transaction or offering.

The issuance of this letter shall not be construed to be a waiver of or limitation on the Attorney General's authority to take enforcement action for violations of Article 23-A of the General Business Law and other applicable provisions of law.

Very truly yours,

Marissa Piesman
Bureau Chief, Real Estate Finance

CONDOMINIUM NO. 2351

DECLARATION

**ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP OF
PREMISES LOCATED AT
332 CANAL STREET a/k/a 39 LISPENARD STREET
AND 336 CANAL STREET
BOROUGH OF MANHATTAN, CITY AND STATE OF NEW YORK
PURSUANT TO ARTICLE 9-B OF THE REAL PROPERTY LAW
OF THE STATE OF NEW YORK**

NAME: THE CANAL STREET CONDOMINIUM

**DECLARANT: MM CANAL LLC
332 CANAL STREET
NEW YORK, NY 10013**

DATE OF DECLARATION: October 22, 2012

The land affected by the within instrument lies in Block 210, Lot 8, on the Tax Map of the Borough of Manhattan, New York County, City and State of New York.

**RECORD & RETURN: JAMES KENNEDY, ESQ.
Attorneys for the Declarant
Wilk Auslander LLP
1515 Broadway, 43rd Floor
New York, New York 10036**

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PLAN OF CONDOMINIUM UNIT OWNERSHIP
DECLARATION OF THE CANAL STREET CONDOMINIUM
PURSUANT TO ARTICLE 9-B
OF THE REAL PROPERTY LAW OF THE
STATE OF NEW YORK

22 In County of New York, City and State of New York, on this day of October, 2012, MM CANAL LLC, a New York limited liability company, with offices at 332 Canal Street, New York, NY 10013, hereinafter referred to as the "Owner" or "Declarant", who is fully empowered and qualified to execute this Declaration does hereby state:

FIRST: Submission of Property. By this Declaration the Owner submits the property described in this Declaration, including the land and the Building and all other improvements erected and to be erected thereon, all easements, rights and appurtenances belonging thereto and all other property, real, personal or mixed, intended for use in connection therewith, to the provisions of Article 9-B of the Real Property Law of the State of New York.

SECOND: Description of Property. The Property consists of:
ALL that certain plot, piece or parcel of land situate, lying and being in the Borough and County of Manhattan, City and State of New York, bounded and described as follows:

SEE SCHEDULE "A" ATTACHED

THIRD: Definitions.

(a) "Upper Unit" shall refer to the one (1) Upper Unit contained in the Condominium. "Lower Unit" shall refer to the one (1) Lower Unit contained in the Condominium and designated in the area shown and designated on the "As Built" floor plans as the Lower Unit. The Upper Unit and Lower Unit are hereinafter sometimes referred to collectively as the "Units" and individually as a "Unit".

(b) The Owner of the Upper Unit is hereinafter referred to as an "Upper Unit Owner", and the Owner of the Lower Unit is hereinafter referred to as a "Lower Unit Owner". The Upper Unit Owner, and the Lower Unit Owner are hereinafter collectively referred to as the "Unit Owners" and individually as a "Unit Owner". The description of the Units set forth herein pertains to the location of the walls, floors and ceiling of the Units as they are finally set forth in the building plans to be filed simultaneously with the recording of this Declaration.

Each Unit Owner shall be treated for all purposes as a single owner, irrespective of whether such ownership is joint, in common, or tenancy by the entirety or whether the Unit is owned by an individual, corporation, partnership fiduciary or any other entity. Where such ownership is joint, in common or by tenancy by the entirety, majority vote of such Owners shall be necessary to cast the Unit Owner's vote referred to in paragraph Ninth of this Declaration.

(c) The Unit consists of the area contained within the inside face of the exterior walls of the building; approximately to the interior side of the brickwork at the halls and partitions dividing the Units from corridors, stairs and to the centerline of the partitions separating one unit from another.

Doors, windows and air conditioner sleeves which open or extend from a Unit shall be deemed part of the Unit.

(d) A "Building" as hereinafter referred to shall be defined as a number of Units all of which are constructed under a continuous roof.

(e) "Party Wall" as hereinafter referred to shall be defined as a wall which is common to and separates two Units.

(f) "Condominium" as hereinafter referred to shall mean The Canal Street Condominium which is composed of the Unit Owners.

(g) The terms "Upper Unit", "Lower Unit", "Upper Unit Owner", and "Lower Unit Owner" as used herein shall be construed to mean Unit and Unit Owner as defined in Section 339-e of Article 9-B of the Real Property Law of the State of New York.

FOURTH: Community. The Owner is creating on the parcel of land described above a Condominium community known as The Canal Street Condominium according to the plans filed simultaneously with the recording of this Declaration in the Office of the Register of the City of New York, New York County which Plans set forth a description of the building stating the number of stories and number of Units.

The Condominium will consist of one (1) Upper Unit, and one (1) Lower Unit in a building containing six (6) floors and a cellar. The building is constructed of concrete foundation and brick and block walls as set forth on the plans filed simultaneously herewith. Each of the Units has access to each other Unit or to any other portion of the Condominium or to a street upon which the Condominium abuts by means of a walk or hallway. For the purposes of describing the location of the

Building, approximate area, type and the common elements to which each Unit has immediate access, each Unit is described as shown on Schedule B annexed hereto. Each Unit will be sold to one or more Owners, each Owner obtaining fee ownership, together with an undivided interest in the common elements of the Condominium as listed hereinafter in this Declaration and referred to as the "common elements," all of the above in accordance with Article 9-B of the Real Property Law of the State of New York.

The Upper Unit consists of, without limitation, the 2nd through 6th floors of the Premises, the roof and all mechanical, utility systems and cellar space servicing such portions and all public entranceways, lobbies, etc. leading to, and exclusively servicing such portions. An eighty (80%) percent undivided interest in the common elements of the Condominium will be allocated to the Upper Unit.

The Lower Unit consists of, without limitation, all ground floor retail and commercial premises, and all accompanying cellar space. A twenty (20%) percent undivided interest in the common elements of the Condominium will be allocated to the Lower Unit.

The aforesaid Condominium has a total plot area of approximately 5,276 square feet.

FIFTH: (a) Common Elements. The common elements consist of all portions of the Property other than the Units, including, without limitation, the following:

1. The land on which the Building is erected and all other land within the boundaries of the Property;
2. All foundations, columns, girders, beams and supports;
3. All exterior walls of the Building;
4. Roofs, halls, corridors, lobbies, stairs, stairways and entrances to and exits from the Building, provided, however, that (i) the street level entrances to and exits from each of the Units shall be limited common elements for the exclusive use of the respective Owners thereof and the Owners of any Units resulting from the subdivision thereof;
5. All utility or other pipes, ducts, wires, chutes, cables, conduits and materials located outside of the Units (excluding installations that have been or will be made by the Owner or tenants of the Lower Unit or Upper Unit, as the case may

be, for their exclusive use) and all other mechanical equipment spaces;

6. All tanks, pumps, motors, fans, compressors and control equipment (unless installed by the Owner or tenants of the Lower Unit or Upper Unit, as the case may be, for their exclusive use);

7. All other parts of the Property and all apparatus and installations existing in the Building or on the Property for common use or necessary or convenient to the existence, maintenance or safety of the Property.

(b) Limited Common Elements. Certain portions of the common elements are irrevocably restricted in use to specified Unit Owners, subject to the right of the Board of Managers to enter upon any restricted area for maintenance, repair or improvement of a Unit or common element and subject to the rules of the Board of Managers (see By-Laws, Article VIII). Any portion of the common elements which is not restricted in use may be used by any Unit Owner and is referred to as general common elements. Following are detailed descriptions of the limited common elements:

1. Lower Unit(s) Limited Common Elements. The following portions of the common elements shall be limited common elements for the exclusive use of the Owner of the Lower Unit and are herein sometimes collectively referred to as the "Lower Unit Limited Common Elements":

(a) the street level entrances to and exits from the Lower Unit;

(b) the equipment, facilities, and mechanical rooms serving only the Lower Unit and all other apparatus, installations, systems equipment and facilities in the Building (including pipes, wire, ducts, vents, cables, conduits and lines) which will serve or benefit exclusively the Lower Unit.

(c) the Lower Limited Common Elements shall be maintained, repaired and replaced by the owner of the Lower Unit at its sole expense.

2. Upper Unit(s) Limited Common Elements. The following portions of the common elements shall be limited common elements for the exclusive use of the Owner of the Upper Unit and are herein sometimes collectively referred to as the "Upper Unit Limited Common Elements":

(a) the street level entrances to and exits from the

Upper Unit;

(b) the equipment, facilities, and mechanical rooms serving only the Upper Unit and all other apparatus, installations, systems equipment and facilities in the Building (including pipes, wire, ducts, vents, cables, conduits and lines) which will serve or benefit exclusively the Upper Unit.

(c) the Upper Limited Common Elements shall be maintained, repaired and replaced by the owner of the Upper Unit at its sole expense.

The percentage of the undivided interest in the common elements established herein shall not be changed for any Unit except with the consent of all of the Unit Owners affected expressed in a duly recorded amendment to this Declaration.

The undivided interest in the common elements shall not be separated from the Unit to which it appertains and shall be deemed conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

SIXTH: Alterations.

(a) Changes to the Units. Except to the extent prohibited by law, any Unit Owner, including, without limitation, the Declarant, shall have the right, without the vote or consent of the Board of Managers to: (a) make alterations, additions or improvements, whether structural or nonstructural, interior or exterior, ordinary or extraordinary, in, to and upon their respective Unit; (b) change the layout of, or number of rooms in their respective Unit from time to time; (c) change the size and/or number by subdividing their respective Unit into two or more separate condominium units, combining separate Units (including those resulting from such subdivision or otherwise) into one or more Units, altering the boundary walls between any Units, or otherwise; and (d) if appropriate, reapportion among the Units affected by such change in size or number pursuant to the preceding clause their percentages of interest in the common elements; provided, however that the percentage of interest in the common elements of any other Units shall not be changed by reason thereof unless the owners of such affected Units shall consent thereto and, provided further, that the Declarant or its designee shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction and shall agree to hold the Board of Managers and all other Unit Owners harmless from any liability arising therefrom.

Nothing contained in this Declaration shall prohibit the division or consolidation of any Units and common interest appurtenant thereto, including but not limited to a change in the number of rooms. In no case, however may such division or consolidation result in a different aggregate percentage of common interest for the total of the new Units than existed for the total of the original Units before division or consolidation. An amendment to this Declaration authorized by this paragraph of Article SIXTH may be filed by the Declarant or new Unit Owner without any consent of the Board of Managers or any other Unit Owner provided the percentage of common interest of all other existing Units is not affected thereby.

If the number of rooms in any Unit is changed, or the size and/or number of any Units is changed (whether as a result of a subdivision or combination of such Unit or alteration of boundary walls between any such Units, or otherwise) and the appurtenant percentage interest in the common elements is reapportioned as a result thereof, all in accordance with the provisions of this Article SIXTH, then the Declarant or its designee and the other Unit Owners shall have the right to execute, or (on its request) to require any other Unit Owner or the Condominium Board of Managers to execute, and record in the Office of the Register of New York County, an amendment to this Declaration (together with such other documents as the Declarant or its designee or the affected Unit Owner deems appropriate to effectuate the same) reflecting such change in the number of rooms or in the size and/or number of Units (whether as a result of said subdivision, combination, alteration or otherwise) and the reapportionment of the percentage of interest in the common elements.

In the event Declarant or its designee or the any Unit Owner(s) exercising its rights pursuant to this Article so request, the Board of Managers shall promptly amend the Declaration at the expense of the Declarant or its designee, to reflect any such alterations, additions, improvements, changes or reapportionments as provided by herein, and shall record such amendment in the Office of the Register of New York County.

Anything herein to the contrary notwithstanding, the right to subdivide the Units, as in this Article SIXTH provided, may only be exercised by the Declarant, the Lower Unit Owner and the Upper Unit Owner and not by the owner(s) of any Units subdivided by such Unit Owners.

This Article SIXTH (a) shall not be subject to amendment without the unanimous consent of all affected Unit Owners.

SEVENTH: Easements. (a) All pipes, wires, conduits and

public utility lines located within each Unit shall be owned by such Unit Owner. Any portion of such pipes, wires, conduits and public utility lines located in the common elements will be owned in common by the Unit Owners. Every Unit Owner shall have an easement in common with the owners of other Units to maintain and use all pipes, wires, conduits and public utility lines located in other Units and servicing such Unit Owner's Unit. Each Unit shall be subject to an easement in favor of the Unit Owners of other Units to maintain and use the pipes, wires, conduits and public utility lines servicing such other Units and located in such Unit. The Board of Managers shall have a right of access to each Unit for maintenance, repair or improvements to any pipes, wires, conduits and public utility lines located in any Unit and any other Unit. The cost of such repairs shall be a common expense. The Board of Managers shall have a right of access to all common elements for maintenance, repair or improvement whether such common elements are restricted or not.

(b) Each Unit Owner shall have easements for (i) the installation, maintenance, repair and replacement of signs, flues, vents, air-conditioning, heating, ventilation, water and other mechanical lines and fixtures and equipment on the exterior walls, the roof and through the common elements of the Building, and in, through under and over any Unit and Unit resulting from the subdivision of a Unit; (ii) through the common elements of the Building for access to the roof for the purpose of installing, repairing, maintaining and replacing any fixtures and equipment now or hereafter located on the roof, provided, however, that except in the case of an emergency, the right of access may be exercised only after prior notice to the Board of Managers, and subject to the condition that the right of access, and the rights granted pursuant to the foregoing easements, shall be exercised in such a way so as to minimize, in a commercially reasonable manner, the impact of same upon the affected Unit and such Unit's common elements (and limited common elements, as the case may be), and upon the rights and obligations of the affected Unit Owner, including, without limitation, the use and occupancy of such Unit and access and egress thereto. The Unit and any Unit resulting from the subdivision of the Unit shall be subject to easements in favor of any other Unit and any Unit resulting from the subdivision of the Unit for the installation, maintenance, repair and replacement of gas, electricity, heating, air-conditioning, ventilating and water and other mechanical lines and fixtures and equipment serving the Unit and any Unit resulting from the subdivision of the Unit. The Owner and tenants of the Lower Unit shall have the right at their sole expense to install separate heating systems for the Lower Unit and any Unit resulting from the subdivision of the Lower Unit and an easement is herewith granted in, over, under and through the basement of the Building for the

installation, maintenance, repair and replacement of the heating systems and all necessary pipes lines, conduits, ducts water lines and flues in connection therewith if such right is exercised and (iii) for access to any equipment that services the Lower Unit and which is located in the Upper Unit portion of the Building or the Upper Unit Limited Common Elements and (iv) to erect, maintain and replace one or more signs on the property permitted by law for the purpose of advertising the operation of any business conducted therein. Any such signs shall be of reasonable size and shall not be located so as to unduly disturb the aesthetics of the Building.

(c) The Declarant, its successors, assigns, and purchasers, reserves the easements, licenses, rights and privileges of a right-of-way in, through, over, under and across the common elements of the Condominium for the purpose of completing any rehabilitation or renovation to the Building and for sale of Units and facilities in the Condominium and, towards this end, reserves the right to grant and reserve easements and rights-of-way in, through, under, over and across the common elements for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, cable television and other utilities and for any other materials or services necessary for the completion of the work. The Declarant, its successors, assigns, and purchasers, also reserve the right to connect with and make use of any utility lines, wires, pipes, conduits, cable television, sewers and drainage lines which may from time to time be in or along any of the common elements. This paragraph shall not be amended without the consent of the Declarant.

EIGHTH: Service of Process. Service of process on the Unit Owners in any action with relation to the common elements shall be made upon the Board of Managers of The Canal Street Condominium, 332 Canal Street, New York, NY 10013 or at such other address as shall be designated by the then managing agent.

NINTH: Common Interest. Each Unit Owner shall have such percentage interest in the common elements as is set forth on Schedule B attached hereto and shall bear such percentage of the common expenses of the Condominium except as otherwise described herein in reference to the Limited Common Elements or in the By-Laws annexed hereto. Each Unit Owner shall have one vote for all voting purposes at any meeting of the Unit Owners. The percentage of interest of each Unit in the common elements has been 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.

installation, maintenance, repair and replacement of the heating systems and all necessary pipes lines, conduits, ducts water lines and flues in connection therewith if such right is exercised and (iii) for access to any equipment that services the Lower Unit and which is located in the Upper Unit portion of the Building or the Upper Unit Limited Common Elements and (iv) to erect, maintain and replace one or more signs on the property permitted by law for the purpose of advertising the operation of any business conducted therein. Any such signs shall be of reasonable size and shall not be located so as to unduly disturb the aesthetics of the Building.

(c) The Declarant, its successors, assigns, and purchasers, reserves the easements, licenses, rights and privileges of a right-of-way in, through, over, under and across the common elements of the Condominium for the purpose of completing any rehabilitation or renovation to the Building and for sale of Units and facilities in the Condominium and, towards this end, reserves the right to grant and reserve easements and rights-of-way in, through, under, over and across the common elements for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, cable television and other utilities and for any other materials or services necessary for the completion of the work. The Declarant, its successors, assigns, and purchasers, also reserve the right to connect with and make use of any utility lines, wires, pipes, conduits, cable television, sewers and drainage lines which may from time to time be in or along any of the common elements. This paragraph shall not be amended without the consent of the Declarant.

EIGHTH: Service of Process. Service of process on the Unit Owners in any action with relation to the common elements shall be made upon the Board of Managers of The Canal Street Condominium, 332 Canal Street, New York, NY 10013 or at such other address as shall be designated by the then managing agent.

NINTH: Common Interest. Each Unit Owner shall have such percentage interest in the common elements as is set forth on Schedule B attached hereto and shall bear such percentage of the common expenses of the Condominium except as otherwise described herein in reference to the Limited Common Elements or in the By-Laws annexed hereto. Each Unit Owner shall have one vote for all voting purposes at any meeting of the Unit Owners. The percentage of interest of each Unit in the common elements has been 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.

TENTH: Administration. The administration of the Condominium and parcel of land described herein shall be in accordance with the provisions of this Declaration and with the provisions of the By-Laws which are made a part of this Declaration, and are annexed hereto as Schedule "C".

ELEVENTH. Amendments and Withdrawal.

(a) The dedication of the property to Condominium ownership herein shall not be revoked or the property withdrawn from Condominium ownership unless 100% of the Unit Owners in number and in common interest and the first mortgagees, if any, of each of these same Units agree to such revocation or removal of the property from the Plan by duly recorded instruments.

(b) The provisions of this Declaration may be modified or amended by an instrument executed by the Board of Managers upon an affirmative vote of 100% of the Unit Owners in number and in common interest held at a duly called meeting of the Unit Owners, provided however, that:

- (i) No amendment shall change any Condominium parcel, nor a Unit Owner's proportionate share of the common charges, nor the voting rights appurtenant to any Unit, unless all of the record Owner in number and common interest thereof and the first mortgagees, if any, of each of these same Unit agree to such revocation by recorded instrument, except as provided in Article ELEVENTH Section (d) hereof.
- (ii) No amendment shall be passed which shall impair or prejudice the rights and priorities of mortgagees.
- (iii) No amendment to the Declaration shall affect the limited common elements appurtenant to a Unit(s) without the written consent of the specific Unit Owner(s) affected thereby.
- (iv) No amendment to the Declaration shall affect the Limited Common Elements appurtenant to the Upper Unit or the Lower Unit, as the case may be, without the written consent of 100% in number of the Upper Unit Owner or the Lower Unit Owner, as the case may be.

There shall be a presumption for a period of 60 days subsequent to the recording of the amendment that the vote of the Unit Owners was made at a duly called meeting and that the requisite voting percentage was obtained. After the 60 day period such presumption will be deemed conclusive.

(c) The Declarant, its successors and assigns shall have the right without vote or consent of the Unit Owners, the Board of Managers or the holders of Unit mortgages to execute or (on its request) to require the Board of Managers to execute and record in the Register's Office of the City of New York, New York County and elsewhere if required by law, an amendment or amendments to this Declaration (together with such other documents, plan and maps as may be required to effectuate the same) to reflect the certification by a registered architect or professional engineer, certifying that the floor plans filed as part of an amended Declaration are an accurate copy of portions of the plans of the Building and fully and fairly depict the layout, location, designation and approximate dimensions of the Units as-built or (ii) utility easements or (iii) to assign storage areas, if any, as limited common elements or (iv) technical corrections to the Declaration to conform to other documents including but not limited to the as-built plans or (v) to effectuate permissible changes in unsold Units.

(d) The Declarant or his designee and any Owner of the Lower Unit (or of any Unit resulting from the subdivision of the Lower Unit) shall have the right, without vote or consent of other Unit Owners or the Board of Managers or the holders of Unit mortgages, to execute or (on its request) to require the Board of Managers to execute and record in the Office of the New York City Register, New York County, and elsewhere if required by law an amendment or amendments to this Declaration (together with such other documents, plans and maps as may be required to effectuate the same) to reflect any changes in Units and the reapportionment of the common elements resulting therefrom made by the Owner or his designee or any Owner of the Lower Unit in accordance with Article SIXTH hereof. All expenses in connection with the preparation, recordation and filing of any such amendment shall be paid by the Owner or his designee or the then owner of the Lower Unit.

(e) Any amendment to this Declaration shall not take effect until it is recorded in the office of the Register of the City of New York, New York County.

(f) The Declaration may not be altered, amended or repealed in such a manner as would adversely affect the Declarant, its successors, assigns or designees without the written consent of

the Declarant, its successors, assigns or designees.

Irrespective of any other provision of this Declaration, no action for partition or division of the common elements shall be brought nor shall this plan of Condominium ownership be terminated where such partition, division or termination will result in a violation of the then existing local zoning and building laws and codes.

TWELFTH: Subject to Declaration, By-Laws, etc. All present or future Unit Owners, tenants, future tenants, or any other person that might use the facilities of the Condominium in any manner, are subject to the provisions of this Declaration, the By-Laws and Rules and Regulations of the Condominium and the mere acquisition or rental of any of the Units of the Condominium or the mere act of occupancy of any of said Units shall signify that the provisions of this Declaration, By-Laws and Rules and Regulations of the Condominium are accepted and ratified and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance or lease thereof.

THIRTEENTH: Common Charges. All sums assessed as common charges by the Board of Managers of the Condominium but unpaid together with the maximum interest permitted in New York thereon, chargeable to any Unit Owner shall constitute a lien on his Unit prior to all other liens except: (a) tax or assessment liens on the Unit by the taxing subdivisions of any governmental authority, including but not limited to State, City, County, Town, and School District taxing agencies; and (b) all sums unpaid on any first mortgage of record encumbering any Unit. Such lien may be foreclosed when past due in accordance with the laws of the State of New York, by the Condominium, in like manner as a mortgage on real property, and the Condominium shall also have the right to recover all costs incurred including reasonable attorney's fees (but such right shall not be a lien against the Unit). In the event the proceeds of the foreclosure sale are not sufficient to pay such unpaid common charges, the unpaid balance shall be charged to all Unit Owners as a common expense. However, where the holder of an institutional mortgage of record, or other purchaser of a Unit at a foreclosure sale of an institutional mortgage, obtains title to the Unit as a result of foreclosure, or the institutional mortgage holder obtains title by conveyance in lieu of foreclosure, such acquirer of title, his successors or assigns, shall not be liable and the Unit shall not be subject to a lien for the payment of common charges chargeable to such Unit which were assessed and became due prior to the acquisition of

title to such Unit by such acquirer. In such event, the unpaid balance of common charges will be charged to all other Unit Owners as a common expense. The term "institutional mortgage" herein used shall mean a first mortgage granted by a bank, savings and loan association, life insurance company, pension fund, trust company or other institutional lender or a mortgage granted by the Owner to a purchaser of a Unit or in which the Owner participates with one of the above.

Every Unit Owner shall pay the common charges assessed against him when due and no Unit Owner may exempt himself from liability for the payment of the common charges assessed against him by waiver of the use or enjoyment of any of the common elements or by the abandonment of his Unit. However, no Unit Owner shall be liable for the payment of any common charges accruing subsequent to a sale, transfer or other conveyance by him of such Unit made in accordance with Section 339-x of the Real Property Law or in accordance with the provisions of this Declaration and the By-Laws.

FOURTEENTH. Units Acquired by the Board. In the event any Unit Owner shall convey his Unit to the Board of Managers in accordance with Section 339-x of the Real Property Law or in the event the Board of Managers shall purchase any Unit at a foreclosure sale in accordance with Article XI of the By-Laws, title to such Unit or the rights to the lease of such Unit shall be held by the Board of Managers or its designee on behalf of all of the other Unit Owners.

In order to carry out the provisions of this paragraph each Unit Owner shall, upon becoming such, grant an irrevocable power of attorney, coupled with an interest to the Board of Managers and their successors to acquire title or lease any such Unit under whatever terms the Board may in its sole discretion deem proper and to sell, lease, sublease, mortgage, vote or otherwise deal with such Unit under such terms as the Board in its sole discretion shall deem proper.

FIFTEENTH: Encroachments. The Unit Owners agree that if any portion of a Unit or the common elements (whether restricted in use to an individual Unit Owner or not) encroaches upon another or shall hereinafter encroach upon another as a result of original construction or settling of the Building, a valid easement for the encroachment and the maintenance of the same, so long as it stands, shall and does exist. In the event the Building is partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings and is rebuilt the Unit Owners agree that encroachments of any portion of the Unit or the common elements as

aforescribed due to construction, shall be permitted, and that a valid easement for said encroachment and the maintenance thereof shall exist so long as the Building or reconstructed Building shall stand.

SIXTEENTH: Unit Ownership. Upon the closing of title to a Unit, a purchaser shall automatically become a Unit Owner in the Condominium and shall remain such until such time as he ceases to own the Unit for any reason.

SEVENTEENTH: Conveyance of a Unit. In any conveyance of a Unit, either by voluntary instrument, operation of law or judicial proceeding in accordance with this Declaration or the By-Laws, the Grantee of the Unit shall be jointly and severally liable with the Grantor for any unpaid common charges against the latter assessed and due up to the time of the grant or conveyance without prejudice to the Grantee's right to recover from the Grantor the amounts paid by the Grantee therefor. Any such Grantee shall be entitled to a statement from the Board of Managers setting forth the amount of the unpaid common charge against the Grantor and such Grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for any unpaid common charge against the Grantor in excess of the amount set forth in such statement. Grantee as used herein shall not include either the holder of an institutional mortgage of record or other purchaser of a Unit at a foreclosure sale of an institutional mortgage.

EIGHTEENTH: Covenants and Restrictions. The use of the Unit by the Unit Owner or other occupant shall be subject to the rules, regulations and provisions of this Declaration, the By-Laws and Rules and Regulations of the Board of Managers and the following covenants and restrictions:

(a) The Unit and area restricted to the Unit Owner's use shall be maintained in good repair and overall appearance.

(b) No alteration to the exterior of the Upper Unit or any part of the general common elements or Upper Unit Limited Common Elements may be made without the written consent of the Board of Managers. No alterations to the inside of a Unit which are structural, or which would inhibit access to the Building or the common elements, or which would have a material adverse effect on the use or enjoyment of the Building or other Unit Owners may be made without the written consent of the Board of Managers. Consent may be requested by mailing a letter, certified mail, return receipt requested to the Management Agent, if any, or to the President of the Board of Managers, if no Management Agent is employed. The Board of Managers shall have the obligation to answer within sixty days and failure to do so within the

stipulated time shall mean that there is no objection to the proposed modification or alteration. All work done pursuant to this Section must be done in accordance with all applicable rules, regulations, permits and zoning ordinances of any governmental agencies having jurisdiction thereof. All necessary approvals must be obtained and submitted to the Board of Managers upon submission of the written request for consent to do the work to the Board of Managers.

(c) No alterations to the exterior of the Lower Unit or the Lower Unit Limited Common Elements may be made without the written consent of the Lower Unit Owner.

(d) Any interior alterations or improvements made to a Unit shall be made in accordance with all applicable rules, regulations, permits and zoning ordinances of any governmental agencies having jurisdiction thereof.

(e) The Board of Managers shall, at the request of the mortgage of the Unit, report any unpaid common charges due from the Unit Owner of such Unit.

(f) No nuisances shall be allowed upon the property nor shall any use or practice be allowed which is a source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents.

(g) No immoral, improper, offensive or unlawful use shall be made of the property nor any part thereof and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

(h) Regulations promulgated by the Board of Managers concerning the use of the property shall be observed by the Unit Owners, provided, however, that copies of such regulations are furnished to each Unit Owner prior to the time the said regulations become effective.

(i) The Declarant, his successors or assigns shall have the right without the consent of the Board of Managers, other Unit Owners or their mortgagees, to (i) make alterations, additions or improvements, structural and non-structural, ordinary and extraordinary, interior and exterior, in, to and upon any Unit owned by it; (ii) change the layout or number or rooms in such Unit; (iii) change the size and/or number of such Units by subdividing a Unit, combining separate Units (including those resulting from such sub-division or otherwise) into one or more Units, altering the boundary walls between Units or otherwise and (iv) reapportion among the Units affected by such change their

appurtenant interests in the common elements, provided, however, that the Declarant or his designee shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction and shall hold the Board of Managers and all other Unit Owners harmless from any liability arising therefrom. The provisions of this subparagraph (i) may not be amended or modified without the written consent of the Declarant.

(j) The common charges shall be paid when due.

NINETEENTH: Use of the Units. Each of the Units in the Building may be used for any lawful purpose permitted under the applicable zoning of the City of New York.

TWENTIETH: Power of Attorney to the Declarant; Conveyance of a Unit. Each Unit Owner, by acceptance of a deed or otherwise succeeding to title to a Unit, shall be deemed to have irrevocably nominated, constituted and appointed as such Unit Owner's attorney-in-fact, coupled with an interest and with power of substitution:

1. The Declarant, to amend the Condominium documents pursuant to the terms of Articles SIXTH and ELEVENTH hereof; and

2. The persons who shall from time to time constitute the Condominium Board, jointly to:

(a) acquire or lease any Unit, together with its Common Interest, appurtenant thereto (i) whose Unit Owner desires to sell, convey, transfer, assign, lease or surrender such Unit, or (ii) that becomes the subject of a foreclosure or other similar sale, in the name of condominium board or its designee, corporate or otherwise, on behalf of all Unit Owners;

(b) convey, sell, lease, mortgage or otherwise deal with (but not to vote the common interest appurtenant to) any Unit so acquired or to sublease any Unit so leased; and

(c) execute, acknowledge and deliver (i) any declaration or other instrument affecting the Condominium that the Condominium Board deems necessary or appropriate to comply with any applicable law in respect of the maintenance, demolition, construction, alteration, repair, restoration or other Work in or to the Condominium, or (ii) any consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting the Condominium or the common elements that the Condominium Board deems necessary or appropriate.

3. In confirmation of the foregoing power of attorney,

each Unit Owner, upon the request of either the Declarant or the condominium Board, shall duly execute, acknowledge and deliver to the requesting party, for recording in the Register's Office, a Unit Owner's Power of Attorney substantially in the form set forth in Schedule "D" to this Declaration.

TWENTY FIRST: Covenant of Further Assurances.

(a) General. Any person subject to the terms of the Condominium Documents, whether such person is a Unit Owner, a tenant or subtenant of a Unit Owner, an occupant of a Unit, a member of the condominium board, an officer of the condominium, or otherwise, shall, at the expense of any other Person so requesting, execute, acknowledge and deliver to such other Person such instruments, in addition to those specifically provided for in the Condominium Documents, and take such other action as such other Person may reasonably request in order either to effectuate the provisions of the Condominium Documents or any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

(b) Failure to Deliver or Act.

1. If any Unit Owner or other Person subject to the terms of the Condominium Documents fails to execute, acknowledge or deliver any instrument, or fails or refuses, within ten (10) days after request therefor, to take any action that such Unit owner or Person is required to execute, acknowledge and deliver or to take pursuant to the Condominium Documents, then the Condominium Board is hereby authorized, as attorney-in-fact for such Unit Owner or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such other action, in the name of such Unit Owner or other Person, and such document or action shall be binding on such Unit Owner or other Person.

2. If the Condominium Board, any Unit Owner or other Person subject to the terms of the Condominium Documents fails to execute, acknowledge or deliver any instrument, or fails or refuses, within ten (10) days after request therefor, to take any action that the Condominium Board, such Unit Owner or Person is required to execute, acknowledge and deliver or to take pursuant to the Condominium Documents at the request of the Declarant, then the Declarant is hereby authorized, as attorney-in-fact for the Condominium Board, such Unit Owner or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of the Condominium Board, such Unit Owner or other Person, and such document or action shall be

binding on the Condominium Board, such Unit Owner or other Person, as the case may be.

TWENTY SECOND: Covenants to Run With the Land.

(a) All provisions of this Declaration, the By-Laws and the Rules and Regulations, including, without limitation, the provisions of this Article TWENTY-SECOND shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the land and with every part thereof and interest therein, and all of the provisions thereof shall be binding upon, and shall inure to the benefit of, the owner of all or any part thereof, or interest therein, and his heirs, executors, administrators, legal representatives, successors and assigns, but the same are not intended to create, nor shall they be construed as creating, any rights in, or for the benefit of, the general public.

(b) All present and future Unit Owners, tenants, subtenants and occupants of Units shall be subject to and shall comply with the provisions of this Declaration, the By-Laws and the Rules and Regulations, all as may be amended from time to time. The acceptance of a deed or conveyance or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the By-laws and the Rules and Regulations, all as may be amended from time to time, are accepted and ratified by such Unit Owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any Person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof.

TWENTY THIRD: Invalidity. Invalidation of any of the covenants, limitations or provisions of the Declaration by judgment or court order shall in no wise affect any of the remaining part or parts hereof, and the same shall continue in full force and effect.

TWENTY FOURTH: Successors and Assigns. The rights and obligations of Declarant as set forth herein and in the By-Laws shall inure to the benefit of and be binding upon any successor, assign or designee of Declarant or, with Declarant's consent any transferee of all their Unsold Units. Subject to the foregoing, Declarant may at any time assign or transfer its interests herein, whether by merger, consolidation, lease, agreement or otherwise.

TWENTY FIFTH: Waiver. No provision contained in this

Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur.

TWENTY SIXTH: Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

TWENTY SEVENTY: Gender. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine gender and the use of the singular gender shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

[End of Page; Signatures on Following Page]

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed this 12 day of October, 2012.

MM CANAL LLC

By: _____

A handwritten signature in black ink, appearing to be "J. L. ...", written over a horizontal line.

**SCHEDULE A
TO
DECLARATION OF CONDOMINIUM
THE CANAL STREET CONDOMINIUM
LEGAL DESCRIPTION**



NEW YORK METRO
800-853-4803
212-922-1593 fax
stewartnewyork.com

SCHEDULE A – DESCRIPTION

Title No.: ST11-12591

AMENDED (11/29/2012)

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of Canal Street, 103 feet 1 ½ inches easterly from the southeasterly corner of Canal and Church Streets;

RUNNING THENCE easterly along the southerly side of Canal Street, 50 feet 7 inches;

RUNNING THENCE southerly parallel with Church Street, 100 feet 9 inches to the northerly side of Lispenard Street;

RUNNING THENCE westerly along the northerly side of Lispenard Street, 50 feet 2 inches;

RUNNING THENCE northerly parallel with Church Street, 50 feet 3 inches;

RUNNING THENCE easterly parallel with Lispenard Street, 4 feet 3 inches;

RUNNING THENCE northerly parallel with Church Street, 12 feet;

RUNNING THENCE westerly parallel with Lispenard Street, 3 feet 7 ¾ inches;

RUNNING THENCE northerly parallel with Church Street and through a party wall, 49 feet 1 3/8 inches to the southerly side of Canal Street, to the point or place of BEGINNING.

**SCHEDULE B
TO THE
DECLARATION OF CONDOMINIUM
OF
THE CANAL STREET CONDOMINIUM**

<u>Unit</u>	<u>Block 210 Lot</u>	<u>Percentage Interest in Common Elements</u>	<u>Approx. Sq. Ft. Area</u>	<u>Use</u>
Upper Unit	1001	80%	24,751	Misc. Commercial
Lower Unit	1002	20	10,344	Commercial

**SCHEDULE C
TO
DECLARATION OF CONDOMINIUM
THE CANAL STREET CONDOMINIUM
BY-LAWS OF THE CONDOMINIUM**

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BY-LAWS

OF

THE CANAL STREET CONDOMINIUM

ARTICLE I. PLAN OF CONDOMINIUM OWNERSHIP

Section 1. Condominium Unit Ownership. The property located in the Borough and County of Manhattan, County of New York, City and State of New York, as specifically set forth in the Declaration of Condominium (the "Declaration") executed by MM CANAL LLC (the "Declarant"), and more commonly known as The Canal Street Condominium, has been submitted to the provisions of Article 9-B of the Real Property Law of the State of New York.

Section 2. By-Laws Applicability. The provisions of these By-Laws are applicable to the Condominium. The term "Condominium" as used herein shall include the land and building and improvements thereon including the Condominium Units (hereinafter referred to as "Units"), and the Common Elements and the use and occupancy thereof. The term "Building" as hereinafter used shall be defined as the exterior walls, roof of a Unit or number of Units all of which are constructed under a continuous roof or the entire interior and exterior of any Building or structure which shall form a portion of the Condominium but which does not contain any of the Units. The definitions contained in the Declaration of Condominium shall be applicable to these By-Laws unless otherwise stated.

Section 3. Personal Application. All present or future Unit Owners, mortgagees and lessees, or their employees, guests or any other person that might use the facilities of the Condominium in any manner are subject to these By-Laws, the Declaration and any Rules and Regulations established by the Board of Managers. The mere acquisition, occupancy or rental of any of the Units will signify that these By-Laws, the Declaration and the Rules and Regulations are accepted, ratified, and will be complied with.

ARTICLE II. CONDOMINIUM, VOTING, QUOROM, PROXIES AND WAIVERS

Section 1. Condominium. The Condominium shall include the Unit Owners. "Unit Owner" as referred to herein shall mean all of the owners of each Upper Unit and Lower Unit. The owner of the Upper Unit shall hereinafter be referred to as Upper Unit Owner. The owner of the Lower Unit shall hereinafter be referred to as Lower Unit Owner.

Section 2. Voting. Each Unit Owner (including the Declarant

and the Board of Managers, if the Declarant or the Board of Managers shall then own or hold title to one or more Units) shall be entitled to cast one vote at all Unit Owners' meetings for each Unit or Units owned by such Unit Owner, but in the event the Board of Managers acquires a unit on behalf of the Condominium it shall not cast any of its votes appurtenant to such Unit, for the election of any member to the Board. Notwithstanding anything to the contrary contained herein however, the Lower Unit Owner(s) (and the owners of any Units resulting from the subdivision of the Lower Units, voting jointly) shall have the right to elect one (1) member of the Board of Managers.

Section 3. Quorum. So many Unit Owners, present in person or represented by written proxy, as shall represent at least fifty-one (51%) percent of the total authorized votes of all Unit Owners shall constitute a quorum at all meetings of the Unit Owners for the transaction of business, except as otherwise provided by statute, by the Declaration or by these By-Laws. If, however, such quorum shall not be present or represented at any meeting of the Unit Owners, the Unit Owners entitled to vote thereafter present in person or represented by written proxy, shall have power to adjourn the meeting from time to time without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting originally called.

Section 4. Vote Required to Transact Business. When a quorum is present at any meeting, the vote of a majority of the Unit Owners present in person or represented by written proxy shall decide any question brought before such meeting and such vote shall be binding upon all Unit Owners, unless the question is one upon which, by express provisions of the Declaration statute, or of these By-Laws, a different vote is required, in which case such express provisions shall govern and control the decision of such question.

Section 5. Right to Vote. At any meeting of Unit Owners, every Unit Owner having the right to vote shall be entitled to vote in person or by proxy. Such proxy shall only be valid for such meeting or adjourned meetings thereof.

Section 6. Proxies. All proxies shall be in writing and shall be filed with the Secretary at or prior to the meeting at which the same are to be used. A notation of such proxies shall be made in the minutes of the meeting.

Section 7. Waiver and Consent. (a) Whenever the vote of

Unit Owners at a meeting is required or permitted by any provision of any statute, the Declaration, or of these By-Laws to be taken in connection with any action of the Condominium, the notice of meeting and the meeting vote of Unit Owners may be dispensed with if all Unit Owners who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken.

(b) Before or at any meeting of Unit Owners any Unit Owner may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Unit Owner at any meeting of Unit Owners shall be a waiver of notice by him of the time and place thereof. If all the Unit Owners are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 8. Place of Meetings. Meetings shall be held at such suitable place convenient to the Unit Owners as may be designated by the Board of Managers.

Section 9. Annual Meetings; Control of Board of Managers by Declarant. Within thirty (30) days after title to the last Unit is conveyed by the Declarant, but in no event later than the earlier of (i) two (2) years after the closing of title to the first Unit or (ii) whenever the unsold Units constitute less than (50%) percent of the common interests, the Declarant shall call the first annual Unit Owners' meeting. At such meeting, a new Board of Managers shall be elected by the Unit Owners and the former members of the Board shall thereupon resign. Thereafter, annual meetings shall be held on the anniversary of such date in each succeeding year. At such meetings there shall be elected by ballot of the Unit Owners a Board of Managers in accordance with the requirements of Article III of these By-Laws. The Unit Owners may also transact such other business of the Condominium as may properly come before them.

Notwithstanding anything set forth in these By-Laws to the contrary, Declarant will have voting control and may designate a majority of the Board of Managers until the date of conveyance of title to the Upper Unit in the Condominium by Declarant, Declarant's successors, assigns or designees. Thereafter, the Declarant may not designate a majority of the Board of Managers but may designate one (1) member so long as the Declarant owns one (1) Unit.

Section 10. Special Meetings. It shall be the duty of the President to call a special meeting of the Unit Owners as directed by the Board of Managers or upon a petition signed by a majority

of the Unit Owners having been presented to the Secretary.

Section 11. Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Unit Owner of record, at least ten (10) but not more than thirty (30) days prior to such meeting. The mailing of a notice in the manner provided in these By-Laws shall be considered notice served.

Section 12. Order of Business. The order of business at all meetings shall be as follows:

- (a) Roll call
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting
- (d) Report of officers
- (e) Report of committees
- (f) Election of inspectors of election (in the event there is an election)
- (g) Election of Managers (in the event there is an election)
- (h) Unfinished business
- (i) New business

ARTICLE III. BOARD OF MANAGERS

Section 1. Number and Term. The affairs of the Condominium shall be governed by a Board of Managers. The first Board of Managers shall consist of three Managers designated by the Declarant who shall hold office and exercise all powers of the Board of Managers until the first annual meeting of the Unit Owners. Until succeeded by the Managers elected at the first annual meeting of Unit Owners, Managers need not be Unit Owners; thereafter, all Managers other than designees or nominees of the Declarant shall be Unit Owners. At the first annual meeting of Unit Owners called pursuant to Section 9 of Article II, a maximum of three (3) Managers shall be elected by the Unit Owners. Except as otherwise specifically set forth in these By-Laws, at least two (2) members of the Board of Managers shall be elected/ appointed by the Upper Unit Owner(s). Except as otherwise specifically set forth in these By-Laws, at least one (1) members of the Board of Managers shall be elected/appointed by the Lower Unit Owner(s). The term of office of one (1) of the Managers shall be fixed at three (3) years; the term of office of one (1) of the Managers shall be fixed at two (2) years; and the term of office of one (1) of the Managers shall be fixed at one (1) year. Separate ballots shall be conducted for each of the three terms of office. Each Unit Owner shall be entitled to cast one vote on each ballot for

each Unit he owns. The one (1) nominee of each of the ballots receiving the highest number of votes on their ballot shall constitute the duly elected Board of Managers. At the expiration of the initial term of office of each respective Manager, his successor shall be elected to serve a term of three (3) years. The Managers shall hold office until their successors have been elected and hold their first meeting. Notwithstanding the foregoing, the Declarant shall have the right to designate a majority of the Board of Managers until the date of conveyance of title to the Upper Unit by Declarant, Declarant's successors, assigns or designees. Thereafter the Declarant shall have the right to designate one (1) member of the Board of Managers so long as it continues to own at least one Unit. This Section may not be amended without the written consent of the Declarant.

Section 2. Vacancy and Replacement. If the office of any Manager or Managers becomes vacant by reasons of death, resignation retirement, disqualification, removal from office or otherwise, a majority of the remaining Managers, though less than a quorum at a special meeting of Managers duly called for this purpose, shall choose a successor or successors, who shall hold office for the unexpired term in respect to which such vacancy occurred. If the vacancy occurs with respect to any member of the Board of Managers who has been designated by the Declarant, or the Lower Unit Owner(s), only they shall have the right to choose such Manager's successor to fill the unexpired portion of his term.

Section 3. Removal. Managers, other than Declarant designees, may be removed for cause by an affirmative vote of a majority of the Unit Owners. No Manager, other than a member of the First Board of Managers or a Manager elected or designated by the Declarant, shall continue to serve on the Board if, during his term of office, he shall cease to be a Unit Owner. Such member shall be deemed to have resigned effective as of the date such ownership ceased. A member of the Board designated by the Declarant or its designee may only be removed by the Declarant or its designee and only they shall have the right to designate a replacement.

Section 4. First Board of Managers. The First Board of Managers shall consist of three (3) Managers designated by the Declarant, who shall hold office and exercise all powers of the Board of Managers until the first annual meeting of Unit Owners. A Unit Owner, who is independent of the Declarant, shall be elected by a majority of the Unit Owners other than the Declarant to the First Board at a Board meeting held within sixty (60) days of the closing of title to the first Unit. Any or all of said Managers shall be subject to replacement in event of resignation or death in the manner set forth in Section 2 of this Article.

Section 5. Powers. (a) The property and business of the Condominium shall be managed by its Board of Managers, which may exercise all such powers of the Condominium and do all such lawful acts and things as are not by statute or by the Declaration or by these By-Laws directed or required to be exercised or done by the Unit Owners personally. These powers shall specifically include, but not be limited to, the following items:

1. To determine and levy monthly assessments ("Common Charges") to cover the cost of common expenses, payable in advance. The Board of Managers may increase the monthly assessments or vote a special assessment in excess of that amount, if required, to meet any additional necessary expenses, but said increases can only be assessed among the Unit Owners in accordance with Article VI of these By-Laws;

2. To collect, use and expend the assessments collected to maintain, care for and preserve the respective Units' Limited Common Elements and the General Common Elements;

3. To make repairs, restore or alter any Units or the Common Elements after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings within the limitations of Article VII of these By-Laws;

4. To enter into and upon the Units, when necessary, with notice to the Unit Owners thereof whenever possible and practical and at as little inconvenience to the Unit Owner as possible in connection with the maintenance, care and preservation of the Property;

5. To open bank accounts on behalf of the Condominium and to designate the signatories to such accounts;

6. To insure and keep insured the Common Elements and Units in accordance with Article VII of these By-Laws;

7. To make reasonable rules and regulations as permitted by applicable law, statute, the Declaration or these By-Laws applicable to the Units and Unit Owner(s), and to amend the same from time to time, and such rules and regulations and amendments shall be binding upon the Unit Owners when the Board has approved them in writing. A copy of such rules and all amendments shall be delivered to each Unit Owner;

8. To collect delinquent assessments by suit or otherwise, to abate nuisances and to enjoin or seek damages from the Unit Owners for violations of the house rules and regulations herein

referred to;

9. To employ and terminate the employment of employees and independent contractors and to purchase supplies and equipment, to enter into contracts, and generally to have the power of manager in connection with the matters hereinabove set forth;

10. To bring and defend actions by or against more than one Unit Owner and pertinent to the operation of the Condominium. The Board, in its discretion, may fund the cost of any such litigation out of the common charge assessments or levy special assessments. The Board shall also have the right to engage in any litigation it deems necessary to carry out the provisions of the Declaration of Condominium and these By-Laws and may fund the cost of any such litigation out of the common charge assessments or levy special assessments. Without limiting the foregoing, the Board may engage in litigation pertaining to the maintenance and operation of the Common Elements;

11. To purchase or otherwise acquire Units in foreclosure, as a result of abandonment or pursuant to the right of first refusal of the Condominium on behalf of all Unit Owners, and to take any and all steps necessary to repair or renovate any Unit so acquired, offer such Unit for sale or lease or take any other steps regarding such Unit as shall be deemed proper by the Board of Managers;

12. To grant utility, cable television or other easements as may, at any time, be required for the benefit of the Condominium and Unit Owners without the necessity of the consent thereto, or joinder therein, by the Unit Owners or any mortgagee (except that if the granting of such easement impairs the ability of one or more Unit Owners who have the right to use such Common Elements to the exclusion of any other Unit Owners, the consent of all such affected Unit Owners shall be required in writing before such easement shall be granted);

13. To make additions, alterations, or improvements to the General Common Elements and the respective Unit(s) Limited Common Elements of the Condominium, the cost of which addition, alteration or improvement does not exceed \$2,500. The Board of Managers may make additions, alteration or improvements to the General Common Elements and the respective Unit(s) Limited Common Elements costing in excess of \$2,500 only with the approval of all of the Unit Owners. While the Declarant is in control of the Board of Managers, the Board may make additions, alterations or improvements to the General Common Elements and the Unit(s) Limited Common Elements costing in excess of \$2,500 or enter into service or maintenance contracts the duration of which will extend

more than one year after the Declarant loses control of the Board of Managers, only with the approval of all of the Unit Owners, excluding the Declarant, voting at a duly held meeting of the Unit Owners. In addition, the Declarant must give its written approval pursuant to Section 5(c) herein. Notwithstanding the above, nothing in this section shall impair the Board of Managers obligation to make necessary repairs and replacements.

14. Subject to the provisions of subparagraph (c) hereof, to borrow money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of the General Common Elements and the respective Unit(s) Limited Common Elements, provided, however, that (i) the consent of all of the Unit Owners obtained at a meeting duly called and held for such purpose in accordance with the provisions of these By-Laws, shall be required for the borrowing of any sum in excess of \$2,500 and (ii) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the Common Elements without the written consent of the Owners of said Unit. To the extent such borrowing pertains only to an individual Unit(s) Limited Common Elements, only those Unit Owners affected shall bear the cost and expense of such borrowing.

15. To act as an agent for one or more Unit Owners to file a single complaint and bring a special proceeding on behalf of Unit Owners who wish to contest the real estate tax assessment of their Unit pursuant to Section 339-y(4) of the New York Real Property Law. In such event, the Board could retain counsel on behalf of such Unit Owners and charge such Unit Owner for whom it is acting a pro-rata share of expenses, disbursements and legal fees, the payment for which would be secured by a lien on each Unit. The Board of Managers is not obligated to perform such services and it is necessary to obtain the written authorization of the Unit Owners it will perform such service for.

16. (a) All additions, alterations, repairs or maintenance to an individual Unit or such Unit's Limited Common Elements shall be the sole responsibility and sole cost of the respective Unit Owner.

(b) The Board of Managers may, by resolution or resolutions, passed by a majority of the whole Board, designate one or more committees, each of such committees to consist of at least three (3) Managers or Unit Owners, at least one of whom shall be a Manager, which, to the extent provided in said resolution or resolutions, shall have and may exercise the powers of the Board of Managers in the management of the business and affairs of the Condominium and may have power to sign all papers which may be required, provided the said resolutions shall

specifically so provide. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Managers, and they shall serve at the pleasure of the Board of Managers. Committees established by resolution of the Board of Managers shall keep regular minutes of their proceedings and shall report the same to the Board as required.

(c) Notwithstanding anything to the contrary contained in these By-Laws, so long as the Declarant or its designee shall continue to own a Unit, the Board of Managers may not, without the Declarant's prior written consent: (i) make an addition, alteration or improvement to the General Common Elements and Upper Unit(s) Limited Common Elements or to any Unit, costing cumulatively more than \$2,500, the foregoing not to include necessary repairs and maintenance work, or (ii) assess any common charges for the creation of, addition to, or replacement of all or part of a reserve, contingency or surplus fund, or (iii) hire any employee, or (iv) enter into any service or maintenance contract for work not covered by contracts in existence on the date of the first closing of title to a Unit, or (v) borrow money on behalf of the Condominium, or (vi) amend the Declaration or these By-Laws.

(d) Anything herein to the contrary notwithstanding, the Board of Managers shall have no liability or responsibility for the operation, care, upkeep or maintenance of (i) the Lower Unit(s), or Lower Unit(s) Limited Common Elements or (ii) the Upper Unit(s), or Upper Unit(s) Limited Common Elements (as such terms are defined herein or in the Declaration of Condominium), it being the intention of respective Unit Owners that the cost of any such operation, care, upkeep or maintenance shall be borne exclusively by the respective Unit Owner.

Section 6. Repairs and Maintenance. Except as hereinafter provided, all maintenance, painting, repair and replacement of the General Common Elements, including but not limited to exterior walls, roof and roof members of the Building, as well as painting, repair and/or maintenance of the exterior surfaces, roof, windows and doors which open from the Building, as well as all maintenance, repairs and replacements of foyers and stairways of the Building, and of any pipes, wires, conduits and utility lines, or any portion of which is located in one Unit and services another Unit or more than one Unit or so much of any pipes, wires, conduits and utility lines as are located in the General Common Elements and the respective Unit's Limited Common Elements, but serve one or more Units shall be contracted for by the Board of Managers and the cost thereof shall be a General Common Expense for the General Common Elements and a Common Expense for all Unit Owners, except if such maintenance, painting, repair or

replacement is necessitated because of the negligence, misuse or neglect of a specific Unit Owner or the prior alteration of the Unit by the Unit Owner, in which event the cost thereof shall be assessed to and paid by such Unit Owner.

All maintenance (including electrical repairs and plumbing stoppages in the Units, cleaning of interior of windows and painting and decorating of the interior of the Units), repairs and replacements to the Units including doors which open from a Unit on which painting is performed by the Board of Managers, and repairs to pipes, wires and conduits located in and servicing the same Unit other than as set forth above shall be made by the respective Unit Owners at their own expense.

Except as hereinafter provided, all repairs and replacement of windows, irrevocably restricted areas and snow removal from the General Common Elements shall be contracted for by the Board of Managers and the cost thereof shall be a General Common Expense for the General Common Elements except that the cost of any maintenance or repairs necessitated because of the negligence, misuse or neglect of the Unit owner or prior alteration of a Unit shall be assessed to and paid by the Unit Owner.

The Board of Managers shall repair all windows, plumbing stoppages and electrical repairs occurring in the General Common Elements and each Unit(s) Limited Common Elements.

The Board of Managers and its agents, employees and contractors shall have a reasonable right of access to any Unit and to all portions of the Common Elements for the purpose of carrying out any of its obligations under these By-Laws or the Declaration of the Condominium. Whenever possible and practical, notice of such access or intent to gain access shall be given to the Unit Owner by the Board of Managers.

All repairs, painting or maintenance, whether made by the Unit Owner or the Board of Managers, to the doors, windows, or the exterior surface of the Building or to any generally visible portion of the General Common Elements or a Unit(s) Limited Common Elements shall be carried out in such a manner so as to conform to the materials, style and color initially provided by the Declarant, unless varied by the Board of Managers.

In the event that a Unit Owner fails to make any maintenance or repair, which maintenance or repair is necessary to protect any of the General Common Elements, Upper Unit(s) Limited Common Elements, Lower Unit(s) Limited Common Elements, that may affect other portions of the Building or any other Unit, the Board of Managers shall have the right to make such maintenance or repair

(after the failure of said Unit Owner to do so after ten (10) days written notice, or written or oral notice of a shorter duration in the event of an emergency situation) and to charge said Unit Owner for the cost of all such repairs and/or maintenance. In the event that the Board of Managers charges a Unit Owner for repairs or maintenance to his Unit or for repairs to any Common Elements restricted in use to such Unit Owner, and the Unit Owner fails to make prompt payment, the Board of Managers shall be entitled to bring suit thereon and, in such event, the Unit Owner shall be liable for the reasonable attorneys' fees and cost of such suit or proceeding together with interest on all sums due.

Section 7. Lower Unit. The Declarant and/or Owner(s) of the Lower Unit(s) shall have the right, without the consent of the Board of Managers, other Unit Owners or the holders of mortgages on Units to (a) make alterations, additions or improvements, structural and non-structural, interior and exterior, ordinary or extraordinary into and upon their Units; (b) alter or improve any Lower Unit(s) Limited Common Elements; provided, however that in each instance the Lower Unit Owner shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction and shall agree to hold the Board of Managers and all other Unit Owners harmless from any liability arising therefrom. If the Lower Unit is subdivided into separate Units, the owners thereof shall have the right, without the consent of the Board of Managers, other Unit Owners, or the holders or mortgages on Units, to apportion among the resulting Units their appurtenant interests in the Common Elements. In no case, however, may the total of such division or consolidation of the Lower Unit by the Declarant or Lower Unit Owner result in a different percentage of Common Interest as existed on the date of the recording of the Declaration for the entire Lower Unit.

The Owner(s) of the Lower Unit(s) and any Lower Unit resulting from the subdivision of the Lower Unit(s) shall have easements for (i) the installation, maintenance repair and replacement of signs, flues, vents, air-conditioning, heating, ventilating, water and other mechanical lines and fixtures and equipment on the exterior walls, the roof and through the Common Elements of the Building, and in, through under and over any Lower Unit and any Unit resulting from the subdivision of the Lower Unit(s); (ii) through the Common Elements of the Building for access to the roof for the purpose of installing, repairing, maintaining and replacing any fixtures and equipment now or hereafter located on the roof, provided, however, that except in the case of an emergency, the right of access may be exercised only after prior notice to the Board of Managers. The Lower Unit(s) and any Unit resulting from the subdivision of the Lower Unit(s) shall be subject to easements in favor of any other

Unit(s) and any Unit resulting from the subdivision of the Lower Unit(s) for the installation, maintenance, repair and replacement of gas, electricity, heating, air-conditioning, ventilating and water and other mechanical lines and fixtures and equipment serving the Lower Unit(s) and any Unit resulting from the subdivision of the Lower Unit(s). The Owner and tenants of the Lower Unit(s) shall have the right at their sole expense to install separate heating systems for the Lower Unit(s) and any Unit resulting from the subdivision of the Lower Unit and an easement is granted in, over, under and through the basement of the Building for the installation, maintenance, repair and replacement of the heating systems and all necessary pipes, lines, conduits, ducts, water lines and flues in connection therewith if such right is exercised and (iii) for access to any equipment that services the Lower Unit and which is located in the Upper Unit portion of the Building or the Upper Unit(s) Limited Common Elements. The foregoing right of access, and the rights granted pursuant to the foregoing easements, are subject to the condition that same shall be exercised in such a way so as to minimize, in a commercially reasonable manner, the impact of same upon the Unit and such Unit's common elements (and limited common elements, as the case may be), in question and upon the rights and obligations of the Unit Owner in question, including, without limitation, the use and occupancy of such Unit and access and egress thereto.

•• The Lower Unit Owner and/or their tenants shall have an easement to erect, maintain and replace one or more signs on the property permitted by law for the purpose of advertising the operation of any business conducted therein. Any such signs shall be of reasonable size and shall not be located so as to unduly disturb the aesthetics of the Building. At the request of the Lower Unit Owner, the Board will execute any application or other document required to be filed with any governmental agency having or asserting jurisdiction in connection with any addition, alteration, improvement, or repair of the Lower Unit or the operation thereof. The Lower Unit Owner shall indemnify and hold the Board and the Unit Owners harmless from any liability resulting therefrom.

The Lower Unit Owner shall have the right, without the payment of any fees or charges to the Board, to sell or lease the Lower Unit without the Board having any right of first refusal to sell or lease, or to procure a third party to sell or lease, the same, and all sale or rental proceeds shall belong solely to the Lower Unit Owner.

The Lower Unit Owner shall be responsible for payment of the common charges and real estate taxes allocated against, and interest and amortization on all mortgages affecting the Lower

Unit and the entire cost of maintaining, repairing and replacing the Lower Unit(s) Limited Common Elements and the Lower Unit.

If the Lower Unit Owner fails to pay the common charges and expenses, the Board of Managers will have the same rights and remedies against it as against any other defaulting Unit Owner.

Section 8. Upper Unit. The Declarant and/or Owner(s) of the Upper Unit(s) shall have the right, without the consent of the Board of Managers, other Unit Owners or the holders of mortgages on Units to (a) make alterations, additions or improvements, structural and non-structural, interior and exterior, ordinary or extraordinary into and upon their Units; (b) alter or improve any Upper Unit(s) Limited Common Elements; provided, however that in each instance the Upper Unit Owner shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction and shall agree to hold the Board of Managers and all other Unit Owners harmless from any liability arising therefrom. If the Upper Unit is subdivided into separate Units, the owners thereof shall have the right, without the consent of the Board of Managers, other Unit Owners, or the holders of mortgages on Units, to apportion among the resulting Units their appurtenant interests in the Common Elements. In no case, however, may the total of such division or consolidation of the Upper Unit by the Declarant or Upper Unit Owner result in a different percentage of Common Interest as existed on the date of the recording of the Declaration for the entire Upper Unit.

The Owner(s) of the Upper Unit(s) and any Upper Unit resulting from the subdivision of the Upper Unit(s) shall have easements for (i) the installation, maintenance repair and replacement of signs, flues, vents, air-conditioning, heating, ventilating, water and other mechanical lines and fixtures and equipment on the exterior walls, the roof-and through the Common Elements of the Building, and in, through under and over any Upper Unit and any Unit resulting from the subdivision of the Upper Unit(s); (ii) through the Common Elements of the Building for access to the roof for the purpose of installing, repairing, maintaining and replacing any fixtures and equipment now or hereafter located on the roof, provided, however, that except in the case of an emergency, the right of access may be exercised only after prior notice to the Board of Managers. The Upper Unit(s) and any Unit resulting from the subdivision of the Upper Unit(s) shall be subject to easements in favor of any other Unit(s) and any Unit resulting from the subdivision of the Upper Unit(s) for the installation, maintenance, repair and replacement of gas, electricity, heating, air-conditioning, ventilating and water and other mechanical lines and fixtures and equipment serving the Upper Unit(s) and any Unit resulting from the

subdivision of the Upper Unit(s). The Owner and tenants of the Upper Unit(s) shall have the right at their sole expense to install separate heating systems for the Upper Unit(s) and any Unit resulting from the subdivision of the Upper Unit and an easement is granted in, over, under and through the basement of the Building for the installation, maintenance, repair and replacement of the heating systems and all necessary pipes, lines, conduits, ducts, water lines and flues in connection therewith if such right is exercised and (iii) for access to any equipment that services the Upper Unit and which is located in the Upper portion of the Building or the Upper Unit(s) Limited Common Elements. The foregoing right of access, and the rights granted pursuant to the foregoing easements, are subject to the condition that same shall be exercised in such a way so as to minimize, in a commercially reasonable manner, the impact of same upon the Unit and such Unit's common elements (and limited common elements, as the case may be), in question and upon the rights and obligations of the Unit Owner in question, including, without limitation, the use and occupancy of such Unit and access and egress thereto.

The Upper Unit Owner and/or their tenants shall have an easement to erect, maintain and replace one or more signs on the property permitted by law for the purpose of advertising the operation of any business conducted therein. Any such signs shall be of reasonable size and shall not be located so as to unduly disturb the aesthetics of the Building. At the request of the Upper Unit Owner, the Board will execute any application or other document required to be filed with any governmental agency having or asserting jurisdiction in connection with any addition, alteration, improvement, or repair of the Upper Unit or the operation thereof. The Upper Unit Owner shall indemnify and hold the Board and the Unit Owners harmless from any liability resulting therefrom.

The Upper Unit Owner shall have the right, without the payment of any fees or charges to the Board, to sell or lease the Upper Unit without the Board having any right of first refusal to sell or lease, or to procure a third party to sell or lease, the same, and all sale or rental proceeds shall belong solely to the Upper Unit Owner.

The Upper Unit Owner shall be responsible for payment of the common charges and real estate taxes allocated against, and interest and amortization on all mortgages affecting the Upper Unit and the entire cost of maintaining, repairing and replacing the Upper Unit(s) Limited Common Elements and the Upper Unit.

If the Upper Unit Owner fails to pay the common charges and expenses, the Board of Managers will have the same rights and

remedies against it as against any other defaulting Unit Owner.

Section 9. Compensation. Managers and officers shall receive no compensation for their services as such.

Section 10. Meetings. (a) The first meeting of each Board of Managers newly elected by the Unit Owners shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practicable. The annual meeting of the Board of Managers shall be held at the same place as the Unit Owners meetings, and immediately after the adjournment of same, at which time the dates, places and times of regularly scheduled meetings of the Board shall be set.

(b) Regularly scheduled meetings of the Board may be held without special notice.

(c) Special meetings of the Board may be called by the President. On two (2) days notice to each Manager, either personally or by telephone, mail or telegram, special meetings shall be called by the President or Secretary in a like manner and on like notice on the written request of at least two (2) Managers.

(d) At all meetings of the Board, a majority of the Managers shall be necessary and sufficient to constitute a quorum for the transaction of business, and an act of the majority of the Managers present at any meeting at which there is a quorum or where a quorum is available by means of a conference telephone or similar communications equipment shall be the act of the Board of Managers, except as may be otherwise specifically provided by statute or by the Declaration or by these By-Laws. If a quorum shall not be present at any meetings of Managers, the Managers present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

(e) Before or at any meeting of the Board of Managers, any Manager may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Manager at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

(f) Managers or members of any committee of the Board of Managers may participate in a meeting by means of conference telephone or similar communications equipment by means of which

all persons participating in the meeting can hear each other and such participation shall constitute presence at such meeting.

(g) Whenever the vote of Managers at a meeting is required or permitted by any provision of the Declaration, statute or these By-Laws to be taken in connection with any action the notice of meeting and the meeting vote of the Managers may be dispensed with if all Managers who would have been entitled to vote upon the action if such meeting were held shall consent in writing to such action being taken.

Section 11. Annual Statement. The Board of Managers shall furnish to all Unit Owners, their mortgagees and, if required by applicable law, statute or regulation, the Department of Law of the State of New York, and shall present annually (at the annual meeting, but in no event later than three (3) months after the close of the fiscal year) and when called for by a vote of the Unit Owners at any special meeting of the Unit Owners, a full and clear statement of the business conditions and affairs of the Condominium, including a yearly balance sheet and profit and loss statement prepared by an independent public-accountant and a statement regarding any taxable income attributable to the Unit Owner and a notice of the holding of the annual Unit Owners meeting.

Section 12. Fidelity Bonds. The Board of Managers may require that all officers and employees of the Condominium handling or responsible for Condominium funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be a common expense.

Section 13. Managing Agent. The Board of Managers may employ for the Condominium a managing agent under a term contract or otherwise at a compensation established by the Board, to perform such duties and services as the Board shall authorize including, but not limited to, all of the delegable duties of the Board. While Declarant is in control of the Board of Managers, it will not enter into contracts which bind the Condominium for a period of more than five (5) years (except Cable Television agreements) after the closing of the first Unit unless the contract provides that it may be cancelled by the Condominium upon ninety (90) days notice.

Section 14. Liability of the Board of Managers, Officers and Unit Owners. Any contract, agreement or commitment made by the Board of Managers shall state that it is made by the Board of Managers as agent for the Unit Owners as a group only and that no member of the Board of Managers or Officers of the Condominium nor individual Unit Owner shall be liable for such contract, agreement

or commitment. The Unit Owners shall be liable as a group under such contract, agreement or commitment, but the liability of each Unit Owner shall be limited to such proportion of the total liability thereunder as his common interest bears to the common interest of all Unit Owners. The Board of Managers and officers of the Condominium shall have no liability to the Unit Owners in the management of the Condominium except for willful misconduct or bad faith and the Unit Owners shall severally indemnify all members of the Board of Managers and Officers of the Condominium against any liabilities or claims arising from acts taken by a member of the Board of Managers in accordance with his duties as such member except acts of willful misconduct or acts made in bad faith. Such several liability of the Unit Owners shall, however, be limited at to each Unit Owner to such proportion of the total liability thereunder as such Unit Owner's common interest bears to the common interest of all Unit Owners.

ARTICLE IV. OFFICERS

Section 1. Elective officers. The officers of the Condominium shall be chosen by the Board of Managers and shall be a President, and one or more Vice Presidents, a Secretary and a Treasurer. The Board of Managers may also choose one or more Assistant Secretaries and Assistant Treasurers and such other officers as in their judgment may be necessary. All officers must be Unit Owners or members of the Board of Managers. One person may hold not more than two (2) offices at the same time and the President and Secretary may not be the same person.

Section 2. Election. The Board of Managers at its first meeting after each annual Unit Owners Meeting shall elect a President, a Vice President, a Secretary and a Treasurer. Only the President must be a member of the Board.

Section 3. Appointive officers. The Board may appoint such other officers and agents as it shall deem necessary who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

Section 4. Term. The officers shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Managers may be removed with or without cause, at any time, by the affirmative vote of a majority of the whole Board of Managers. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Managers.

Section 5. The President. The President shall be the chief

executive officer of the Condominium; shall preside at all meetings of the Unit Owners and Managers, shall be an ex-officio member of all standing committees shall have general and active management of the business of the Condominium, shall see that all orders and resolutions of the Board are carried into effect and shall have such other powers and duties as are usually vested in the office of President of a stock corporation organized under the Business Corporation Law of the State of New York or as delegated by resolution of the Board of Managers.

Section 6. The Vice-President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act and shall have such other powers and duties as are usually vested in the office of Vice President of a stock corporation organized under the Business Corporation Law of the State of New York or as delegated to the Vice President by the president or by resolution of the Board of Managers. A Vice President may also perform the duties of the Secretary and/or Treasurer as described below.

Section 7. The Secretary. The Secretary and/or Assistant Secretary shall attend all sessions of the Board and all Unit Owners' meetings and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all Unit Owners meetings and special meetings of the Board of Managers, and shall perform such other duties as may be prescribed by the Board of Managers or by the President, under whose supervision he shall be.

Section 8. The Treasurer. The Treasurer shall have the custody of the Condominium funds and securities and shall keep full and accurate chronological accounts of receipts and disbursements in books belonging to the Condominium including the vouchers for such disbursements, and shall deposit all monies and other valuable effects in the name and to the credit of the Condominium in such depositories as may be designated by the Board of Managers.

The Treasurer shall disburse the funds of the Condominium as he may be ordered by the Board, making proper vouchers for such disbursements and shall render to the President and Managers, at the regular meeting of the Board or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Condominium.

The Treasurer shall keep detailed financial records and books of account of the Condominium, including a separate account for each Unit which, among other things, shall contain the amount of

each assessment of the common charges against such Unit, the date when due, the amounts paid thereon and the balance remaining unpaid.

The Treasurer shall have such other duties and obligations as are delegated by the President or by resolution of the Board of Managers.

Section 9. Agreements, etc. All agreements and other instruments shall be executed on behalf of the Condominium by the President or such other person as may be designated by the Board of Managers.

ARTICLE V. NOTICES

Section 1. Definition. Whenever under the provision of the Declaration or of these By-Laws, notice is required to be given to the Board of Managers, any Manager or Unit Owner, it shall not be construed to mean personal notice; but such notice may be given in writing, by mail by depositing the same in a post office or letter box in a postpaid sealed wrapper, addressed to the Board of Managers, such Manager or Unit Owner at such address as appears on the books of the Condominium.

Section 2. Service of Notice-Waiver. Whenever any notice is required to be given under the provisions of the Declaration, or of these By-Laws, a waiver thereof, in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

ARTICLE VI. FINANCES

Section 1. Checks. All checks or demands for money and notes of the Condominium shall be signed by both the President and Treasurer, or by such other officer or officers or such other person or persons as the Board of Managers may, from time to time, designate.

Section 2. Assessments. The Board of Managers shall from time to time, but at least annually, fix and determine the budget representing the sum or sums necessary and adequate for the continued operation of the Condominium and shall send a copy of the budget and any supplement to the budget to every Unit Owner and mortgagee. The Board shall determine the total amount required, including the operational items such as insurance, repairs, reserves, betterments, maintenance of the General Common Elements and other operating expenses as well as charges to cover any deficits from prior years. The total annual requirements shall be assessed as a single sum against all Units and prorated

against each of said Units according to the Provisions of Section 8 hereof. All of said assessments shall be deemed to be common charges and shall be payable monthly in advance as ordered by the Board of Managers. Special assessments, should such be required, shall be levied and paid in the same manner as hereinabove provided for regular assessments or may be specially allocated and apportioned based on special or exclusive use by or availability to particular units or Unit Owners. The Unit Owner agrees to pay promptly when due the monthly and all special assessments assessed against his own Unit. In the event of a default in the payment of common charges or assessments by any Unit Owner the Board, at its sole option, may declare the common charge assessment on said Unit Owner's Unit for the balance of the fiscal year immediately due and payable. Prior to making any such declaration following a default, the Board shall send notice to the delinquent Unit Owner and the mortgagee, if any, of such Unit giving the Unit Owner a five (5) day grace period in which to make his payment. The Board may charge the delinquent Unit Owner a fee as the Board may determine to cover the additional burden to the Board occasioned by the lack of timely payment. Interest at the highest legal rate may also be collected by the Board on the common charge assessment from its due date to the date payment is actually received from the Unit Owner. Any Unit Owner who fails to pay the monthly assessment imposed by the Condominium to meet any common expense shall be liable for any expenses incurred by the Condominium in collecting said monthly assessment including interest at the highest legal rate and reasonable attorneys fees. The Board shall take action to collect common charges due from any Unit Owner which remain unpaid ninety (90) days from its due date by way of foreclosure of the lien on such Unit in accordance with Section 339 of the Real Property Law or otherwise.

No Unit Owner shall be liable for any common charges which accrue against his Unit subsequent to a sale, transfer or other conveyance by him of his Unit in accordance with these By-Laws and the Declaration. A purchaser of a Unit (other than a mortgagee or a purchaser at a foreclosure sale) shall be liable for the payment of all common charges assessed against the Unit and unpaid at the time of the purchase if not paid out of the proceeds of such sale.

Section 3. Foreclosure of Liens for Unpaid Common Charges. The Board shall have the power to purchase any Unit at a foreclosure sale resulting from any action brought by the Board to foreclose a lien on the Unit because of unpaid common charges. In the event of such purchase, the Board shall have the power to hold, lease, mortgage, vote, sell or otherwise deal with the Unit. A suit to recover a money judgment for unpaid common charges shall also be obtainable separately without waiving the lien on the Unit.

Section 4. Statement of Common Charges. Upon the written request of any Unit Owner or his mortgagee, the Board shall promptly furnish such Unit Owner or his mortgagee with a written statement of the unpaid common charges due from such Unit Owner.

Section 5. Liability for Utilities. The cost of all electricity and water consumed in or on the Common Elements is to be a common expense. Any electricity and gas or other utility individually consumed and individually metered in the Unit shall be an expense of each individual Unit Owner.

Section 6. Operating Account. There shall be established and maintained a cash deposit account to be known as the "Operating Account" into which shall be deposited the operating portion of all monthly and special assessments as fixed and determined for all Units. Disbursements from said account shall be for the general needs of the operation including, but not limited to, wages, repairs betterments, maintenance and other operating expenses of the Common Elements and for the purchase, lease, sale or other expenses resulting from the purchase or lease of Units.

Section 7. Other Accounts. The Board shall maintain any other accounts it shall deem necessary to carry out its purposes.

Section 8. Determination of Common Expenses and Fixing of Common Charges. Each Unit Owner may hire and maintain, in its respective discretion and at the sole cost and expense of such Unit Owner, their own staff of employees. The Lower Unit will be separately operated by the Lower Unit Owner, at its sole cost and expense. The Upper Unit will be separately operated by the Upper Unit Owner, at its sole cost and expense. The Board of Managers shall from time to time, and at least annually, prepare a budget for the operation of the General Common Elements and the Unit(s) Limited Common Elements, determine the amount of the common charges payable by the Unit Owners to meet the common expenses of the General Common Elements and the Units' Limited Common Elements, and allocate and assess such common charges and expenses among the Upper Unit(s) Owners and Lower Unit(s) Owners in proportion to their respective Common Interests.

In addition to basing charges on Common Interest, the Board of Managers may also make allocations and assessments of common charges to the General Common Elements in accordance with submetering, contract allocations and usage (both projected and actual) so long as such allocations are reasonable under the circumstances and are in accordance with applicable provisions of law.

The common charges of the Condominium shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Managers pursuant to the provisions of Article VII and the fees and disbursements of the Insurance Trustee. The common expenses may also include such amounts as the Board of Managers may deem proper for the operation and maintenance of the General Common Elements and the Units' Limited Common Elements, including, without limitation an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the common expenses for any prior year. The common expenses may also include such amounts as may be required for the purchase or lease by the Board of Managers or its designee, corporate or otherwise, on behalf of all Upper Unit Owners, of any Unit which is to be sold at a foreclosure or other judicial sale.

The Unit Owners will each pay a proportionate share (computed in accordance with their respective proportionate interests in the Common Elements or based on submetering, contract allocations and usage (both projected and actual) so long as such allocations are reasonable under the circumstances and are in accordance with applicable provisions of law) of the cost of insurance, repairs and maintenance of equipment servicing the General Common Elements and the entire cost of the maintenance and operation of the Units' respective Limited Common Elements. In the event of an increase in the insurance premiums which results from the use of a particular Unit Owner, such increases shall be borne by the respective Unit Owner.

Anything herein to the contrary notwithstanding, the Board of Managers of the Condominium, are hereby authorized pursuant to Real Property Law § 339-m, to specially allocate and apportion, among the Lower Units and Upper Units, the common profits and expenses of the Building, including, without limitation, the payment of common charges, in a manner different than the respective percentage interest in common elements of such Units, based upon the special or exclusive use or availability or exclusive control of particular Units or common areas by particular Unit Owners.

The Board of Managers shall advise all Unit Owners promptly, in writing, of the amount of common charges and expenses payable by each of them, respectively, as determined by the Board of Managers, as aforesaid, and shall furnish copies of each budget on which such common charges and expenses are based to all Unit Owners.

If in the future there are any categories of expenses other than those provided for above, the Unit Owners shall only bear a proportionate share (computed in accordance with their respective proportionate interests in Common Elements or based on submetering, contract allocations and usage (both projected and actual) so long as such allocations are reasonable under the circumstances and are in accordance with applicable provisions of law) if such expenses are for services which directly benefit the respective Unit Owners, but in any event in an amount sufficient to cover their proportionate share of expenses directly attributable to such Units.

Any dispute relating to the expenses to be borne by the Unit Owners hereunder shall be submitted to arbitration in accordance with the provisions of Article XII.

The Declarant or its designee shall be responsible for the Common Charges assessed against each Unit owned by it until such Unit is sold to a bona fide purchaser.

ARTICLE VII. INSURANCE AND INSURANCE TRUSTEE

Section 1. Insurance to be Carried by the Board. The Board of Managers shall obtain and maintain to the extent obtainable the following insurance: fire insurance with extended coverage water damage, vandalism and malicious mischief endorsements, insuring all of the Units in the Building in the Condominium and the bathrooms and kitchens fixtures initially installed therein by the Declarant (but not including wall, ceiling or floor decorations or coverings furniture, furnishings, fixtures or other personal property supplied or installed by Unit Owners), together with all heating, air conditioning and other service machinery contained therein, covering the interest of the Condominium, the Board of Managers and all Unit Owners and their mortgagees, as their interests may appear, in an amount equal to the replacement value of the Building (exclusive of the cost of excavations, footings and foundation). Each of such policies shall contain a New York standard mortgagee clause in favor of each mortgagee of a Unit which shall provide that the loss, if any, thereunder shall be payable to such mortgagee as its interest may appear, subject however, to the loss payment provisions in favor of the Board of Managers and the Insurance Trustee hereinafter set forth; and such other insurance as the Board of Managers may determine to be necessary. All such policies shall provide that adjustment of loss shall be made by the Board of Managers with the approval of the Insurance Trustee, and that the net proceeds thereof, if \$25,000 or less, shall be payable to the Board of Managers, and if more than \$25,000, shall be payable to the Insurance Trustee to be applied for the purpose of repairing, restoring or rebuilding the

Building unless otherwise determined by the Unit Owners. The Board of Managers is hereby irrevocably appointed agent for each Unit Owner and for each owner of a mortgage or other lien upon a Unit and for each owner of any other interest in the Condominium property to adjust all claims arising under insurance policies purchased by the Board of Managers and to execute and deliver releases upon the payment of claims.

The fire insurance will commence with the closing of title to the first Unit in an amount as required by the mortgagee of such Unit and such amount will be increased upon the closing of title to all Units and until the first meeting of the Board of Managers following the first Unit Owners' meeting, such amount shall be at least in the sum of the full replacement value of the building.

All policies of physical damage insurance shall contain waivers of subrogation and of any reduction of pro rata liability of the insurer as a result of any insurance carried by Unit Owners or of the invalidity arising from any acts of the insureds or any Unit Owners, and shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days prior written notice to all of the insureds, including all mortgagees of Units. Duplicate originals of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all mortgagees of Units at least ten (10) days prior to expiration of the then current policies. The Board of Managers shall review the limits of each insurance policy, as well as the amount of any deductible thereunder, prior to obtaining a renewal of any policy of insurance. In the event a Unit Owner shall dispute the amount of coverage purchased by the Board of Managers, the Board shall duly consider an appraisal obtained by and at the expense of the Unit Owner from a fully licensed and accredited insurance company or otherwise of the full replacement value of the Building, including all of the common elements appurtenant thereto, for the purpose of determining the amount of casualty insurance to be effected pursuant to this Section. The decision of the Board thereon shall be deemed conclusive for all purposes.

The Board of Managers shall also be required to obtain and maintain, to the extent obtainable, public liability insurance in such limits as the Board of Managers may from time to time determine, covering each member of the Board of Managers, the managing agent and, except arising out of occurrences within his own Unit, each Unit Owner. Such public liability coverage shall also cover cross liability claims of one insured against another. Until the first meeting of the Board of Managers following the first annual Unit Owners meeting, such public liability insurance shall be in a single limit of \$1,000,000 primary coverage (plus

\$1,000,000 umbrella coverage), per occurrence and \$2,000,000 in the aggregate, covering all claims for bodily injury and property damage arising out of one occurrence on the Common Elements. Such public liability insurance shall commence on the closing of title to the first Unit. In addition, Directors and Officers liability insurance will be maintained with a limit of \$1,000,000 for any one loss.

Unit Owners shall not be prohibited from carrying other insurance for their own benefit provided that such policies contain waivers of subrogation and further provided that the liability of the carriers issuing insurance procured by the Board of Managers shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

Section 2. The Insurance Trustee. The Insurance Trustee shall be a bank or trust company located in the State of New York and designated by the Board of Managers. All fees and disbursements of the Insurance Trustee shall be paid by the Board of Managers and shall constitute a common expense of the Condominium. In the event the Insurance Trustee resigns, fails to qualify, or is replaced by the Board of Managers, the Board of Managers shall designate a new Insurance Trustee which shall be a bank or trust company located in the State of New York.

Section 3. Restoration or Reconstruction After Fire or Other Casualty. In the event of damage to or destruction of the Building as a result of fire or other casualty (unless (i) seventy-five (75%) percent or more of the Units are destroyed or substantially damaged, and (ii) seventy-five (75%) percent or more of the Unit Owners do not duly and promptly resolve to proceed with repair or restoration), the Board of Managers shall arrange for the prompt repair and restoration of the Building (including any kitchen or bathroom fixtures initially installed therein by the Declarant, any heating, air conditioning or other service machinery which is covered by insurance, but not including any wall, ceiling or door decorations or coverings or other furnishings, fixtures or equipment installed by Unit Owners in the Units), and the Board of Managers or the Insurance Trustee, as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute a common expense and the Board of Managers may assess all the Unit Owners for such deficit as part of the common charges.

If seventy-five (75%) percent or more of the Units are destroyed or substantially damaged and seventy-five (75%) percent or more of the Unit Owners do not duly and promptly resolve to

proceed with repair or restoration, the Property shall be subject to an action for partition at the suit of any Unit Owner or lienor, as if owned in common, in which event the net proceeds of sale, together with the net proceeds of insurance policies (or if there shall have been a repair or restoration pursuant to the first paragraph of this Section 3, and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration) then the excess of such insurance proceeds shall be divided by the Board of Managers or the Insurance Trustee, as the case may be, among all the Unit Owners in proportion to their respective common interests, after paying out of the share of each Unit Owner the amount of any unpaid liens on his Unit, in the order of the priority of such liens.

If the proceeds of physical damage insurance or condemnation awards on account of a Taking are less than \$25,000 and the loss involves a Lower Unit or a Lower Unit(s) Limited Common Element such proceeds shall be paid (i) entirely to the owner of such Lower Unit, if no part of the General Common Elements, the Upper Units, or the Upper Unit(s) Limited Common Elements are involved or (ii) to the Owner of the Lower Unit, and the Board of Managers if the General Common Elements, the Upper Units, the Lower Unit (and/or Lower Unit(s) Limited Common Elements) or the Upper Unit(s) Common Elements are involved. In the latter case the net insurance proceeds or condemnation awards shall be shared by the Lower Unit Owner and the Board of Managers in proportion to the cost of repairing and restoring the Lower Unit (and/or the Lower Unit(s) Limited Common Elements), the General Common Elements, the Upper Unit(s) Limited Common Elements and the Upper Units, respectively.

Notwithstanding the foregoing, if only a Lower Unit (including the Lower Unit(s) Limited Common Elements) is destroyed or damaged by fire or other casualty or taken in a Taking, the Owner of the Lower Unit will alone make all arrangements for the prompt repair and restoration thereof, and if the net insurance proceeds or condemnation awards are insufficient to cover, or exceed, the cost, the Lower Unit Owner will bear the entire amount of the deficit or shall receive all of the excess. Similarly, if only the Upper Unit and/or the Upper Unit(s) Limited Common Elements are damaged or destroyed by fire or other casualty or taken in a Taking and the insurance proceeds or condemnation awards are not sufficient to cover, or exceed, the cost of repairs and restoration, the deficit or surplus will be borne or shared entirely by all Upper Unit Owners in proportion to their respective Common Interest in the Upper portion of the Building. If the damage or destruction or Taking affects the Lower Unit (and/or the Lower Unit(s) Common Elements), the Upper Units, the Upper Unit(s) Limited Common Elements and the General Common

Elements, or any combination of them, any deficit or surplus of insurance proceeds or condemnation awards shall be borne or shared by all Unit Owners in the proportion that the cost of repairing the damage, destruction or Taking to their respective Units and Limited Common Elements bears to the total cost of repairing all damage or destruction. However, the Owners of the Lower Unit(s) will still have the right to make all arrangements for the prompt repair and restoration of their Units.

In the event that the damage resulting from a casualty loss shall (i) render one or more Units wholly or partially unusable for the purposes permitted herein and in the Declaration or (ii) destroy the means of access to one or more Units, the installments of common charges otherwise payable by the Owner of any Unit so affected thereby shall proportionately abate until such Unit shall again be rendered usable for such purposes and/or until the means of access thereto shall be restored, as the case may be. Notwithstanding the foregoing, however, if such casualty loss shall be caused by the act, the omission to act, or the negligence of the Owner of a Unit so affected thereby, or by a tenant or other occupant of such Unit, such installments of Common Charges shall abate only to the extent of any proceeds of rent insurance actually collected by the Condominium Board with respect to such Unit.

Section 4. Insurance to be Carried by all Individual Unit Owners. All Unit Owners shall be required to carry liability insurance for their own benefit, and insuring their individual Unit, in an amount of not less than \$2,000,000.00. In addition, Unit Owners are required to carry property insurance on the personal property and improvements contained in their individual Units, in an amount of no less than \$500,000.00. All such policies shall contain waivers of subrogation and shall provide that the liability of the carriers issuing insurance obtained by the Board shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner. All such insurance policies shall be issued by insurance companies and contain such additional provisions, as may be reasonably acceptable to the Board of Managers. Unit Owners shall present proof to the Board of Managers of above-mentioned insurance within ten days after request therefor. In addition, at the request of the Declarant or the Board of Managers, proof of such coverage shall be delivered to the Condominium prior to or simultaneously with the closing of an acquisition of a Unit. The failure of a Unit Owner to maintain such insurance, shall be a default hereunder, enforceable as such by the Board of Managers.

ARTICLE VIII. HOUSE RULES

Section 1. In addition to the other provisions of these By-Laws, the following house rules and regulations together with such additional rules and regulations as may hereafter be adopted by the Board of Managers shall govern the use of the Units and the conduct of all residents and occupants thereof.

Section 2. Owners of a Unit, members of their families, their employees, invitees, guests and their pets, if permitted, shall not use or permit the use of the premises in any manner which would be illegal, immoral, improper or disturbing or a nuisance to other said Owners, or in such a way as to be injurious to the reputation of the Condominium. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Notices of violations of laws, order, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the Unit Owners or the Board of Managers, whichever shall have the obligation to maintain such portion of the Property.

Section 3. The Common Elements shall not be obstructed, littered, defaced or misused in any manner.

Section 4. Every Unit Owner shall be liable for any and all damage to the Common Elements and the property of the Condominium, which shall be caused by said Unit Owner or such other person for whose conduct he is legally responsible.

Section 5. (a) Every Unit Owner must perform promptly all maintenance and repair work to his Unit which, if omitted would affect the Condominium in its entirety or in a part belonging to other Unit Owners, or the Building of which his Unit forms a part, he being expressly responsible for the damages and liabilities that his failure to do so may engender.

(b) All the repairs to internal installations of the Unit located in and servicing only that Unit, such as telephones and sanitary installations shall be at the Unit Owner's expense.

Section 6. (a) Each Unit Owner and the Declarant, or its designees, shall have the right, without the consent of the Board of Managers, other Unit Owners or their mortgagees, to (i) make alterations, additions or improvements structural and non-structural, ordinary and extraordinary, interior and exterior, in, to, and upon any Units owned by it; (ii) change the layout or number of rooms in the Units; (iii) change the size and/or number of Units by subdividing a Unit, combining separate Units (including those resulting from such subdivision or otherwise)

into one or more Units or altering the boundary walls between Units or otherwise; (iv) reapportion among the Units affected by such change their appurtenant interest in the Common Elements; provided, however, that in each instance such alterations or changes do not impair the structural soundness of the Unit or the Building and the Declarant or its designee complies with all laws ordinances and regulations of all governmental authorities having jurisdiction and shall hold the Board of Managers and all other Unit Owners harmless from any liability arising therefrom. The provisions of this subparagraph (a) may not be amended or modified without the written consent of all Unit Owners.

(b) The Board of Managers will execute any application or other document required to be filed with any governmental authority having or asserting jurisdiction in connection with any such installation or structural addition, alteration or improvement made by the Declarant or his designee to any Unit, provided, however, that neither the Board of Managers nor the other Unit Owners shall be subjected to any expense or liability by virtue of the execution of the application or such other document.

Section 7. (a) No Unit Owner shall post any advertisement or posters of any kind in or on the Community except as authorized by the Board of Managers.

(b) It is prohibited to hang garments, rugs, etc. from the windows, or from the Building or to string clothes lines on or over the Common Elements (including the irrevocably restricted areas) or to use any of the Common Elements for storage purposes except for storage areas that may be assigned to a Unit Owner as a Limited Common Element. No storage of flammable liquids or other flammable material or any valuables shall be stored in any storage-areas. All provisions for safety shall be the sole responsibility of the Unit Owner and the Unit Owner should have their own insurance covering the storage area.

(c) No television or radio antenna or any other type of receiving or transmitting antenna or structure shall be erected on the exterior of the Building without the prior written consent of the Board of Managers.

(d) Each Unit Owner shall keep his Unit and its appurtenant irrevocable restricted areas in a good state of preservation, condition, repair and cleanliness in accordance with the terms of the By-Laws.

Section 8. House Rules and Regulations.

(a) The sidewalks, entrances, passages, public halls, vestibules, corridors and stairways of or appurtenant to the Building shall not be obstructed or used for any purpose other than ingress to and egress from the Units. No vehicle belonging to a Unit Owner, to a family member or a Unit Owner, or to a guest, tenant, subtenant, licensee, invitee, employee, or agent of a Unit Owner shall be parked in such a manner as to impede or prevent ready access to any entrance to, or exit from the Building.

(b) No baby carriages, bicycles, scooters, or similar vehicles shall be allowed to stand in the public halls, passageways, or other public areas of the Building.

(c) No article (including, but not limited to, garbage cans, bottles or mats) shall be placed or stored in any of the halls or on any of the staircases of the Building, nor shall any fire exit thereof be obstructed in any manner.

(d) Nothing shall be hung or shaken from any doors, windows, or placed upon the exterior window sills, of the Building, and no Unit Owner shall sweep or throw, or permit to be swept or thrown, any dirt, debris or other substance therefrom.

(e) There shall be no playing or lounging in the entrances, passages, public halls, vestibules, corridors, or stairways, of the Building, except in designated recreational areas, if any or other areas designated as such in the Declaration or by the Board.

(f) [Intentionally Omitted].

(g) Nothing shall be done or kept in any Unit or in the Common Areas that will increase the rate of insurance of the Building or the contents thereof, without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Areas, that will result in the cancellation of insurance on the Building, or the contents thereof, or that would be in violation of any Law. No Unit Owner or any of his family members, agents, servants, employees, licenses, or visitors shall, at any time, bring into or keep in his Unit or Common Areas any inflammable, combustible, or explosive fluid, material, chemical or substance, except as shall be necessary and appropriate for the permitted uses of such Unit or Common Areas.

(h) No Unit Owner shall make, cause, or permit any unusual, disturbing, or objectionable noises or odors to be produced upon or to emanate from his Unit or its appurtenant

Common Elements or permit anything to be done therein that will interfere with the rights, comforts, or conveniences of the other Unit Owners. No Unit Owner shall play upon or suffer to be played upon any musical instrument, or shall operate or permit to be operated a phonograph, radio, television set, or other loudspeaker in such Unit Owner's Unit between midnight and the following 8:00 A.M., if the same shall disturb or annoy other occupants of the Building, and in no event shall any Unit Owner practice or suffer to be practiced either vocal or instrumental music between the hours of 10:00 P.M. and the following 9:00 A.M. No construction, repair work, or other installation involving noise shall be conducted in any Unit except on weekdays (not including legal holidays) and only between the hours of 8:00 A.M. and 5:00 P.M., unless such construction or repair work is necessitated by an emergency.

(i) No bird, reptile, or animal shall be permitted, raised, bred, kept, or harbored in the Units unless, in each instance, the same shall have been expressly permitted in writing by the Board or the Managing Agent. Notwithstanding the foregoing, all Unit Owner may keep customary house pets in their Units, provided such pets do not create an unreasonable nuisance to the other Unit Owners. Such consent, if given, shall be revocable at any time by the Board or the Managing Agent in their sole discretion. In no event shall any bird, reptile, or animal be permitted in any of the public portions of the Building unless carried or on leash. No pigeons or other birds or animals shall be fed from the window sills, or other public portions of the Building, or on the sidewalk or street adjacent to the Building.

(j) No Unit Owner shall install any planting in the Common Areas without the prior written approval of the Board, which shall not be unreasonably withheld or delayed. It shall be the responsibility of any such Unit Owner to maintain all plantings in the Units to prevent any damage to floors and walls. In addition, any such Unit Owners shall pay the cost of any repairs rendered necessary, or damage caused, by such plantings.

(k) No radio or television aerial shall be attached to or hung from the exterior of the Building, and no sign, notice, advertisement, or illumination (including, without limitation, "For Sale", "For Lease", or "For Rent" signs) shall be inscribed or exposed on or at any window or other part of the Building, except such as are permitted pursuant to the terms of Declaration and/or By-Laws or shall have been approved in writing by the Board of Managers, which shall not be unreasonably withheld or delayed. Nothing shall be projected from any window of an Unit without similar approval.

(l) All radio, television, or other electrical equipment of any kind or nature installed or used in each Unit shall fully comply with all rules, regulations, requirements, or recommendations of the New York Board of Fire Underwriters and the public authorities having jurisdiction, and the Unit Owner alone shall be liable for any damage or injury caused by any radio, television, or other electrical equipment.

(m) Water closets and other water apparatus in the Building shall not be used for any purpose other than those for which they were designed, and no sweepings, rubbish, rags or any other article shall be thrown into the same. Any damage resulting from misuse of any water closets or other apparatus in a Unit shall be repaired and paid for by the Owner of such Unit.

(n) Each Unit Owner shall keep its Unit and its appurtenant irrevocably restricted areas in a good state of preservation, condition, repair and cleanliness in accordance with the terms of the By-Laws.

(o) The agents of the Board or the Managing Agent, and any contractor or workman authorized by the Board or the Managing Agent, may enter any Unit at any reasonable hour of the day, on at least one day's prior notice to such Unit Owner, for the purpose of inspecting such Unit for the presence of any vermin, insects, or other pests and for the purpose of taking such measures as may be necessary to control or exterminate any such vermin, insects, or other pests; however, such entry, inspection and extermination shall be done in a reasonable manner so as not to unreasonably interfere with the use of such Unit for its permitted purposes.

(p) Any consent or approval given under these Rules and Regulations may be amended, modified, added to, or repealed at any time by resolution of the Board. Further, any such consent or approval may, in the discretion of the Board or the Managing Agent, be conditional in nature.

(q) Complaints regarding the service of the Condominium shall be made in writing to the Board or to the Managing Agent.

(r) Upon receipt by the President of the Board of Managers or by the Managing Agent, of a signed written complaint alleging violation of any of the House Rules or other provisions of the By-Laws as herein established or hereafter established or adopted by the Board of Managers, the President of the Board, or in his absence, the Vice President together with a minimum of two (2) other members of the Board, without a formal meeting of the Board, shall make a determination as to the validity of the

complaint. Any Unit Owner accused of a violation of the House Rules or other provisions of the By-laws shall be entitled to receive written notice by registered mail of such accusation. The written notice shall contain the following statements:

(i) A copy of the rule or regulation the Unit Owner has violated and a description of a manner in which the Unit Owner violated the rule or regulation.

(ii) A time and place at which the Unit Owner shall be given the opportunity to present a defense before final action is taken.

If, after said notice and hearing it is determined that the complaint is valid and justified the Managing Agent shall be directed to send written notice to the violator. If the violation is not corrected or eliminated within a period of three (3) days from the date of receipt of such notice, another notice will be sent levying a fine of up to \$50.00 upon the violator; such fine is to be considered as an additional common charge to the account of the violator and shall be treated as such regarding late penalties and a lien upon the property as elsewhere provided for in the Declaration of Condominium or By-Laws. If after imposition of a fine the violation is not corrected or eliminated, the Board of Managers may assess additional fines of up to \$50.00 each after serving written notice upon the violator as provided for above. If the violation results in loss of or damage to property classified as common area, the Board of Managers shall itself or direct the Managing Agent, if employed, to have said loss or damage repaired or replaced and the actual cost of said repair or replacement shall be assessed to the violator as an additional common charge.

The provisions set forth above shall not be applicable to the Declarant. The Declarant, its nominees and agents, shall have the right and privilege to maintain general and local sale offices in and about the Condominium, including any model Units located within the Building, and shall have the right and privilege to have their representatives, employees and agents present on the Condominium premises to show the Units to prospective purchasers, to utilize the common elements, and, without limitation, to do any and all things necessary and incident to the sale of the Units, without charge or contribution other than in the form of common charge payments as otherwise provided for herein.

The Declarant shall have the right to continue to employ signs of its choice upon the Condominium premises in its efforts to renovate and sell the Units. Incident to the rights and privileges provided for herein, the officers, employees, agents,

contractors, guests and invitees of the Declarant, its successors and assigns, shall have the right of ingress and egress to and throughout the Common Elements of the Condominium. The last two paragraphs of this Article VIII may not be modified or amended without the written consent of the Declarant so long as the Declarant continues to own one or more unsold Units.

ARTICLE IX. DEFAULT

Each Unit Owner shall be governed by and shall conform with these By-Laws and the Declaration attached hereto. Failure to do so shall entitle the Board of Managers or any Unit Owner to recover damages or obtain injunctive relief, or both, and the prevailing party shall be entitled to attorneys fees, but such relief shall not be exclusive of other remedies provided by law.

In the event a Unit Owner does not pay any sums, charges or assessments required to be paid when due, the Board of Managers, acting in behalf of the Board shall notify the Unit Owner and the mortgagee, if any, of such Unit. If such sum, charge or assessment shall remain unpaid for 90 days after the giving of such notice, the Board may foreclose the lien encumbering the Unit as a result of the nonpayment of the required monies as set forth in the Declaration (subject to the lien of any first mortgage), in the same manner as the foreclosure of a mortgage. In the event the Owner of a Unit does not pay the assessment required to be paid by him within thirty (30) days of its due date, said sum shall bear interest at the maximum amount permitted by the State of New York from its due date and said Unit Owner shall be liable for the Condominium's reasonable costs and a reasonable attorney's fee incurred by it incident to the collection or enforcement of such lien.

ARTICLE X. AMENDMENTS

(a) These By-Laws may be altered, amended or added to at any duly called Unit Owners' meeting; provided: (1) that the notice of the meeting shall contain a full statement of the proposed amendment; (2) that the amendment shall be approved by one hundred (100%) percent of the Unit Owners in number and common interest; and (3) said amendment shall be set forth in a duly recorded amendment to the Declaration. However, no amendment shall affect or impair the validity or priority of the Unit Owner's interests and the interest of holders of a mortgage encumbering a Unit or Units.

ARTICLE XI. SELLING, MORTGAGING AND LEASING UNIT

Section 1. Selling and Leasing of Units. Subject to the terms hereof, all Unit Owners shall have the right, without the payment of any fees or charges to the Board, and without any restriction whatsoever, to sell or lease any Unit to a third party, and all sales and/or rental proceeds shall belong solely to the Unit Owner, provided, that as of the closing of such sale or the commencement date of such lease, such Unit Owner complies with the following: (i) such Unit Owner is not in default under the Declaration and By-laws, after notice and the expiration of any applicable grace or notice period; (ii) that all common charges and assessments, if any, are paid through and including the last day of the month in which the closing of such sale or the commencement date of such lease occurs; (iii) any such purchaser agrees in writing to assume all of the obligations of a Unit Owner hereunder; and (iv) the Unit Owner give notice to the Board of any such sale or lease not later than (x) five (5) days after the closing of any such sale or (y) thirty (30) days after the commencement date of any such lease.

ARTICLE XII. ARBITRATION

Section 1. Procedure. Any matter required or permitted to be determined by arbitration pursuant to the terms of the Condominium Documents shall be submitted for resolution by a single arbitrator in a proceeding held in New York City, New York in accordance with the then existing rules of the American Arbitration Association or any successor organization thereto. In the event that the American Arbitration Association shall not then be in existence and has no successor organization, any such arbitration shall be held in New York City, New York before one arbitrator appointed, upon the application of any party by the Real Estate Board of New York.

Section 2. Variation by Agreement. The parties to any dispute required or permitted to be resolved by arbitration pursuant to the terms of the Condominium Documents may, by written agreement, vary any of the terms of Section 1 hereof with respect to the arbitration of such dispute or may agree to resolve their dispute in any manner including, without limitation, the manner set forth in Section 3031 of the New York Civil Practice Law and Rules and known as "New York Simplified Procedure for Court Determination of Disputes".

Section 3. Binding Effect. The decision in any arbitration conducted pursuant to the terms of Section 1 and 2 hereof shall be binding upon all of the parties thereto and may be entered in any court of appropriate jurisdiction.

Section 4. Costs and Expenses. The fees costs and expenses

of the arbitrator shall be borne by the losing party in the arbitration or, if the position of neither party to the dispute shall be substantially upheld by the arbitrator, such fees, costs and expenses shall be borne equally by the disputants. Each disputant shall also bear the fees and expenses of his counsel and expert witnesses.

All costs and expenses paid or incurred by the Condominium Board in connection with any arbitration held hereunder, including, without limitation, the fees and expenses of counsel and expert witnesses, shall constitute Common Expenses.

ARTICLE XIII. CONDEMNATION

In the event all or part of the common elements are taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to the Insurance Trustee if the award is more than \$25,000 and to the Board of Managers if the award is \$25,000 or less, to be distributed in accordance with Section 3 of Article VII but in the following amounts:

(a) so much of the award as is applicable to unrestricted Common Elements, to the Unit Owners pro rata according to the respective common interests appurtenant to the Units owned by such Unit Owners.

(b) so much of the award as is applicable to irrevocably restricted common elements, to the Unit Owner having general use of such Common Element.

In such eminent domain or condemnation proceeding the Board shall request that the award shall set forth the amount allocated to unrestricted Common Elements and to each irrevocably restricted common element. In the event the award does not set forth such allocation, then the question of such allocation shall be submitted to arbitration in accordance with the Arbitration Statutes of the State of New York.

If a portion of irrevocably restricted common elements is taken in condemnation or eminent domain proceedings as aforesaid, the common interest appurtenant to the Unit thereby affected shall be adjusted accordingly and reflected in an Amendment to the Declaration duly executed and acknowledged by the Condominium Board and the Unit Owners together with the holders of record of all liens.

ARTICLE XIV. MISCELLANEOUS

Section 1. Insurance. Under no circumstances shall a Unit

Owner permit or suffer anything to be done or left in his Unit which will increase the insurance rates on his Unit or any other Unit or on the Common Elements.

Section 2. Severability. Should any of the covenants, terms or provisions herein imposed be void or become unenforceable at law or in equity, the remaining provisions of these By-Law is shall, nevertheless, be and remain in full force and effect.

Section 3. Notice to Condominium. A Unit Owner who mortgages his Unit, shall notify the Condominium through the managing agent, if any, or the President of the Board of Managers in the event there is no managing agent, of the name and address of his mortgagee; and the Board of Managers shall maintain such information in a book entitled "Mortgagees of Units".

Section 4. Notice of Unpaid Assessments. The Board of Managers shall at the request of a mortgagee of a Unit, report any unpaid assessments or common charges due from the Unit Owners of such Unit.

Section 5. Examination of Books and Records. Every Unit Owner or his representative and mortgagee shall be entitled to examine the books and records of the Condominium on reasonable notice to the Board, but not more often than once a month. To assure privacy off all Unit Owners, the names of all Unit Owners shall, unless otherwise required by law, remain strictly confidential. Copies of such books and records if furnished will be furnished only at the expense of the Unit Owner requesting the same.

Section 6. Construction. Wherever the masculine singular form of the pronoun is used in these By-laws it shall be construed to mean the masculine, feminine or neuter, singular or plural of wherever the context so requires.

Section 7. Compliance with Article 9-B. These By-Laws are set forth to comply with the requirements of Article 9-B of the Real Property Law of the State of New York. In case any of these By-Laws conflict with the provisions of said Statute or the Declaration, the provisions of the Statute or of the Declaration, whichever the case may be, shall control.

Section 8. Conflict with Mortgages. In the event of any inconsistency between the provision of Article VII hereof and the provisions of any Building Loan Mortgage affecting the Unsold Units, the provisions of the mortgage shall govern.

**SCHEDULE D
TO
DECLARATION OF CONDOMINIUM
THE CANAL STREET CONDOMINIUM
FORM OF UNIT POWER OF ATTORNEY**

POWER OF ATTORNEY

I (We)

the owner(s) of Condominium Unit No. _____, 332 Canal Street a/k/a 39 Lispenard Street Street, New York, NY 10013, in the condominium known as The Canal Street Condominium covering the property located in the Borough of Manhattan, City and State of New York, do hereby nominate, constitute and appoint the members of the Board of Managers of the Condominium and their successors jointly, my true and lawful attorneys-in-fact coupled with an interest and with the power of substitution, in my name and on my behalf to (1) acquire, in their own name or in the name of their designee by deed on behalf of all owners of Condominium Units in said property, any Condominium Unit whose owner desires to sell or abandon the same, or which shall be the subject of a foreclosure sale or a deed in lieu of a foreclosure sale, at such price and on such terms as my said attorneys-in-fact shall, in their sole discretion, deem proper and thereafter to convey, sell, lease, sublease, mortgage, vote or otherwise deal in such Condominium Unit so acquired, at such terms as my attorneys-in-fact may in their sole discretion determine, granting to my said attorneys-in-fact the power to do all things in the said premises which I could do if I were personally present; and (2) to execute, acknowledge and deliver (a) any declaration or other instrument affecting the Condominium that the Condominium Board deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution, or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Condominium or (b) any consent, covenant, restriction, easement, or declaration, or any amendment thereto, affecting the Condominium or the Common Elements that the Condominium Board deems necessary or appropriate.

The acts of a majority of such persons constituting the Condominium Board shall constitute the acts of said attorneys-in-fact.

I (We) do, hereby further irrevocably nominate, constitute and appoint MM Canal LLC ("Declarant"), and its successors, my true and lawful attorneys-in-fact coupled with an interest, with power of substitution, in my name and on my behalf to vote at any Unit Owners meeting for, and to file an amendment to the Declaration of The Canal Street Condominium, the By-Laws and the Rules and Regulations of the said Condominium or any of said documents when such amendment (1) shall be required to fully and fairly depict the Units as built or to carry out any of the provisions of the Offering Plan, or to create any utility easement, or (2) shall be required to reflect any changes in

