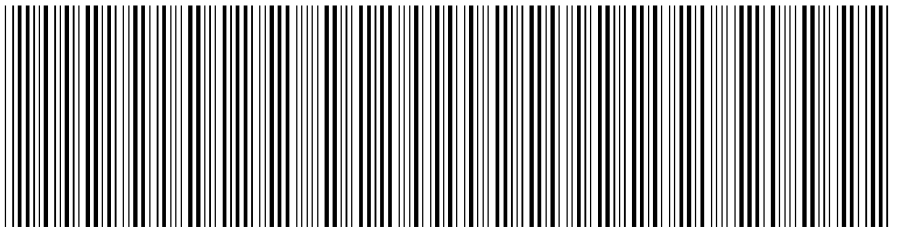


**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**

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RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 118

Document ID: 2018041300388001

Document Date: 02-09-2018

Preparation Date: 04-16-2018

Document Type: CONDO DECLARATION

Document Page Count: 109

PRESENTER:

TO BE PICKED UP BY COMMONWEALTH
COMMONWEALTH LAND TITLE INSURANCE CO.
685 THIRD AVENUE, 20TH FLOOR
NEW YORK, NY 10017
212-949-0100
SS180139

RETURN TO:

TO BE PICKED UP BY COMMONWEALTH
COMMONWEALTH LAND TITLE INSURANCE CO.
685 THIRD AVENUE, 20TH FLOOR
NEW YORK, NY 10017
212-949-0100
SS180139

PROPERTY DATA

Borough	Block	Lot	Unit	Address
MANHATTAN	1540	2	Entire Lot	1681 3 AVENUE

Property Type: APARTMENT BUILDING

Borough	Block	Lot	Unit	Address
MANHATTAN	1540	1301	Entire Lot	RU1 200 EAST 95TH STREET

Property Type: COMMERCIAL CONDO UNIT(S)

Additional Properties on Continuation Page

CROSS REFERENCE DATA

CRFN _____ or DocumentID _____ or _____ Year _____ Reel _____ Page _____ or File Number _____

PARTIES

PARTY 1:

95TH AND THIRD LLC
C/O EXTELL DEVELOPMENT COMPANY, 805 THIRD
AVENUE, SEVENTH FLOOR
NEW YORK, NY 10022

FEES AND TAXES

Mortgage :

Mortgage Amount: \$ 0.00

Taxable Mortgage Amount: \$ 0.00

Exemption:

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: \$ 906.00

Affidavit Fee: \$ 0.00

Filing Fee:

\$ 0.00

NYC Real Property Transfer Tax:

\$ 0.00

NYS Real Estate Transfer Tax:

\$ 0.00

**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 04-17-2018 10:00

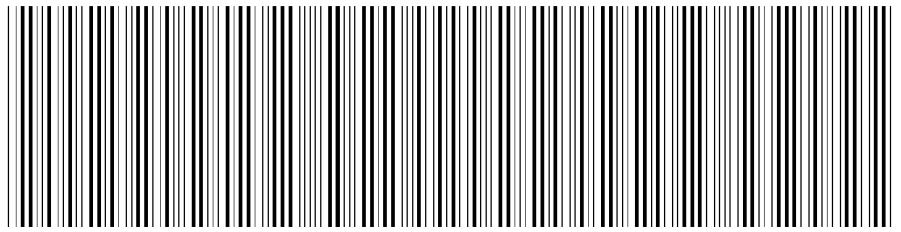
City Register File No.(CRFN):

2018000126835



Annette Mc Hill

City Register Official Signature



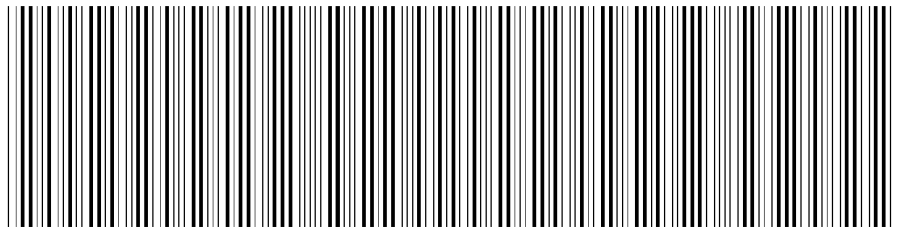
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RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 2 OF 118

Document ID: 2018041300388001 Document Date: 02-09-2018 Preparation Date: 04-16-2018
Document Type: CONDO DECLARATION

PROPERTY DATA

Borough	Block Lot	Unit	Address
MANHATTAN	1540 1302 Entire Lot	RU2	200 EAST 95TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)			
MANHATTAN	1540 1303 Entire Lot	RU3	200 EAST 95TH STREET
Property Type: COMMERCIAL CONDO UNIT(S)			
MANHATTAN	1540 1304 Entire Lot	3A	200 EAST 95TH STREET
Property Type: SINGLE RESIDENTIAL CONDO UNIT			
MANHATTAN	1540 1305 Entire Lot	3B	200 EAST 95TH STREET
Property Type: SINGLE RESIDENTIAL CONDO UNIT			
MANHATTAN	1540 1306 Entire Lot	3C	200 EAST 95TH STREET
Property Type: SINGLE RESIDENTIAL CONDO UNIT			
MANHATTAN	1540 1307 Entire Lot	3D	200 EAST 95TH STREET
Property Type: SINGLE RESIDENTIAL CONDO UNIT			
MANHATTAN	1540 1308 Entire Lot	3E	200 EAST 95TH STREET
Property Type: SINGLE RESIDENTIAL CONDO UNIT			
MANHATTAN	1540 1309 Entire Lot	3F	200 EAST 95TH STREET
Property Type: SINGLE RESIDENTIAL CONDO UNIT			
MANHATTAN	1540 1310 Entire Lot	3G	200 EAST 95TH STREET
Property Type: SINGLE RESIDENTIAL CONDO UNIT			
MANHATTAN	1540 1311 Entire Lot	3H	200 EAST 95TH STREET
Property Type: SINGLE RESIDENTIAL CONDO UNIT			
MANHATTAN	1540 1312 Entire Lot	3I	200 EAST 95TH STREET
Property Type: SINGLE RESIDENTIAL CONDO UNIT			
MANHATTAN	1540 1313 Entire Lot	3J	200 EAST 95TH STREET
Property Type: SINGLE RESIDENTIAL CONDO UNIT			
MANHATTAN	1540 1314 Entire Lot	4A	200 EAST 95TH STREET
Property Type: SINGLE RESIDENTIAL CONDO UNIT			
MANHATTAN	1540 1315 Entire Lot	4B	200 EAST 95TH STREET
Property Type: SINGLE RESIDENTIAL CONDO UNIT			



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RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 3 OF 118

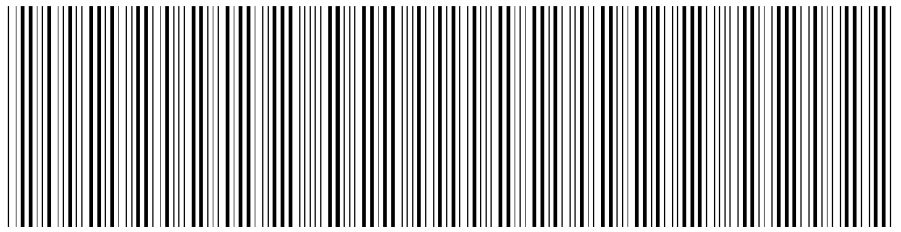
Document ID: 2018041300388001
Document Type: CONDO DECLARATION

Document Date: 02-09-2018

Preparation Date: 04-16-2018

PROPERTY DATA

Borough	Block Lot	Unit	Address
MANHATTAN	1540 1316 Entire Lot	4C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1317 Entire Lot	4D	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1318 Entire Lot	4E	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1319 Entire Lot	4F	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1320 Entire Lot	4G	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1321 Entire Lot	4H	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1322 Entire Lot	4I	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1323 Entire Lot	4J	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1324 Entire Lot	4K	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1325 Entire Lot	5A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1326 Entire Lot	5B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1327 Entire Lot	5C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1328 Entire Lot	5D	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1329 Entire Lot	5E	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		



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RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 4 OF 118

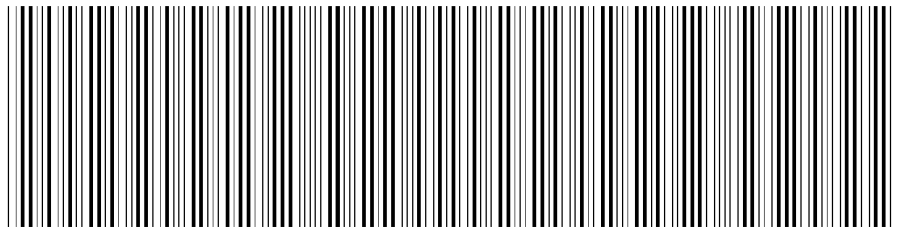
Document ID: 2018041300388001
Document Type: CONDO DECLARATION

Document Date: 02-09-2018

Preparation Date: 04-16-2018

PROPERTY DATA

Borough	Block Lot	Unit	Address
MANHATTAN	1540 1330 Entire Lot	5F	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1331 Entire Lot	5G	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1332 Entire Lot	6A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1333 Entire Lot	6B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1334 Entire Lot	6C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1335 Entire Lot	6D	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1336 Entire Lot	6E	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1337 Entire Lot	6F	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1338 Entire Lot	6G	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1339 Entire Lot	7A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1340 Entire Lot	7B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1341 Entire Lot	7C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1342 Entire Lot	7D	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1343 Entire Lot	7E	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		



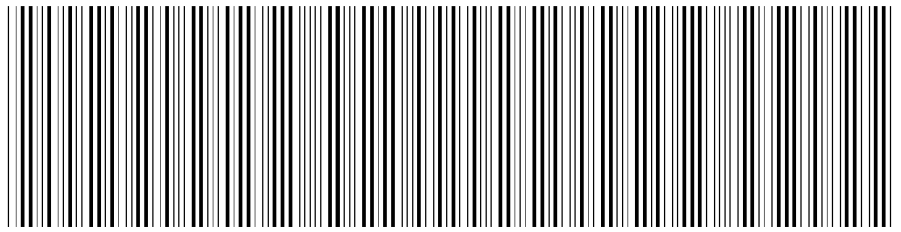
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RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 5 OF 118

Document ID: 2018041300388001 Document Date: 02-09-2018 Preparation Date: 04-16-2018
Document Type: CONDO DECLARATION

PROPERTY DATA

Borough	Block Lot	Unit	Address
MANHATTAN	1540 1344 Entire Lot	7F	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1345 Entire Lot	8A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1346 Entire Lot	8B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1347 Entire Lot	8C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1348 Entire Lot	9A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1349 Entire Lot	9B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1350 Entire Lot	9C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1351 Entire Lot	10A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1352 Entire Lot	10B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1353 Entire Lot	10C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1354 Entire Lot	11A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1355 Entire Lot	11B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1356 Entire Lot	11C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1357 Entire Lot	12A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		



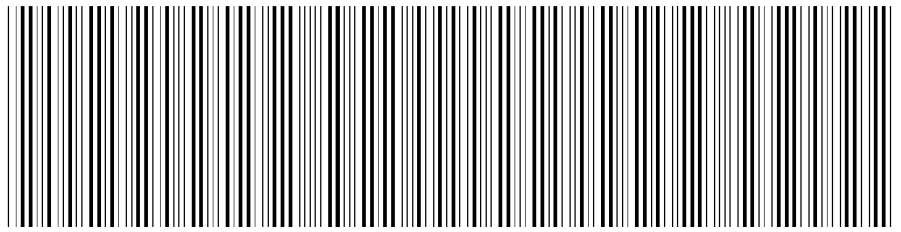
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RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 6 OF 118

Document ID: 2018041300388001 Document Date: 02-09-2018 Preparation Date: 04-16-2018
Document Type: CONDO DECLARATION

PROPERTY DATA

Borough	Block Lot	Unit	Address
MANHATTAN	1540 1358 Entire Lot	12B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1359 Entire Lot	12C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1360 Entire Lot	14A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1361 Entire Lot	14B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1362 Entire Lot	14C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1363 Entire Lot	15A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1364 Entire Lot	15B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1365 Entire Lot	15C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1366 Entire Lot	16A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1367 Entire Lot	16B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1368 Entire Lot	16C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1369 Entire Lot	17A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1370 Entire Lot	17B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1371 Entire Lot	17C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		



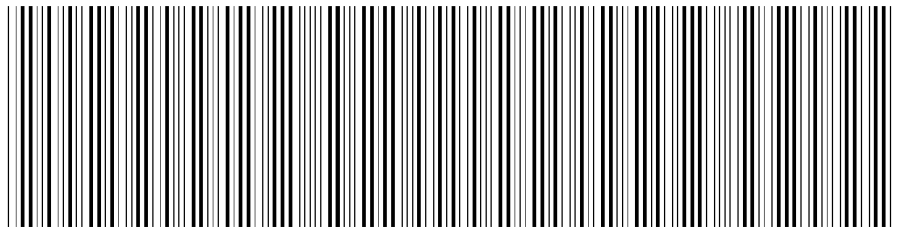
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RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 7 OF 118

Document ID: 2018041300388001 Document Date: 02-09-2018 Preparation Date: 04-16-2018
Document Type: CONDO DECLARATION

PROPERTY DATA

Borough	Block Lot	Unit	Address
MANHATTAN	1540 1372 Entire Lot	18A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1373 Entire Lot	18B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1374 Entire Lot	18C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1375 Entire Lot	19A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1376 Entire Lot	19B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1377 Entire Lot	19C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1378 Entire Lot	20A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1379 Entire Lot	20B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1380 Entire Lot	20C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1381 Entire Lot	21A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1382 Entire Lot	21B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1383 Entire Lot	21C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1384 Entire Lot	22A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1385 Entire Lot	22B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		



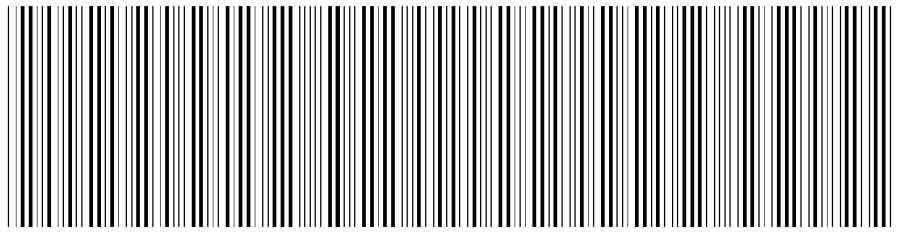
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RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 8 OF 118

Document ID: 2018041300388001 Document Date: 02-09-2018 Preparation Date: 04-16-2018
Document Type: CONDO DECLARATION

PROPERTY DATA

Borough	Block Lot	Unit	Address
MANHATTAN	1540 1386 Entire Lot	22C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1387 Entire Lot	23A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1388 Entire Lot	23B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1389 Entire Lot	23C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1390 Entire Lot	24A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1391 Entire Lot	24B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1392 Entire Lot	24C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1393 Entire Lot	25A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1394 Entire Lot	25B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1395 Entire Lot	25C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1396 Entire Lot	26A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1397 Entire Lot	26B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1398 Entire Lot	26C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
MANHATTAN	1540 1399 Entire Lot	27A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		



2018041300388001001C7787

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 9 OF 118

Document ID: 2018041300388001

Document Date: 02-09-2018

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Document Type: CONDO DECLARATION

PROPERTY DATA

Borough	Block Lot	Unit	Address
MANHATTAN	1540 1400 Entire Lot	27B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
Borough	Block Lot	Unit	Address
MANHATTAN	1540 1401 Entire Lot	27C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
Borough	Block Lot	Unit	Address
MANHATTAN	1540 1402 Entire Lot	28A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
Borough	Block Lot	Unit	Address
MANHATTAN	1540 1403 Entire Lot	28B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
Borough	Block Lot	Unit	Address
MANHATTAN	1540 1404 Entire Lot	28C	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
Borough	Block Lot	Unit	Address
MANHATTAN	1540 1405 Entire Lot	29A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
Borough	Block Lot	Unit	Address
MANHATTAN	1540 1406 Entire Lot	29B	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
Borough	Block Lot	Unit	Address
MANHATTAN	1540 1407 Entire Lot	30A	200 EAST 95TH STREET
	Property Type: SINGLE RESIDENTIAL CONDO UNIT		
Borough	Block Lot	Unit	Address
MANHATTAN	1540 1408 Entire Lot	DR	200 EAST 95TH STREET
	Property Type: OTHER		



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF ECONOMIC JUSTICE
REAL ESTATE FINANCE BUREAU

January 8, 2018

(212) 416-6040

95th And Third LLC
c/o Seiden & Schein, P.C.
Attention: Jane Rosenberg, Esq.
570 Lexington Avenue, 14th Floor
New York, NY 10022

RE: Kent Condominium (The)
File Number: CD150238 Amendment No: 3
Date Amendment Filed: 01/02/2018 Filing Fee: \$225.00
Receipt Number: 144258

Dear Sponsor:

The referenced amendment to the offering plan for the subject premises is hereby accepted and filed. This filing is effective for the greater of six months from the date of filing this amendment or twelve months from the acceptance of the original offering literature. However, any material change of fact or circumstance affecting the property or offering requires an immediate amendment, including amending the plan to disclose the most recent certified financial statement and budget, which should be done as soon as either of these documents is available.

Any misstatement or concealment of material fact in the material submitted as part of this amendment renders this filing void ab initio. This office has relied on the truth of the certifications of sponsor, sponsor's principals, and sponsor's experts, as well as the transmittal letter of sponsor's attorney.

Filing this amendment shall not be construed as approval of the contents or terms thereof by the Attorney General of the State of New York, or any waiver of or limitation on the Attorney General's authority to take enforcement action for violation of Article 23-A of the General Business Law or other applicable law. The issuance of this letter is conditioned upon the collection of all fees imposed by law. This letter is your receipt for the filing fee.

Very truly yours,

Carol Stephens

Carol Stephens
Assistant Attorney General

DECLARATION

Establishing a Plan for Condominium Ownership of Premises located at
200 East 95th Street, County of New York, City and State of New York
Pursuant to Article 9-B of the Real Property Law of the State of New York.

NAME: **THE KENT CONDOMINIUM**

DECLARANT/SPONSOR: **95th and Third LLC**
c/o Extell Development Company
805 Third Avenue, Seventh Floor
New York, New York 10022

DATE OF
DECLARATION: **February 9, 2018**

The land affected by the within instrument lies in Tax Block 1540, formerly known as Lot 2 on the Tax Map of the Borough of Manhattan, County of New York, City and State of New York, now known as Lots 1301 through 1408.

Record and Return:

SEIDEN & SCHEIN, P.C.
Attorneys for Sponsor
570 Lexington Avenue
New York, New York 10022
(212) 935-1400

INDEX TO DECLARATION

<u>Article</u>	<u>Subject</u>	<u>Page</u>
ARTICLE 1	DEFINITIONS	1
ARTICLE 2	SUBMISSION OF THE PROPERTY	1
ARTICLE 3	THE LAND	1
ARTICLE 4	THE PROPERTY AND THE BUILDING	2
ARTICLE 5	THE UNITS	2
ARTICLE 6	THE COMMON ELEMENTS	4
ARTICLE 7	DETERMINATION OF COMMON INTEREST AND RESIDENTIAL COMMON INTEREST	8
ARTICLE 8	USE OF UNITS AND STORAGE BINS	8
ARTICLE 9	EASEMENTS FOR THE ENJOYMENT OF THE COMMON ELEMENTS	10
ARTICLE 10	OTHER EASEMENTS	12
ARTICLE 11	ALTERATIONS, ADDITIONS, IMPROVEMENTS AND CHANGES TO UNSOLD RESIDENTIAL UNITS AND NON-RESIDENTIAL UNITS	13
ARTICLE 12	ACQUISITION OF UNIT BY THE CONDOMINIUM BOARD	16
ARTICLE 13	POWER OF ATTORNEY TO SPONSOR AND THE CONDOMINIUM BOARD	16
ARTICLE 14	TERMINATION OF CONDOMINIUM	17
ARTICLE 15	COVENANT OF FURTHER ASSURANCES	17
ARTICLE 16	COVENANTS RUNNING WITH THE LAND	18
ARTICLE 17	EXCESS DEVELOPMENT RIGHTS	19
ARTICLE 18	AMENDMENTS TO THIS DECLARATION	20
ARTICLE 19	CONSENTS BY SPONSOR	23
ARTICLE 20	PERSON TO RECEIVE SERVICE	23
ARTICLE 21	INCORPORATION BY REFERENCE	23
ARTICLE 22	WAIVER	24
ARTICLE 23	SEVERABILITY	24
ARTICLE 24	SUCCESSORS AND ASSIGNS	24
ARTICLE 25	CAPTIONS	24
ARTICLE 26	CERTAIN REFERENCES	24
ARTICLE 27	GENERAL	24
ARTICLE 28	CONDOMINIUM 421-a ELIGIBILITY	25

EXHIBITS

A – DESCRIPTION OF THE LAND

B – DESCRIPTION OF THE UNITS

C – DEFINITIONS

D – BY-LAWS

E – UNIT POWER OF ATTORNEY

**DECLARATION
OF
THE KENT CONDOMINIUM**

(Pursuant to Article 9-B of the Real Property Law of the State of New York)

95th and Third LLC, a Delaware limited liability company, having an office c/o Extell Development Company, 805 Third Avenue, Seventh Floor, New York, New York 10022 ("Sponsor"), does hereby declare as follows:

Sponsor hereby establishes a plan for condominium ownership of the premises known as 200 East 95th Street, New York, New York 10128.

**ARTICLE 1
DEFINITIONS**

All capitalized terms used in this Declaration or in the By-Laws of the Condominium attached as Exhibit E to this Declaration that are not otherwise defined in the Articles hereof or in the By-Laws shall have the meanings set forth in Exhibit D annexed hereto, unless the context in which they are used shall otherwise require. All capitalized terms used in this Declaration that are defined in any of the Articles hereof shall have the meanings ascribed to them in such Articles, unless the context in which the same are used shall otherwise require. Each of the said capitalized terms shall be applicable to singular and to plural nouns, as well as to verbs of any tense.

**ARTICLE 2
SUBMISSION OF THE PROPERTY**

2.1 Sponsor hereby submits the Land and Building (each as hereinafter defined), all other improvements erected and to be erected thereon, all easements, rights and appurtenances belonging thereto (except as specifically set forth herein) and all other property, real, personal or mixed, intended for use in connection therewith (collectively, the "Property") to the provisions of Article 9-B of the Real Property Law of the State of New York (the "Condominium Act") and pursuant thereto does hereby establish a condominium to be known as **THE KENT CONDOMINIUM** (the "Condominium").

2.2 Excluded from the Property are any Development Rights, which shall be retained by Sponsor or other Owner of the Tower DR Unit, who shall have the exclusive right to utilize, sell or otherwise transfer any Development Rights. Development Rights shall inure solely to the benefit of Sponsor or other Owner of the Tower DR Unit or a subsequent Development Rights Owner.

2.3 Attached to this Declaration as Exhibit E and made a part hereof are the By-Laws of the Condominium which set forth detailed provisions governing the operation, use and occupancy of the Condominium (said By-Laws, as they may be amended from time to time, in accordance with the provisions hereof, are hereinafter referred to as the "By-Laws").

**ARTICLE 3
THE LAND**

Included in the Property described in Article 2 is all that certain tract, plot, piece and parcel of land (the "Land") situate, lying and being in the County of New York, City and State of New York, commonly known as 200 East 95th Street, and more particularly described in Exhibit A annexed hereto and made a

part hereof. The record and legal title to the Land is owned by Sponsor in fee simple absolute. The Land has an area of approximately 18,275 square feet.

ARTICLE 4 THE PROPERTY AND THE BUILDING

4.1 Included in the Property described in Article 2 is one (1) mixed-use building (the "Building") consisting of (a) 83 residential condominium units designated on the Floor Plans as the Tower Units (each hereinafter referred to as a "Tower Unit" and collectively hereinafter referred to as the "Tower Units"); (b) 21 residential condominium units designated on the Floor Plans as the Affordable Units (each hereinafter referred to as an "Affordable Unit" and collectively as the "Affordable Units"); (c) one (1) condominium unit designated on the Floor Plans as a retail unit (hereinafter referred to as the "Retail Unit 1"); (d) one (1) condominium unit designated on the Floor Plans as a retail unit (hereinafter referred to as the "Retail Unit 2"); (e) one (1) condominium unit designated on the Floor Plans as a retail unit (hereinafter referred to as the "Retail Unit 3"), and (f) one (1) condominium unit designated on the Floor Plans as the "Tower DR Unit." The Tower Units and the Affordable Units are hereinafter sometimes collectively referred to as the "Residential Units" and individually as a "Residential Unit". Retail Unit 1, Retail Unit 2 and Retail Unit 3 are hereinafter sometimes collectively referred to as the "Retail Units" and individually as a "Retail Unit." The Residential Units, the Retail Units and the Tower DR Unit are sometimes collectively referred to as the "Units" and individually as a "Unit".

4.2 The owners of Tower Units are each referred to herein as a "Tower Unit Owner" and collectively, as the "Tower Unit Owners." The owners of Affordable Units are each referred to herein as an "Affordable Unit Owner" and collectively as the "Affordable Unit Owners." The owners of the Tower Units and the Affordable Units are each referred to herein as a "Residential Unit Owner", and collectively, as the "Residential Unit Owners". An owner of a Retail Unit is herein referred to as a "Retail Unit Owner", and collectively, as the "Retail Unit Owners". The owner of the Tower DR Unit is referred to herein as the "Tower DR Unit Owner." The Residential Unit Owners, the Retail Unit Owners and the Tower DR Unit Owner are herein collectively referred to as the "Unit Owners" and each individually as a "Unit Owner".

4.3 The Building shall be a single structure containing floors labeled as subcellar, cellar, ground (or first), 3 through 12, 14 through 28, 29/PH-1, 30/PH-2, main roof/bulkhead 1 and bulkhead 2. All references to floor numbers in this Declaration and in the By-Laws refer to the designation of such floors for marketing purposes, as provided on the Floor Plans, unless specifically indicated otherwise. There will not be any floor designated as floor 2 or floor 13. The Building will be constructed of reinforced concrete spread footings, supporting concrete columns and reinforced shear walls with reinforced cast in place concrete columns, shear walls and flat slab.

ARTICLE 5 THE UNITS

5.1 Exhibit B annexed hereto and made a part hereof sets forth the following data with respect to each Unit necessary for the proper identification thereof; (i) its Unit designation; (ii) tax lot number; (iii) the floor(s) of the Building on which such Unit is located; (iv) the approximate square footage of such Unit; (v) the approximate square foot area of any Limited Common Elements (as defined in Section 8.1 hereof) appurtenant to such Unit; and (vi) the percentage interest in the General Common Elements appurtenant to such Unit. The location of each Unit is shown on the floor plans of the Building (the "Floor Plans") certified by Beyer Blinder Belle Architects & Planners, LLP and intended to be approved by the Tax Map Unit of the City of New York and filed

in the Office of the Register of the City of New York, County of New York (the "Register's Office") simultaneously with the recording of this Declaration.

5.2 The approximate floor area of each Unit has been measured horizontally from (i) the exterior face of any exterior walls directly enclosing the Unit (perimeter and mechanical pipes are not deducted); (ii) the centerline of any wall or partition separating the Unit from any Common Element, mechanical areas, elevator shafts, egress stairs or trash rooms where those elements do not exclusively serve the Unit. Where a furring wall or chase space serving the Unit is adjacent to the structural shear wall bounding the egress stair, the area is taken to the inside face of the structural shear wall. All dimensions on plans and exhibits are approximate and subject to normal construction variances and tolerances, and mechanical enclosures projecting into the space. All Terrace dimension measurements are face-to-face of parapet walls exclusive of structural and mechanical enclosures projecting into the space.

5.3 Each Unit includes, and each Unit Owner shall be responsible for, the maintenance and repair of its Unit and all Facilities contained therein, affixed or appurtenant thereto and/or exclusively within such Unit, including, without limitation, entrance doors to the Unit, hallways within the Unit, staircases or elevators or escalators within the Unit, and all windows (including panes and frames). Additionally, each Unit Owner shall be responsible for the interior walls and partitions, interior stairways, non-structural flooring, floor coverings and plastered or sheet rocked ceilings affixed, attached or appurtenant to such Unit, smoke detectors, carbon monoxide detectors, fireplace (including firebox, flue and dampers) all plumbing, gas and heating, ventilating and air-conditioning fixtures and equipment such as refrigerators, dishwashers, heating, ventilating and air conditioning units (including the fans inside the units), heating equipment, ranges and other appliances as may be affixed, attached or appurtenant to such Unit and within such Unit exclusively and not a General Common Element or a Residential Common Element. Plumbing, gas and heating fixtures and equipment as used in the preceding sentence shall include exposed gas and water pipes from branch or fixture shut-off valves attached to such fixtures, appliances and equipment and the fixtures, appliances and equipment to which they are attached, and any special pipes or equipment which a Unit Owner may install within a wall or ceiling, or under the floor, but shall not include gas, water or other pipes, conduits, wiring or ductwork within the walls, ceilings or floors. Each Unit shall also include (i) all lighting and electrical fixtures and appliances within the Unit and (ii) any special equipment, fixtures or Facilities affixed, attached or appurtenant to the Unit by a Unit Owner, to the extent located within a Unit from the panel and benefiting only that Unit. In addition to the foregoing, a Retail Unit shall also include all storefronts, door assemblies, ramps and related or similar installations in the exterior façade of the Building which exclusively open into or are appurtenant to such Retail Unit.

5.4 Notwithstanding anything contained in this Article 6 or the By-Laws to the contrary, each Unit Owner will have the right, exercisable at any time, to install, at such Unit Owner's sole cost and expense, decorations, fixtures and coverings (including, without limitation, painting, finishing and wall to wall carpeting) on the surfaces of the walls, ceilings and floors that are within the interior of such Unit Owner's Unit, provided that no such installation shall impair the structural integrity and mechanical or electrical systems or any other building systems of such Unit and one or more other Units of the Building.

5.5 The Tower Units will be located on the 5th through 12th Floors and the 14th through 30th (PH-2) floors, as shown on the Floor Plans.

5.6 The Affordable Units will be located on the 3rd and 4th floors, as shown on the Floor Plans.

5.7 Retail Unit 1 will be located on portions of the cellar level, as shown on the Floor Plans.

5.8 Retail Unit 2 and Retail Unit 3 will be located on portions of the ground floor, as shown on the Floor Plans.

5.9 The Tower DR Unit will be located on the cellar level.

5.10 As of the date of the recording of this Declaration with the Register's Office, fee simple absolute title shall automatically vest in Declarant in all Units, individually and collectively, together with an undivided interest in the Common Elements, without the need to execute specific and particular deeds or indentures for each and every Unit.

ARTICLE 6 THE COMMON ELEMENTS

6.1 The common elements of the Condominium (the "Common Elements") consist of the entire Property, including the Land and all parts of the Building and improvements thereon, other than the Units. The Common Elements include, but are not limited to, those rooms, areas, corridors, spaces and other parts of the Building and all Facilities therein for the common use of the Units and the Unit Owners or which are necessary or convenient for the existence, operation, maintenance or safety of the Property. The Common Elements that are appurtenant to, serve or benefit: (a) all Units are called "General Common Elements" as described in Section 6.3 below; (b) the Residential Units or the Residential Unit Owners exclusively are called "Residential Common Elements" as described in Section 6.4 below; (c) one Residential Unit or one Residential Unit Owner to the exclusion of all other Units or Unit Owners (such as a Terrace appurtenant to a Tower Unit) are called "Tower Limited Common Elements" as described in Section 6.5 below; (d) the Retail Unit 1 and 3 or the owner(s) of Retail Unit 1 and Retail Unit 3 exclusively are called "Retail 1 and 3 Common Elements" as described in Section 6.8 below;

6.2 The Common Elements will remain undivided, and no Unit Owner or other Person will bring or will have the right to bring any action for partition or division thereof except as may be specifically provided for herein and in the By-Laws.

6.3 The General Common Elements consist of the following:

6.3.1 the Land (as more particularly described in Exhibit A annexed to this Declaration), together with all easements, rights and privileges appurtenant thereto, except for the Development Rights, and subject to all zoning lot development agreements and other agreements recorded against the Land prior to the recording date of this Declaration;

6.3.2 any of the following: all foundations, foundation walls, footings, columns, girders, beams, floor slabs and ceiling beams, and supports and interior bearing walls, together with the exterior walls of the Building beyond the Unit side of the glass or concealed block work or concealed structural members of those walls and any other exterior feature of the Building;

6.3.3 the following rooms and areas:

6.3.3.1 on the subceller level: the corridors, sump pits and water service rooms and all associated Facilities with respect thereto, super's office, staff room, workshop and building storage room;

6.3.3.2 on the cellar level: the water service/sanitary outflow room, fire pump room, electric room, gas meter room, common corridor, and all associated Facilities with respect thereto, and certain staircases as shown on the Floor Plans;

6.3.3.3 on the ground floor: certain staircases as shown on the Floor Plans;

6.3.3.4 on the bulkhead 1 level: mechanical, plumbing and fire protection Facilities;

6.3.3.5 on the bulkhead 2 level: cooling tower and water tanks, and stair A and B bulkheads;

6.3.3.6 on the 3rd floor: electrical room;

6.3.3.7 on the 5th floor: mechanical room.

6.3.4 all walks and all other improved and unimproved areas outside of the Building but within the Property, together with all easements, rights and privileges appurtenant thereto (except for the Development Rights, which are the sole property of the Tower DR Unit Owner), including an easement of ingress and egress over and across all walks, subject to the obligation of the Condominium Board to maintain, repair and replace sidewalks on the Property and those sidewalks outside of the Property which are the obligation of the Condominium Board to maintain pursuant to and subject to the obligation of a Retail Unit Owner, at its sole cost and expense, to clean the sidewalks appurtenant to a Retail Unit, whether or not such sidewalks are located within or outside of the Property line and to remove snow and ice therefrom, as set forth in the By-Laws;

6.3.5 the electrical system of the Building, including all common electrical wiring, controls, shut-offs, meters and common ground wire system, excluding any portions which exclusively service or benefit the Residential Common Elements, the Tower Limited Common Elements, the Retail 1 and 3 Common Elements or a Unit;

6.3.6 water service and house pumps located below grade level, combined house sewer line, sanitary house drain which connects the combined house sewer line to sanitary house drains, storm house drain which connection combines the house sewer line to storm leaders, house trap and vent pipe which serve the sanitary system and running trap which serves the storm drain system, risers and ducts, to the extent all of the aforementioned Facilities service the entire Building, excluding any portions which exclusively service or benefit the Residential Common Elements, the Tower Limited Common Elements, the Retail 1 and 3 Common Elements or a Unit;

6.3.7 the sprinkler system servicing the Building, including pumps, fittings, valves, sprinkler heads and piping to the extent all of the aforementioned Facilities service the entire Building, excluding any portions which exclusively service or benefit the Residential Common Elements, the Tower Limited Common Elements, the Retail 1 and 3 Common Elements or a Unit;

6.3.8 exhaust systems including the exhaust fan, ductwork and intake and discharge connections to the extent all of the aforementioned Facilities service the entire Building, excluding any portions which exclusively service or benefit the Residential Common Elements, the Tower Limited Common Elements, the Retail 1 and 3 Common Elements or a Unit;

6.3.9 ventilation supply system consisting of motors, ductwork, fans and controls serving the below grade level and steam and condensate return piping to the extent all of the aforementioned Facilities service the entire Building, excluding any portions which exclusively

service or benefit the Residential Common Elements, the Tower Limited Common Elements, the Retail 1 and 3 Common Elements or a Unit;

6.3.10 all other Facilities, equipment, apparatus, installations and other parts of the Building, the common use of which is necessary or convenient for the existence, maintenance or safety of the Building, to the extent all of the aforementioned Facilities service the entire Building, excluding any portions which exclusively service or benefit the Residential Common Elements, the Tower Limited Common Elements, the Retail 1 and 3 Common Elements or a Unit, and also specifically excluding any such items to the extent same are (a) installed by a Unit Owner or (b) located exclusively within one Unit or (c) specifically designated in this Declaration as part of a Unit or part of the Residential Common Elements or the Tower Limited Common Elements or the Retail 1 and 3 Common Elements. The phrase "installed by a Unit Owner" as used in this subparagraph shall be deemed to mean installed by one or more Unit Owner(s) or by Declarant, but not by or on behalf of the Condominium Board; and

6.3.11 any other Facilities in the Building which serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of all of the Units and are not specifically designated in this Declaration as part of any of the Units or part of the Residential Common Elements or the Tower Limited Common Elements or the Retail 1 and 3 Common Elements.

6.4 The Residential Common Elements consist of any central and appurtenant installations and equipment for such services as power, heat, light, telephone, gas, hot and cold water, sewer and fire safety, including all pipes, ducts, wires, cables and conduits, meters, elevators, elevator shafts and elevator pits, corridors, vestibules and common spaces used in connection with or servicing or located within only the Residential Units as a whole (subject to the restrictions and limitations set forth in this Declaration or in the By-Laws) and are not designated in this Declaration as part of any of the Units or part of the General Common Elements or the Tower Limited Common Elements or the Retail 1 and 3 Common Elements, including the following:

6.4.1 The portion of the electrical system and all associated Facilities, exclusively servicing all of the Residential Units and the Residential Common Elements;

6.4.2 the portion of the water service and all associated Facilities, exclusively servicing all of the Residential Units and the Residential Common Elements;

6.4.3 the portion of the sprinkler system and all associated Facilities, exclusively servicing all of the Residential Units and the Residential Common Elements;

6.4.4 the portion of the exhaust system and all associated Facilities, exclusively servicing all of the Residential Units and the Residential Common Elements;

6.4.5 the portion of the ventilation supply system and all associated Facilities, exclusively servicing all of the Residential Units and the Residential Common Elements;

6.4.6 the following rooms and areas of the Building:

6.4.6.1 on the subcellar level, the "Amenity Facility" consisting of the swimming pool, gym, men's and women's saunas and men's and women's locker rooms; the music practice room and lounge, the dog wash room, the stroller storage room and all associated Facilities with respect thereto, which notwithstanding the designation thereof as Residential Common Elements, are for the exclusive use of (a) the Tower Unit Owners, and (b) those Affordable Unit Owners who have paid a usage fee for the use thereof, as established by the Condominium Board from time to time.

6.4.6.2 on the cellar level: the trash compactor room, and all associated Facilities with respect thereto;

6.4.6.3 on the ground floor: the lobby, mail room, package room, and all associated Facilities, and certain corridors and staircases as shown on the Floor Plans;

6.4.6.4 on the 3rd floor: the children's playroom, outdoor residential children's roof terrace and residents' lounge (including the fireplace located therein), which notwithstanding the designation thereof as Residential Common Elements, are for the exclusive use of (a) the Tower Unit Owners and (b) those Affordable Unit Owners who have paid a usage fee for the use thereof, as established by the Condominium Board from time to time;

6.4.6.5 on the 3rd, 4th, 5th and 6th floors, the equipment and service rooms and all associated Facilities with respect thereto;

6.4.6.6 the elevators designated as PE#1, which notwithstanding the designation thereof as Residential Common Elements, is for the exclusive use of the Affordable Unit Owners;

6.4.6.7 the elevators designated as PE#2 and PE#3 which, notwithstanding the designation thereof as Residential Common Elements, are for the exclusive use of (a) the Tower Unit Owners; (b) those Affordable Unit Owners who have paid the fee charged by the Condominium Board for access to and the use of the Amenity Facility located in the subcellar level and the amenities located on the third floor, as set forth in subsections 6.4.6.1 and 6.4.6.4 hereof, and require the use of such elevators in order to access such areas;

6.4.6.8 the Tower Unit Laundry Room, Storage Bin Areas and Storage Bins and Tower Unit Bicycle Storage Room on the subcellar level, which notwithstanding the designation thereof as a Residential Common Element, are for the exclusive use of the Tower Unit Owners;

6.4.6.9 the Affordable Unit Laundry Room on the 4th floor and the Affordable Unit Bicycle Storage Room on the 3rd floor, which notwithstanding the designation thereof as Residential Common Elements, are for the exclusive use of the Affordable Unit Owners;

6.4.6.10 the trash chutes and refuse rooms located on the 3rd through the 30th floors;

6.4.6.11 the elevator machine room on the bulkhead 2 level.

6.4.7 all other Facilities, equipment, apparatus, installations and other parts of the Building, the common use of which is necessary or convenient for the existence, maintenance or safety of the Residential Units or the Residential Common Elements or the Tower Limited Common Elements only, excluding any portions which exclusively service or benefit the General Common Elements, Retail 1 and 3 Common Elements or any Unit exclusively, and excluding any such items specifically designated in this Declaration as part of a Unit or part of the General Common Elements or the Residential Common Elements or the Tower Limited Common Elements or the Retail 1 and 3 Common Elements.

6.5 The Tower Limited Common Elements consist of the Terraces to which a Tower Unit Owner will have exclusive access as set forth on Exhibit B hereto and as shown on the Floor Plans. Notwithstanding anything to the contrary contained in the By-Laws or this Declaration, such

Tower Unit Owner shall be responsible for all ordinary maintenance of all Terraces appurtenant to such Tower Unit at the Tower Unit Owner's sole cost and expense. The repair and replacement of the exterior surface of such Terrace (e.g. pavers) and railings attached to such Terrace shall be performed by the Condominium Board and the cost there of shall be charged to the respective Tower Unit Owner. However, any structural or extraordinary repairs or replacements to such Terrace (including the abatement of any leaks which are not caused by the negligence or acts of the Tower Unit Owner or its Permitted Users having access to the same) shall be made by the Condominium Board and the cost and expense thereof shall be charged to all Unit Owners as a Common Expense; provided, however, that any repairs or replacements that are necessitated or deemed advisable by the Condominium Board and result from the negligence or acts of the Tower Unit Owner or its Permitted Users shall be made by the Condominium Board, and the Condominium Board may charge the entire cost thereof to the Tower Unit Owner.

6.6 The Retail 1 and 3 Common Elements consist of the enclosure for installation of a future elevator or stair used in connection with or servicing or located within only the Retail Unit 1 and Retail Unit 3 and are not designated in this Declaration as part of any of the Units or part of the General Common Elements or the Residential Common Elements or the Tower Limited Common Elements, as shown on the Floor Plans; and (b) all other Facilities, equipment, apparatus, installations and other parts of the Building, the common use of which is necessary or convenient for the existence, maintenance or safety of the Retail Unit 1 and Retail Unit 3 only, excluding any portions which exclusively service or benefit the General Common Elements, the Residential Common Elements, the Tower Limited Common Elements or any Residential Unit exclusively, and excluding any such items specifically designated in this Declaration as part of a Unit or part of the General Common Elements or the Residential Common Elements or the Tower Limited Common Elements.

6.7 Sponsor and the Retail Unit Owners each have the right to create additional categories of Common Elements from space located within their respective Units and to re-designate areas within their respective Common Elements as portions of Units or as portions of Limited Common Elements, so long as the structural integrity of the Building or the proper operation and functionality of the mechanical, electrical and plumbing systems of the Building are not adversely affected thereby.

ARTICLE 7

DETERMINATION OF COMMON INTEREST AND RESIDENTIAL COMMON INTEREST

7.1 The undivided percentage interest of each Unit in the Common Elements is based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use, and the overall dimensions of the particular Unit in accordance with Real Property Law 339-i (l)(iv).

7.2 Except as otherwise set forth herein, the percentage interest of all Residential Units in the Residential Common Elements is apportioned in the same proportion that the Residential Unit at the date of this Declaration bears to the then aggregate Common Interests of all of the Residential Units in the Condominium.

ARTICLE 8

USE OF UNITS AND STORAGE BINS

8.1 As more particularly set forth herein, and subject to the provisions of the By-Laws, the Residential Units shall be used for residential purposes only (excluding "dormitory," "bed and breakfast," home exchange or any transient hotel-type use, such as Airbnb, Home Away, or Roomorama). A Residential Unit owned or leased by an individual, corporation, partnership, fiduciary or any other entity including, but not limited to, the federal or state government and any instrumentality thereof and foreign governments and any embassy, consulate, or other instrumentality thereof, may only

be occupied (unless the Condominium Board otherwise consents in writing) by such individual, or by an individual officer, director, stockholder or employee of such corporation, or by an individual partner or employee of such partnership, or by such individual fiduciary (including directors, officers, stockholders or employees of corporate fiduciaries and partners or employees of partnership fiduciaries) or by an individual beneficiary of said fiduciary, or an individual principal or employee of such other entity, respectively, or by Family Members or guests of any of the foregoing; however, the foregoing restrictions shall not apply to Unsold Tower Residential Units. The use of the Affordable Units is subject to all Laws, the 421-a Program (for so long as the Building or the Units receive Section 421-a Benefits) and the 421-a Restrictive Declaration (for so long as the 421-a Restrictive Declaration is in effect). Nothing herein shall be deemed to authorize any change in the use of the Affordable Units without the consent of Sponsor.

Upon the prior written consent of Sponsor (with respect to Unsold Tower Residential Units), or the Condominium Board (with respect to sold Tower Residential Units), any Tower Unit may be used for any other lawful purposes, subject, however, to (i) the terms and conditions of the then existing TCO or PCO for the Building, (ii) the Residential Rules and Regulations, (iii) the By-Laws, and (iv) applicable Law. All Residential Unit Owners are prohibited from smoking in or around any of the General Common Elements, Residential Common Elements, Tower Limited Common Elements, and within all Units. The Residential Units shall be used only for residential purposes and any ancillary use, subject, however, to (i) all Laws and the certificate of occupancy in effect at the time in question, (ii) the Residential Rules and Regulations, (iii) the By-Laws, (iv) the 421-a Program (for so long as the Building or the Units receive Section 421-a Benefits) and (v) the 421-a Restrictive Declaration (for so long as the 421-a Restrictive Declaration is in effect).

8.2 The Retail Units may be used only for commercial purposes, subject to all Laws and the certificate of occupancy in effect at the time, except for the following ("Prohibited Uses"): (1) an establishment which displays, sells, rents or offers for sale or rent any pornographic material; adult bookstore or facility selling or displaying pornographic books, literature, or videos (materials shall be considered "adult" or "pornographic" for such purpose if the same are not available for the sale or rental to children under 18 years old because they explicitly deal with or depict human sexuality), excluding any establishment for which the sale or rent of such products constitutes a de minimis space in such establishment (2) so-called head shop or other similar establishment which stocks, displays, sells, rents or offers for sale or rent any drug-related paraphernalia or merchandise or material commonly used or intended for use with or in consumption of any narcotic, dangerous drug or other controlled substance, including, without limitation, any hashish pipe, water pipe, bong, cilium, pipe screens, rolling papers, rolling devices, coke spoons or roach clips, (3) automotive parts, lube and oil or repair shop, (4) Bingo or similar games of chance, (5) check cashing store (except as is typical in connection with the operation of a financial services institution), (6) church, mosque, temple or other place of religious worship or meeting hall, (7) dumping, disposing, incinerating or reducing of garbage (exclusive of dumpsters for temporary storage of garbage and any garbage compactors, in each case which are routinely emptied so as to minimize offensive odors), (8) manufacturing, assembling, displaying or selling fireworks, ammunition or explosives, (9) funeral home or mortuary, (10) dormitory use, (11) a so-called "flea market," (12) so-called gentleman's club featuring topless waitresses, nude dancing or private "one-on-one" booths or rooms, (13) illicit non-therapeutic massage parlor, (14) off-track betting parlor or other gambling facility, (15) circus, carnival or amusement park, or other similar entertainment facility, (16) pawn shop, (17) shooting gallery, (18) tattoo parlor, (19) office, store, reading room, headquarters, center or other facility principally devoted or opposed to the promotion, advancement, representation, purpose or benefit of: (I) any political party, political movement or political candidate or (ii) any religion, religious group or religious denomination, (20) an arcade, (21) a mall or mini-mall, (22) sports bar; (23) dry cleaning plant, central laundry or laundromat (excluding a drop-off dry cleaning store and/or an "organic" (non-chemical) process dry cleaner) (24) psychic, hypnotist, tarot card or palm reading business or

similar establishment, (25) business practicing satanic or cult ritualistic activities including so-called "devil worship," black magic or rites of passage involving self-mutilation or degradation, (26) an international organization unless such international organization waives its sovereign or diplomatic immunity, (27) employment agency, except for executive placement firms, legal and other professional search firms, (28) a legal services office or legal clinic, or (29) a nightclub, cabaret, discotheque or dance club (whether open to the general public or "members-only") which uses live or amplified music.

8.3 The Storage Bins may be used only for the storage of personal effects of a Tower Unit Owner, and in no event shall any food or other perishable item, or any flammable or explosive item, or any item which would impose a health or safety threat or cause noxious odors, dirt or other sanitary problems or create a nuisance, be stored therein. Sponsor shall have the right to use any unassigned Storage Bin for any purpose permitted by Law or to change the permitted use of any unassigned Storage Bin subject, however, to the provisions of the By-Laws. Except for Sponsor, Sponsor designees and the Condominium Board, a Storage Bin may not be licensed independently of a Tower Unit.

8.4 Notwithstanding the foregoing or anything contained in the By-Laws or the Residential Rules and Regulations to the contrary, Sponsor may, without the permission of the Condominium Board, (1) use or grant permission for the use of any Unsold Tower Unit as a professional office or for any other purpose, provided such use is permitted by Law, and does not violate the then existing certificate of occupancy for the Building or the 421-a Restrictive Declaration; (2) use any Unsold Tower Residential Unit as a model Unit and/or office for the selling, leasing, management, operation and promotion of the Unsold Residential Units or for any other purpose, subject only to compliance with Law, (3) together with Sponsor's designees, use any Storage Bin for any purpose permitted by Law.

8.5 The Residential Units shall be subject in all respects to the terms, conditions and restrictions of the Residential Rules and Regulations, the By-Laws, the 421-a Program (for so long as the Building receives real estate tax incentive benefits under the 421-a Program and the 421-a Restrictive Declaration, for so long as the 421-a Restrictive Declaration is in effect. The 421-a Restrictive Declaration is incorporated herein by reference.

ARTICLE 9 EASEMENTS FOR THE ENJOYMENT OF THE COMMON ELEMENTS

9.1 Subject to the terms of this Declaration, the By-Laws and the Residential Rules and Regulations, if applicable, Sponsor, the Unit Owners, Selling Agent, the Managing Agent, the Condominium Board and all Permitted Users of the foregoing shall have, in common with all of the others, an easement for ingress and egress through, as well as for the use and enjoyment of, all of the General Common Elements, and the General Common Elements shall be subject to such easement. Notwithstanding the foregoing, however, no Person shall use or enjoy the General Common Elements except in accordance with the reasonable purposes for which they are intended and without encroaching upon the rights of other Persons to do so.

9.2 Subject to the terms of this Declaration, the By-Laws and the Residential Rules and Regulations, if applicable, Sponsor, the Residential Unit Owners, Selling Agent, the Managing Agent, the Condominium Board and all Permitted Users of the foregoing shall have, in common with all of the others, an easement for ingress and egress through, as well as for the use and enjoyment of, all of the Residential Common Elements, except as expressly set forth in this Declaration or in the By-Laws, and the Residential Common Elements shall be subject to such easement. Notwithstanding the foregoing, however, no person shall use or enjoy the Residential Common Elements except in accordance with the

reasonable purposes for which they are intended and without encroaching upon the rights of other persons to do so.

9.3 Notwithstanding the provisions of section 9.2 of this Article 9, upon payment of a usage fee determined by the Condominium Board from time to time, an Affordable Unit Owner and its Permitted Users shall have the right and easement to access the "Amenity Facility" located in the subcellar and on the 3rd floor by means of the elevators servicing the subcellar and/or the 3rd floor of the Building, as applicable.

9.4 The Retail Unit Owners and their Permitted Users shall have the right and easement (i) for ingress and egress through all Common Elements for the purpose of accessing such Retail Units or any portion of the Building servicing such Retail Units, and (ii) to erect, maintain, repair and replace, from time to time, one or more signs, of such size and content as such Retail Unit Owners shall determine, in the storefronts (if any) and windows of such Retail Units for the purpose of advertising the sale or lease of all or any portion of such Retail Units, and the operation of any business of a Permitted User of all or any portion of such Retail Units. Additionally, a Retail Unit Owner shall have an easement to use the sidewalks adjacent to such Retail Unit for any purposes permitted by Law, including, without limitation, food and beverage services and the placement of outdoor seating, tables, lighting and signage on such sidewalks. Subject to Sponsor's prior written consent, for so long as Sponsor owns any Unsold Unit, a Retail Unit Owner shall have the right, but not the obligation, at such Unit Owner's sole cost and expense, to alter, modify, and/or restore the exterior façade of the Building appurtenant to such Retail Unit (including storefronts and windows of such Retail Unit) and to create additional means of egress and ingress, provided that such alterations, modifications and/or restorations are in compliance with Article 11.2 of this Declaration. Notwithstanding the foregoing, a Retail Unit Owner shall not be permitted to erect any signage and/or lighting on the exterior façade of the Building (other than the storefronts, windows, and exterior façades appurtenant to such Retail Unit) without the prior written consent of the Condominium Board, and Sponsor for so long as it shall own any Unsold Units, which consent shall not be unreasonably withheld, conditioned or delayed.

9.5 Each Tower Unit Owner whose Residential Unit has one or more appurtenant Tower Limited Common Elements shall have an exclusive easement for the use thereof. The Tower Units having the same are indicated on Exhibit B.

9.6 Sponsor and its Permitted Users shall have an easement in, over, under, through and upon the General Common Elements and Residential Common Elements (including but not limited to, residential lobbies, hallways and corridors), to use the same, without being subject to any fee or charge, for all purposes and activities in connection with the sale or renting of Unsold Residential Units including, without limitation, the right to erect, maintain, replace and/or repair any sign and/or lighting permitted by Law on the Property for the purposes of advertising the sale of any Unit, the leasing of space in any Unit or the operation of any business of a tenant or occupant of any Unit. In addition, for a period of ten (10 years) following the First Unit Closing, Sponsor and its Permitted Users shall have an easement and the right to use the General Common Elements and Residential Common Elements for exhibitions, events and promotional functions, without charge.

9.7 In addition to all other easements and rights granted herein, Sponsor, the Managing Agent, and the Condominium Board and each of their respective Permitted Users, shall have an easement in, through and upon all Penthouse Units and the Terraces appurtenant thereto, for the purpose of accessing, utilizing, maintaining and replacing the exhaust fans located on the Terrace, if any.

ARTICLE 10 OTHER EASEMENTS

10.1 Sponsor for so long as it shall own any Unsold Residential Unit, any Retail Unit Owner with respect to its Retail Unit and the Condominium Board, on behalf of all Unit Owners, shall have the right to grant such additional electric, gas, steam, cable television, telephone, water, storm drainage, sewer and other utility easements in, or to relocate any existing utility easements to, any portion of the Property as Sponsor, the Retail Unit Owners or the Condominium Board, as the case may be, shall deem necessary or desirable for the proper operation and maintenance of the Building or any portion thereof, or for the general health or welfare of the Unit Owners and their Permitted Users, provided that the granting of such additional utility easements or the relocation of existing utilities will not prevent or unreasonably interfere with the normal conduct of business carried on within the Retail Units or with the use of the Residential Units for their permitted purposes, and shall not result in the imposition of any mechanic's lien against any of the Units. Any utility company and its employees and agents shall have the right of access to each Unit or the Common Elements in furtherance of such easement, provided such right of access shall be exercised in such manner as shall not unreasonably interfere with the normal conduct of business or with the use of the Units for their permitted purposes. Notwithstanding any other provision of this Declaration, the By-Laws or the Residential Rules and Regulations, any alterations carried out in connection with the easements granted hereinabove shall be such that neither the configuration nor the usable area of the affected Unit shall be materially adversely affected and shall be in accordance with comparable first-class condominium buildings in Manhattan.

10.2 Sponsor and its Permitted Users for so long as Sponsor shall own any Unsold Residential Unit, shall have an easement for ingress and egress through all of the Common Elements in order to make alterations, additions, or improvements, whether structural or non-structural, interior or exterior, ordinary or extraordinary, in, to and upon the Unsold Residential Units and the Common Elements.

10.3 Each Unit and the Common Elements shall have easements of subjacent support and necessity, and the same shall be subject to such easements in favor of all of the other Units and the Common Elements.

10.4 Sponsor, and its Permitted Users shall have an exclusive right and easement for so long as the Condominium shall remain in existence to erect, use, lease, maintain, repair, replace and operate (a) antennae, satellite dishes and other communications equipment, and (b) any pipes, risers, ducts, flues and equipment necessary or desirable to provide heat, air-conditioning, exhaust, or ventilation as required or, as permitted by Law, on any part of the roof of the Building and elsewhere on the Common Elements (excluding Terraces and Storage Bins) and to utilize any risers, conduits, piping, cables, ducts and electrical panels and rooms, telephone/cable panels and rooms in connection therewith. The exercise of the easement and these rights do not require the consent of the Condominium Board or the Unit Owners and shall be without charge to Sponsor. Any obligations of Sponsor under any lease, license or other right of use granted by Sponsor with respect to the roof of the Building shall be the obligation of Sponsor and not of the Condominium, and any rights of Sponsor, including, without limitation, the right to receive rent or other consideration for such lease, license or other right of use, shall be the right of Sponsor, and not of the Condominium or any other Unit Owner. In connection with such easement and related rights, Sponsor and its Permitted Users shall each have, to the extent necessary or advisable for such erection, use, lease, maintenance, repair, replacement and operation, an easement in common with all Unit Owners for ingress, egress and the use of any Common Elements. The Units shall each be subject to such easement.

10.5 Sponsor and the Tower DR Unit Owner other Development Rights Owner shall have an easement for ingress and egress through all of the Common Elements for any purpose in connection

with Sponsor's or the Tower DR Unit Owner's or other Development Rights Owner's utilization, sale or transfer of any Development Rights, including without limitation (i) effecting a zoning lot merger or division; or (ii) creating a Combined Zoning Lot or any enlargement or subdivision thereof; or (iii) effecting a sale or transfer of Development Rights in any manner permitted by Law.

10.6 Subject to the terms of the By-Laws, the Retail Unit Owners shall have an easement to install, operate, maintain, repair, alter, rebuild, restore and replace any pipes, wires, ducts, vents, cables, conduits or other lines, equipment or facilities forming a part of or relating to their respective Retail Unit in, over, under, through or upon the Common Elements or elsewhere on the Property; provided that access to the Common Elements or other portions of the Property in furtherance of such easement shall be exercised in such a manner as will not unreasonably interfere with the use of the Units or Common Elements and such other portions of the Property for their permitted purposes; and provided further that the prior approval of the Condominium Board will be required for any such work that interacts with or affects the operation of the "base Building" mechanical, electrical, plumbing or fire alarm systems or affects the structural integrity of the Building.

10.7 The Condominium and Building shall be designated and known as The Kent Condominium. Sponsor shall own and control all rights and interest, appurtenant to the name of the Condominium and/or the Building and any intellectual property relating thereto, including without limitation, any logos, marks, websites, trademarks, copyrights or names relating to or referring to the name of the Condominium or the Building, unless otherwise prohibited by Law. Only Sponsor shall have the right to change or assign the name of the Condominium. In addition, Sponsor shall have the right to utilize other names for the Building or portions thereof for marketing and promotional purposes without the consent of the Condominium Board or the Unit Owners. Sponsor shall have an exclusive easement for so long as the Condominium shall remain in existence to erect, maintain, repair and replace, from time to time, a plaque and/or sign ("Plaque"), without charge, on the exterior portion of the Building setting forth the name and address of Sponsor, or such other information as Sponsor desires in its sole discretion. Only Sponsor shall have the right to remove the Plaque, unless mandated by Law.

10.8 If (a) any portion of the Common Elements encroaches upon any Unit or upon any other portion of the Common Elements, (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements or (c) any such encroachment shall hereafter occur as a result of (i) the settling or shifting of the Building, (ii) any alteration, repair or restoration of the Common Elements made by or with the consent (when required by the By-Laws) of the Condominium Board, or made by Sponsor in accordance with this Declaration or the By-Laws or (iii) any alteration, repair or restoration of the Building (or any portion thereof) or of any Unit or Common Element after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all any portion of any Unit or the Common Elements; then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same as long as the Building shall stand.

10.9 In addition to the specific easements set forth in this Article 10 and in Article 9 hereof, the Property and every portion thereof shall be subject to all easements made with the City of New York or with any utility companies or other Persons in effect prior to the recording of this Declaration.

ARTICLE 11 ALTERATIONS, ADDITIONS, IMPROVEMENTS AND CHANGES TO UNSOLD RESIDENTIAL UNITS AND RETAIL UNITS

11.1 Except to the extent prohibited by Law and subject to the 421-a Program and the 421-a Restrictive Declaration for so long as the Building receives real estate tax incentive benefits under the 421-a Program, Sponsor shall have the right, without the vote or consent or approval of the

Condominium Board, other Unit Owners, Selling Agent, the Managing Agent or the Mortgage Representatives, if any, to:

(a) make alterations, additions, improvements, or repairs, whether structural or non-structural, interior or exterior, ordinary or extraordinary, in, to and upon Unsold Residential Units and their appurtenant Tower Limited Common Elements, if any;

(b) change the layout of, or number of rooms in, any Unsold Residential Units (but not the number of Affordable Units in the Building nor the square footage, or number of rooms or bedrooms in any Unsold Affordable Units);

(c) amend the Certificate of Occupancy for the Building as it relates to the Unsold Residential Units;

(d) subject to subsection (b) of this Section 11.1, change the size and/or number of Unsold Residential Units by (w) subdividing one or more Unsold Residential Units into two or more separate Residential Units, (x) combining separate Unsold Residential Units (including those resulting from such subdivision or otherwise) into one or more Residential Units, (y) altering the boundary walls between any Unsold Residential Units, or (z) otherwise, including incorporating Residential Common Elements (such as a portion of a hallway used exclusively by the occupant(s) of such Unsold Residential Unit) which exclusively benefit an Unsold Residential Unit into such Unsold Residential Unit without changing the percentage of Common Interest of such Unit; and

(e) if appropriate, reapportion among the Unsold Residential Units affected by such change in size or number pursuant to the preceding clauses their Common Interests and Residential Common Interests;

provided, however, that, with respect to any such alteration, addition, improvement, or change in, to, of, or upon any Unsold Residential Unit:

- (i) no physical modifications shall be made to any other Unit and the Common Interest and Residential Common Interest (other than Unsold Residential Units), as the case may be, or interior dimensions of any other Units (other than Unsold Residential Units) shall not be changed by reason thereof, unless the owner of such other affected Unit shall consent thereto;
- (ii) Sponsor shall comply with Law;
- (iii) Sponsor shall agree to hold the Condominium Board and all other Unit Owners harmless from any liability arising therefrom;
- (iv) such alteration, addition, improvement, repair or change shall not jeopardize the soundness, mechanical systems or structural integrity of any part of the Building or the safety of any tenant or other persons at the Property; and
- (v) if such alteration, addition, improvement or change is in, to, of or upon an Affordable Unit while the Building receives real estate tax incentive benefits under the 421-a Program, Sponsor shall comply with the provisions of the 421-a Program including, without limitation, obtaining the prior approval of HPD, if required.

Notwithstanding the foregoing, however, the aggregate amounts of both the Common Interests of all the Units and the Residential Common Interests of all Residential Units shall always remain at 100%, and no reapportionment of the Common Interest or Residential Common Interest appurtenant to any Unit, as the case may be, shall be made unless there is first delivered to the Condominium Board a written certification stating

that the new Common Interest and, if applicable, Residential Common Interest of the affected Unit has been based upon the factors set forth in Article 8 hereof. The certification referred to in the preceding sentence shall be delivered by Sponsor or any other Person reasonably acceptable to the Condominium Board. By written permission of the Condominium Board, which permission shall not be unreasonably withheld or delayed, any other Residential Unit Owner may be given with respect to such Residential Unit the same rights and be subject to the same limitations and conditions as are set forth in this Article with respect to Unsold Residential Units. Notwithstanding the other provisions of this Article, no reapportionment of the Common Interests appurtenant to any Residential Unit shall be made unless there is first delivered to the Condominium Board a written certification stating that the new Common Interest of the affected Residential Unit has been based upon the factors set forth in Article 8 hereof. The certification referred to in the preceding sentence shall be delivered by the Residential Unit Owner or any other Person reasonably acceptable to the Condominium Board. The provisions of this Article may not be added to, amended, modified, or deleted without the prior written consent of Sponsor.

11.2 Except to the extent prohibited by Law, a Retail Unit Owner shall have the right, without the consent or approval of the Condominium Board, the Unit Owners, Selling Agent, the Managing Agent, or the Mortgage Representatives, if any, to:

(a) make alterations, additions, improvements, or repairs, whether structural or non-structural, interior or exterior, ordinary or extraordinary, in, to and upon the Retail Unit (except for those restrictions set forth in Section 9.4 hereof);

(b) change the use or layout of, or number of rooms in the Retail Unit;

(c) amend the Certificate of Occupancy for the Building as it relates to the Retail Unit, so long as it does not adversely impact the Certificate of Occupancy for the entire Building;

(d) change the size of the Retail Unit by (w) subdividing the Retail Unit into 2 or more separate Units, (x) combining 2 or more separate Units resulting from such subdivision into 1 or more Units, (y) altering the boundary walls of 2 or more separate Units resulting from such subdivision or combination, or (z) otherwise; and

(e) if appropriate, reapportion among the Units affected by such change in size or number pursuant to the preceding clauses their respective Common Interests;

provided, however, that, with respect to any such alteration, addition, improvement, or change in, to, of, or upon the Unit:

(i) no physical modification shall be made to any other Unit, and the Common Interest and Residential Common Interest, as the case may be, or interior dimensions of any other Unit shall not be changed by reason thereof, unless the owner of such other affected Unit shall consent thereto;

(ii) a Retail Unit Owner shall comply with Law;

(iii) a Retail Unit Owner shall agree to hold the Condominium Board and all other Unit Owners harmless from any liability arising therefrom; and

(iv) such alteration, addition, improvement, repair or change shall not jeopardize the soundness, mechanical, electrical or plumbing systems or structural integrity of any part of the Building or the safety of any tenant or other persons at the Property.

In the event of the subdivision of the Retail Unit into separate Retail Units, the owner of each such newly created Retail Unit shall have all the rights, privileges and benefits, and shall be subject to all the

obligations of the original Retail Unit Owner, as provided in this Declaration, and the By-Laws; provided, however, that the owners of such newly created Retail Units shall collectively continue to be entitled to designate 1 Member to the Condominium Board.

Notwithstanding the foregoing, however, the aggregate amounts of the Common Interest of all the Units and the Residential Common Interests of all Residential Units shall always remain at 100%, and no reapportionment of the Common Interest appurtenant to a Retail Unit shall be made unless there is first delivered to the Condominium Board a written certification stating that the new Common Interest has been based upon the factors set forth in Article 8 hereof. The certification referred to in the preceding sentence shall be delivered, at a Retail Unit Owner's election, by a Retail Unit Owner, Selling Agent, the Managing Agent, or any other Person reasonably acceptable to the Condominium Board. The provisions of this Article may not be added to, amended, modified, or deleted without the prior written consent of the affected Retail Unit Owner.

ARTICLE 12 ACQUISITION OF UNIT BY THE CONDOMINIUM BOARD

If (a) any Residential Unit Owner surrenders the Residential Unit, together with its Appurtenant Interests to the Condominium Board pursuant to the terms of the By-Laws or Section 339-x of the Condominium Act, or (b) the Condominium Board, pursuant to the By-Laws or otherwise, either acquires or leases a Unit, together with its Appurtenant Interests, or purchases, a Unit, together with its Appurtenant Interests, at a foreclosure or other similar sale, then, in any such event, title to any such Unit and such Appurtenant Interests shall be held by the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, in proportion to their respective Common Interests. Any lease or sublease of any Unit leased or subleased by the Condominium Board or its designee shall be held by the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, in proportion to their respective Common Interests.

ARTICLE 13 POWER OF ATTORNEY TO SPONSOR AND THE CONDOMINIUM BOARD

13.1 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, Sponsor, to:

(a) amend the Condominium Documents pursuant to the terms thereof, and to effectuate the rights of Sponsor under the Condominium Documents; and

(b) effectuate Sponsor's or the Tower DR Unit Owner's or other Development Rights Owner's utilization, sale or transfer of all or any portion of the Tower DR Unit and the Development Rights appurtenant thereto, as set forth in this Declaration.

13.2 Each Residential Unit Owner, by acceptance of a deed or otherwise succeeding to title to a Residential 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, the Persons who shall from time to time constitute the Condominium Board, jointly, to:

(a) employ counsel for purposes of protesting the New York City real property tax assessments with the Tax Commission and commencing, pursuing, appealing, settling and/or terminating administration and tax certiorari proceedings on behalf of the Residential Unit Owners for the reduction of the assessed valuation of their Residential Units, such Residential Unit Owners agreeing not to protest said assessments and bring such tax certiorari proceedings at their own initiative and on their own behalf;

(b) acquire, lease or license any Tower Unit, together with its Appurtenant Interests whose owner desires to sell, convey, transfer, assign, lease, sublease or surrender the same or acquire any Tower Unit, together with its Appurtenant Interests that becomes the subject of a foreclosure or other similar sale, in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Tower Unit Owners;

(c) acquire, mortgage, lease, sublease, license, convey or otherwise deal with (but not to vote the Common Interest, appurtenant to) any Residential Unit so acquired or to sublease any Residential Unit so leased; and

(d) execute, acknowledge and deliver (1) any declaration or other instrument affecting the Property which the Condominium Board deems necessary or appropriate to comply with any Law applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Property or (2) any consent, covenant, restriction, easement, or declaration, or any amendment thereto, affecting the Property which the Condominium Board deems necessary or appropriate or (3) any protest and tax certiorari proceeding documentation affecting Residential Units.

13.3 In confirmation of the foregoing power of attorney, each Unit Owner, upon the request of either Sponsor or the Condominium Board, shall duly execute, acknowledge and deliver to the requesting party, for recording in the Register's Office, a Unit Power of Attorney, substantially in the form set forth as Exhibit F to this Declaration.

ARTICLE 14 TERMINATION OF CONDOMINIUM

The Condominium shall continue and the Property shall not be subject to an action for partition (unless terminated by casualty loss, condemnation or eminent domain, as more particularly provided in the By-Laws) until such time as the Property is withdrawn from the provisions of the Condominium Act and is authorized by a vote of the Retail Unit Owners and 80% in number and in Residential Common Interest of all Residential Unit Owners and the Permitted Mortgagees representing at least 51% percent of the Common Interests of all Units which are subject to Permitted Mortgages or by a majority of the Mortgage Representatives, if any. In the event the withdrawal is authorized as aforesaid, but only in such event, the Property shall be subject to an action for partition by any Unit Owner or lienor as if owned in common, in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective Common Interests; provided, however, that no payment shall be made to a Unit Owner until there has first been paid from out of such Unit Owner's share of such net proceeds all liens on the Unit (other than mortgages which are not Permitted Mortgages), in the order of priority of such liens.

ARTICLE 15 COVENANT OF FURTHER ASSURANCES

15.1 Any Person who is subject to the terms of this Declaration, whether such Person is a Unit Owner, a Member or officer of the Condominium Board or a Permitted User of either or otherwise, shall, upon prior reasonable written request at the expense of any such other Person requesting the same, execute, acknowledge and deliver to such other Person such instruments, in addition to those specifically provided for herein, and take such other action as such other Person may reasonably request to effectuate the provisions of this Declaration or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

15.2 If any Unit Owner, the Condominium Board or other Person that is subject to the terms of this Declaration fails to execute, acknowledge, or deliver any instrument, or fails or refuses, within 10 days (or 60 days, with respect to a Permitted Mortgagee) after request therefor, to execute, acknowledge or deliver any instrument which such Unit Owner, Condominium Board or other Person

is required to execute, acknowledge or deliver pursuant to this Declaration at the request of Sponsor or a Retail Unit Owner, as the case may be, then Sponsor, or a Retail Unit Owner, as the case may be, is hereby authorized, as attorney-in-fact for the Unit Owner, Condominium Board or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, in the name of the Unit Owner, Condominium Board or other Person, and such instrument shall be binding on the Unit Owner, Condominium Board or other Person. The Condominium Board shall not unreasonably withhold or delay its consent or approval with respect to any matter contained in this Declaration which requires the consent or approval of the Condominium Board.

ARTICLE 16 COVENANTS RUNNING WITH THE LAND

16.1 All provisions of this Declaration, the By-Laws and the Residential Rules and Regulations which are annexed hereto and made a part hereof, including, without limitation, the provisions of this Article, shall to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the owner of all or any part thereof, or interest therein, and owner's heirs, executors, administrators, legal representatives, successors and assigns, but the same are not intended to create, nor shall they be construed as creating, any rights in or for the benefit of the general public. All present and future owners, tenants, subtenants, licensees, and other occupants of Units shall be subject to and shall comply with the provisions of this Declaration, the By-Laws and the Residential Rules and Regulations, as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the By-Laws and the Residential Rules and Regulations, as they may be amended from time to time, are accepted and ratified by such owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease or use and occupancy agreement thereof.

16.2 If any provision of this Declaration or the By-Laws is invalid under, or would cause this Declaration and the By-Laws to be insufficient to submit the Property to the provisions of, the Condominium Act, such provision shall be deemed deleted from this Declaration or the By-Laws, as the case may be, for the purpose of submitting the Property to the provisions of the Condominium Act but shall nevertheless be valid and binding upon and inure to the benefit of the owners of the Property and their heirs, executors, administrators, legal representatives, successors and assigns, as covenants running with the Land and with every part thereof and interest therein under other applicable Law to the extent permitted under such applicable Law with the same force and effect as if, immediately after the recording of this Declaration and the By-Laws, all Unit Owners had signed and recorded an instrument agreeing to each such provision as a covenant running with the Land. If any provision which is necessary to cause this Declaration and the By-Laws to be sufficient to submit the Property to the provisions of the Condominium Act is missing from this Declaration or the By-Laws, then such provision shall be deemed included as part of this Declaration or the By-Laws, as the case may be, for the purposes of submitting the Property to the provisions of the Condominium Act.

16.3 If this Declaration and the By-Laws are insufficient to submit the Property to the provisions of the Condominium Act, the provisions of this Declaration and the By-Laws shall nevertheless be valid and binding upon and inure to the benefit of the owners of the Property, and their heirs, executors, administrators, legal representatives, successors and assigns, as covenants running with the Land and with every part thereof and interest therein under applicable Law to the extent permitted under such applicable Law with the same force and effect as if, immediately after the recording of this

Declaration and the By-Laws, all Unit Owners had signed and recorded an instrument agreeing to each such provision as a covenant running with the Land.

ARTICLE 17 DEVELOPMENT RIGHTS

17.1 Any Development Rights shall be the property of and shall inure solely to the benefit of Sponsor or the Tower DR Unit Owner or another Development Rights Owner, who shall have the exclusive right to utilize, sell or otherwise transfer any Development Rights (including, without limitation, to a subsequent Development Rights Owner). Neither the Condominium Board nor any Unit Owner (other than the Tower DR Unit Owner) shall have any right or interest in any Development Rights.

17.2 In connection with its utilization of Development Rights, Sponsor, the Tower DR Unit Owner or other Development Rights Owner, among other rights, may cause the Property to be divided into two or more parcels which collectively are referred to as the "Combined Zoning Lot."

17.3 Each Unit Owner by accepting a deed or otherwise succeeding to title to a Unit, and the Condominium Board, shall be deemed to have consented to and agreed that, if Sponsor, the Tower DR Unit Owner or other Development Rights Owner seeks to enlarge the Combined Zoning Lot by adding other parcels of real property ("Additional Parcels") so as to create an enlarged Combined Zoning Lot, or seeks to utilize or transfer Development Rights for the purposes and in accordance with the provisions of the Zoning Resolution or other applicable Law, the Condominium Board and the Unit Owner have (i) waived the right to execute any declaration of zoning lot restrictions, zoning lot development agreement, easement for light and air or other document or instrument and the right to appear in opposition before any community board or governmental or quasi-governmental authority to oppose in any manner the utilization, sale or transfer of Development Rights or the establishment of the Combined Zoning Lot or any enlargement, division or proposed use thereof; and (ii) consented as a party in interest, to any declaration or other agreement utilizing the Development Rights in any manner, including by effecting a transfer of Development Rights or a merger or division of any of the parcels comprising the Combined Zoning Lot with any other tax lots in order to form a single zoning lot for the purpose of transferring all or any portion of the Development Rights from Sponsor, the Tower DR Unit Owner or other Development Rights Owner.

17.4 Notwithstanding the provisions of the immediately preceding paragraph, each Unit Owner by accepting a deed or otherwise succeeding to title to a Unit, and the Condominium Board, shall be deemed to have granted to Sponsor, the Tower DR Unit Owner and any other Development Rights Owner an irrevocable power of attorney coupled with an interest, to execute, acknowledge and deliver any such declaration of zoning lot restrictions, zoning lot development agreement, easement for light and air, or other document or instrument necessary or expedient to carry out the exercise of any rights, reserved, retained or granted to Sponsor, the Tower DR Unit Owner or other Development Rights Owner. Alternatively, upon demand of Sponsor, the Tower DR Unit Owner or other Development Rights Owner, each Unit Owner and the Condominium Board shall execute any declaration of zoning lot restrictions, zoning lot development agreement, easement for light and air, or other document or instrument requested by Sponsor, the Tower DR Unit Owner or other Development Rights Owner in order that (i) Sponsor, the Tower DR Unit Owner or other Development Rights Owner may effectively utilize, sell or otherwise transfer Development Rights to any Person designated by Sponsor, the Tower DR Unit Owner or other Development Rights Owner, and (ii) such Person may effectively utilize such Development Rights.

17.5 Notwithstanding the foregoing, neither Sponsor, the Tower DR Unit Owner nor any other Development Rights Owner may utilize Development Rights to increase the size, height, bulk or density of any portion of the Property.

17.6 All rights and obligations of the Sponsor and Tower DR Unit Owner set forth in this Declaration with respect to the Development Rights shall apply equally to any other Development Rights Owner.

ARTICLE 18 AMENDMENTS TO THIS DECLARATION

18.1 Subject to the provisions contained herein or in the By-Laws with respect to amendments, modifications, additions or deletions affecting Sponsor or a Retail Unit Owner, or the Tower DR Unit Owner any provision of this Declaration affecting the (i) General Common Elements or all Unit Owners may be added to, amended, modified or deleted by the affirmative vote of at least 66-2/3% in number and in Common Interest of all Unit Owners and (ii) Residential Common Elements or all Residential Unit Owners may be added to, amended, modified or deleted by affirmative vote of at least 66-2/3% in number and Residential Common Interest of all Residential Unit Owners, taken in accordance with the provisions of the By-Laws; provided, however, that the Common Interest appurtenant to each Unit as expressed in this Declaration shall not be altered without the written consent of all Unit Owners directly affected. Subject to the provisions contained herein or in the By-Laws with respect to amendments, modifications, additions or deletions affecting Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, no amendment, modification, addition or deletion shall be effective without the written consent (which consent shall not be unreasonably withheld or delayed) of the Mortgage Representatives (as defined in the By-Laws), if any. No such amendment, modification, addition or deletion shall be effective until recorded in the Register's Office. Subject to the provisions contained herein or in the By-Laws with respect to amendments, modifications, additions or deletions affecting Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, any such amendment, modification, addition or deletion shall be executed by either the Condominium Board as attorney-in-fact for the Unit Owners, coupled with an interest, and the Condominium Board is hereby authorized by such Unit Owners so to act as their attorney-in-fact.

18.2 Sponsor (and the Tower DR Unit Owner and any other Development Rights Owner, solely with respect to utilization, sale or transfer of Development Rights) shall have the right, at its sole cost and expense and without the vote or consent of any other Unit Owners, the Condominium Board, or the Mortgage Representatives (if any), to execute, acknowledge and record (or, at Sponsor's sole option) (or, with respect to the utilization, sale or transfer of Development Rights, at Sponsor's or the Tower DR Unit Owner's or other Development Rights Owner's sole option) to require the Condominium Board or any other Unit Owners to execute, acknowledge and record) in the Register's Office and elsewhere, if required by Law, one or more amendments to this Declaration, the By-Laws, the Residential Rules and Regulations and the Floor Plans of the Condominium as Sponsor (or the Tower DR Unit Owner or other Development Rights Owner, solely with respect to utilization, sale or transfer of Development Rights) deems appropriate to effectuate the same:

- (i) to reflect any changes in Unsold Tower Units and/or the reapportionment of the Common Interest of the affected Unsold Tower Units resulting therefrom made by Sponsor in accordance with the terms of Article 11 hereof; or
- (ii) required by (x) an Institutional Lender designated by Sponsor to make a loan secured by a mortgage on any Unsold Residential Unit, (y) any governmental agency having regulatory jurisdiction over the Condominium, or (z) any title insurance company selected by Sponsor to insure title to any Unsold Residential Unit; or

- (iii) to correct any inconsistencies or scrivener's errors in the Declaration, the By-Laws and/or Floor Plans; or
- (iv) with respect to Development Rights, to effectuate Sponsor's or the Tower DR Unit Owner's or other Development Rights Owner's utilization, sale or transfer of any Development Rights in any manner permitted by Law, provided that no such amendment shall enable Sponsor or the Tower DR Unit Owner or other Development Rights Owner to utilize Development Rights to increase the size, height, bulk, configuration and/or density of the Property; or
- (v) to relinquish any rights granted to Sponsor hereunder.

Provided, however, that any amendment made pursuant to the terms of subparagraph (i) or (ii) of this Section shall not (1) change the Common Interest of any Unit other than a Unit owned by Sponsor, or (2) require a material, physical modification of any Unit other than a Unit owned by Sponsor, or (3) adversely affect the priority or validity of the lien of any purchase money mortgage or any mortgage held by an Institutional Lender unless the owner of such affected Unit (in the event described in (1) or (2) of this Section) or the holder of such mortgage (in the event described in (3) of this Section) shall consent thereto by joining in the execution of such amendment.

18.3 Subject to the requirements of the last paragraph of this Section 18.3, a Retail Unit Owner shall have the right, at its sole cost and expense and without the vote or consent of any other Unit Owners, the Condominium Board, or the Mortgage Representatives (if any), to execute, acknowledge and record in the Register's Office or elsewhere, if required by Law, one or more amendments to this Declaration (including, without limitation, to Exhibit B hereto), together with such documents, plans and maps as a Retail Unit Owner deems appropriate to effectuate the same:

- (i) to reflect any changes in the Retail Unit and/or the reapportionment of the Common Interest of the Retail Unit resulting therefrom made by a Retail Unit Owner in accordance with the terms of Article 12 hereof; or
- (ii) required by (x) an Institutional Lender designated by a Retail Unit Owner to make a loan secured by a mortgage on the Retail Unit, (y) any governmental agency having regulatory jurisdiction over the Condominium, or (z) any title insurance company selected by a Retail Unit Owner to insure title to the Retail Unit, as such requirements relate solely to the Retail Unit; or
- (iv) to reflect any changes that solely affect a Retail Unit and do not materially and adversely affect the Residential Units and/or the Residential Unit Owners; provided, however, that any such amendment shall not (1) change the Common Interest or Residential Common Interest of any other Unit, or (2) require a physical modification of any other Unit, or (3) adversely affect the priority or validity of the lien of any mortgage held by an Institutional Lender unless the owner of such affected Unit (in the event described in subparagraph (1) or (2) of this Section) or the holder of such mortgage (in the event described in subparagraph (3) of this Section) shall consent thereto by joining in the execution of such amendment.

Provided however, that a Retail Unit Owner must provide a copy of any proposed amendment to the Condominium Board at least 30 days prior to the anticipated recording date thereof, together with a statement of a Retail Unit Owner certifying to the Condominium Board that such proposed amendment (if effectuated) will not have an material or adverse effect on any Residential Units or the General Common Elements or the Residential Common Elements or the Tower Limited Common Elements. In the event the Condominium Board, in its commercially reasonable judgment, determines that such proposed amendment will have a

material or adverse effect, the Condominium Board must specify the reasons for its objections in writing to a Retail Unit Owner within 10 Business Days of receipt of such proposed amendment, failing which a Retail Unit Owner may record such amendment. In the event the Condominium Board objects to such amendment in writing to a Retail Unit Owner within such 10 Business Day period, a Retail Unit Owner shall not be authorized to record such amendment. In the event of any dispute as to whether such proposed amendment will have a material and adverse effect, such dispute shall be submitted to Arbitration as set forth in Article 10 of the By-Laws.

18.4 Any amendment to this Declaration may be executed; (i) if on behalf of Sponsor or the Tower DR Unit Owner or other Development Rights Owner pursuant to the terms of Section 18.2 hereof, by Sponsor or the Tower DR Unit Owner or other Development Rights Owner, (ii) if on behalf of a Retail Unit Owner pursuant to the terms of Section 18.3 hereof, by such Retail Unit Owner, or (iii) if on behalf of the Unit Owners or by the Condominium Board, by any officer of the Condominium. If the amendment requires the approval of a specific percentage of Unit Owners pursuant to the terms of this Declaration or the By-Laws, then there shall be attached to such amendment an original executed Secretary's Certificate, certifying that the requisite number and percentage of Unit Owners approved the amendment at a duly constituted meeting or (when permitted in this Declaration or the By-Laws) in writing without a meeting, in which Certificate shall be described the number and percentage of Unit Owners so consenting and (if voted upon at a meeting) the date and time of the meeting.

18.5 Notwithstanding anything contained in the Condominium Documents to the contrary, if any Tower Unit Owner, with the prior written approval of the Condominium Board, changes the size and/or number of Tower Units owned by such Tower Unit Owner by either (i) subdividing a Tower Unit into two or more separate Tower Units, (x) combining a Tower Unit into one or more Tower Units, (y) altering the boundary walls between any adjacent Tower Units owned by such Tower Unit Owner, or (z) otherwise, including incorporating Tower Common Elements (such as a portion of a hallway used exclusively by the owner of such Tower Unit) which exclusively benefit a Tower Unit into such Tower Unit, then the Condominium Board on behalf of such Tower Unit Owner and at the Tower Unit Owner's sole cost and expense, shall have the right to execute, and record in the City Register's Office and elsewhere, if required by Law, any amendment to this Declaration and other documents which are necessary or appropriate to reflect the changes made by the Tower Unit Owner, all without the approval of the other Unit Owners, provided, however, that any such amendment shall not (1) change the Common Interest or Residential Common Interest of any other Unit, or (2) require a physical modification of any other Unit, or (3) adversely affect the structural integrity of the Building or the functionality and operation of the mechanical, electrical, plumbing or communications systems of the Building, or (4) adversely affect the priority or validity of the lien of any mortgage held by an Institutional Lender, unless the owner of such affected Unit (in the event described in (1) or (2)) or the Condominium Board (in the event described in (3)) or the holder of such mortgage (in the event described in (4)) shall consent thereto by joining in the execution of such amendment. The Tower Unit Owner shall provide the Condominium Board with a copy of the recorded amendment promptly upon such recording.

18.6 Notwithstanding anything contained in the Condominium Documents to the contrary, but subject to any limitation imposed by the Condominium Act, no amendment to the Condominium Documents shall be effective in any respect against Sponsor or a Retail Unit Owner or the Tower DR Unit Owner or other Development Rights Owner if the same would (i) unreasonably interfere with the sale, lease, or other disposition of any Unit owned by any of them (or with respect to the Tower DR Unit, interfere in any way with the sale, lease or other disposition of Development Rights), (ii) abridge, modify, suspend, eliminate, or otherwise affect any right, power, easement, privilege, or benefit granted to Sponsor or a Retail Unit Owner or the Tower DR Unit Owner unless Sponsor or a Retail Unit Owner or the Tower DR Unit Owner or other Development Rights Owner shall consent to such amendment in writing, or (iii) impose any discriminatory charge or fee against Sponsor or a Retail Unit Owner or the

Tower DR Unit Owner, unless Sponsor or a Retail Unit Owner or the Tower DR Unit Owner shall consent to such amendment in writing.

18.7 The provisions of this Article may not be modified, amended, added to or deleted, in whole or in part, without the consent of Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, as applicable, if the same relate to Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, respectively.

18.8 No amendment to the Condominium Documents which would materially and adversely affect the holder of any Permitted Mortgage shall be effective without the prior written consent of 51% of the Permitted Mortgagees or a majority of the Mortgage Representatives, if any. If the Permitted Mortgagees or Mortgage Representatives fail to respond within 60 days after written receipt of the proposed amendment, delivered by either certified or registered mail, "return receipt" requested, the implied approval of such Permitted Mortgagees or Mortgage Representatives, as applicable, shall be deemed to have been given.

18.9 No amendment to the Condominium Documents which alters the rights and obligations of Affordable Unit Owners as set forth herein or in the 421-a Restrictive Declaration) for so long as the Building receives real estate tax incentive benefits under the 421-a Program), shall be effective without the prior written consent of Sponsor.

ARTICLE 19 REAL PROPERTY LAW SECTION 339-M

As set forth in the By-Laws, in accordance with Section 339-m of the Condominium Act, the Condominium Board has the authority to determine and allocate Common Expenses payable by a Retail Unit Owner and the Affordable Unit Owners in a manner different from such Units' respective Common Interests. In the case of the Affordable Units, the Common Expenses charged to the Affordable Unit Owners may be less than the Common Expenses charged to the Tower Unit Owners. Common Expenses may be charged to the Affordable Unit Owners in a manner that (i) is not proportional to the Common Interests of such Unit Owners, (ii) limits the amount charged to such Affordable Unit Owners, or (iii) limits the rate at which the amount charged to such Affordable Unit Owners may increase. In the case of Retail Unit Owner, Common Expenses may be specially allocated and apportioned based on special or exclusive use or availability or exclusive control of particular Units or Common Elements.

ARTICLE 20 PERSON TO RECEIVE SERVICE

The Secretary of State of the State of New York, is hereby designated to receive service of process in any action which may be brought against the Condominium.

ARTICLE 21 INCORPORATION BY REFERENCE

The terms, covenants, conditions, descriptions and other information contained in (i) the description of the Land annexed hereto as Exhibit A; (ii) the description of the Units annexed hereto as Exhibit B; (iii) the definitions annexed hereto as Exhibit C; (iv) the By-Laws annexed hereto as Exhibit D; (v) the Unit Power of Attorney annexed hereto as Exhibit E; and (vi) the Floor Plans are, by this reference, each incorporated herein and made a part of this Declaration as if set forth at length in the text hereof.

**ARTICLE 22
WAIVER**

No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**ARTICLE 23
SEVERABILITY**

Subject to the provisions of Section 16.2 and 16.3 of Article 16 hereof, if any provision of the Condominium Documents is invalid or unenforceable as against any Person or under certain circumstances, the remainder of the Condominium Documents and the applicability of such provision to other Persons or circumstances shall not be affected thereby. Each provision of the Condominium Documents shall, except as otherwise herein provided, be valid and enforced to the fullest extent permitted by Law. Any conflict between any provisions of the Condominium Documents and the Condominium Act, or any questions regarding the interpretation of any of the Condominium Documents, shall be governed by the Condominium Act.

**ARTICLE 24
SUCCESSORS AND ASSIGNS**

The rights and/or obligations of Sponsor and the Retail Unit Owners and the Tower DR Unit Owner as set forth in this Declaration and the By-Laws shall inure to the benefit of and be binding upon any successor or assignee or designee of Sponsor, the Retail Unit Owners or the Tower DR Unit Owner, as applicable. Sponsor and the Retail Unit Owners and the Tower DR Unit Owner shall each have the right, at any time, subject to applicable provisions of the By-Laws, in their respective sole discretion, to assign or otherwise transfer their interest therein, whether by merger, consolidation, lease, assignment, or otherwise.

**ARTICLE 25
CAPTIONS**

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

**ARTICLE 26
CERTAIN REFERENCES**

26.1 A reference in this Declaration to any one gender, masculine, feminine or neuter, includes the other two, and the singular includes the plural and vice versa, unless the context otherwise requires.

26.2 The terms "herein," "hereof" or "hereunder" or similar terms used in this Declaration refer to this entire Declaration and not to the particular provision in which the terms are used, unless the context otherwise requires.

26.3 Unless otherwise stated, all references herein to Articles, Sections or other provisions are references to Articles, Sections or other provisions of this Declaration.

**ARTICLE 27
GENERAL**

Except as required by Law, neither Sponsor, its principal(s) nor any of its designees shall be subject to any of the restrictions and/or prohibitions with regard to the Units and/or Storage Bins set forth in this Declaration or the By-Laws annexed hereto.

ARTICLE 28
CONDOMINIUM 421-a ELIGIBILITY

Notwithstanding anything contained herein or in the By-Laws to the contrary, for so long as all or any portion of the Condominium receives real estate tax benefits, exemptions or abatements pursuant to New York Real Property Tax Law Section 421-a or successor statute-a, all Unit Owners and the Condominium Board shall comply with the provisions of the 421-a Restrictive Declaration recorded against the Property. The provisions of this Article may not be amended for so long as all or any portion of the Condominium receives real estate tax benefits, exemptions or abatements pursuant to New York Real Property Tax Law Section 421-a or successor statute.

* * * * *

IN WITNESS WHEREOF, Sponsor has caused this Declaration to be executed as of the 9th day of February, 2018.

SPONSOR:

95TH AND THIRD LLC

By: 

Name: Gary Barnett

Title: President

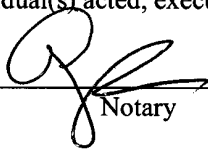
(ACKNOWLEDGEMENT)

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

On the 9th day of February, in the year 2018, before me, the undersigned, personally appeared Gary Barnett personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of whom the individual(s) acted, executed the instrument.



Notary

CAROLINE BERMAN
NOTARY PUBLIC, State of New York
No. 01BE6098160 Qualified in Bronx County
Certificate Filed in New York County
Commission Expires Sept. 2, 2019

EXHIBIT A

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

BEGINNING at the corner formed by the intersection of the easterly side of Third Avenue with the southerly side of East 95th Street;

RUNNING THENCE easterly along the southerly side of East 95th Street, 105 feet;

THENCE southerly, parallel with the easterly side of Third Avenue, 100 feet 8-1/2 inches to the center line of the block between East 95th Street and East 94th Street;

THENCE westerly along said center line of the block, 5 feet;

THENCE southerly, parallel with the easterly side of Third Avenue, 75 feet 6 inches;

THENCE westerly, parallel with the southerly side of East 95th Street, 100 feet to the easterly side of Third Avenue;

THENCE northerly along the easterly side of Third Avenue, 176 feet 2-1/2 inches to the corner at the point or place of BEGINNING.

TOGETHER with the benefits of that certain perpetual easement for light, air and unobstructed view easement set forth in that certain Zoning Lot Development and Easement Agreement dated as of 3/29/2013 made by Lipkowitz Property, Inc. and IMICO Third Avenue LLC recorded on 4/23/2013 under CRFN 2013000161306.

TOGETHER with the benefits of (1) that certain perpetual air, light and view easement; (2) windows and waterproofing easement (3) cantilever easement; (4) temporary construction easement; and (5) temporary easement for projections and/or intrusions extending onto adjoining land, all as set forth in that certain Zoning Lot Development and Easement Agreement by and between 203 E 94 Street Realty, LLC (aka 203 E. 94th Street Realty LLC) and 95th And Third LLC dated as of 1/28/2015 and recorded on 4/16/2015 under CRFN 2015000128813.

Lots 2, 3, 4, 45, 46, 47, 48, 49, 9002, 9003, Block 1540, New York County, New York.

EXHIBIT B
The Kent Condominium
200 East 98th Street
New York, New York 10128

Tax Lot Number	Floor	Unit	Bedrooms	Baths	Approx. Exterior Square Footage	Approx. Unit Square Footage	General Common Interest
1304	3rd Floor	3A	2	1	-	846	0.2610%
1305	3rd Floor	3B	2	1	-	849	0.2663%
1306	3rd Floor	3C	0	1	-	458	0.1416%
1307	3rd Floor	3D	2	1	-	795	0.2449%
1308	3rd Floor	3E	2	1	-	793	0.2480%
1309	3rd Floor	3F	1	1	-	524	0.1664%
1310	3rd Floor	3G	2	1	-	899	0.2762%
1311	3rd Floor	3H	0	1	-	441	0.1395%
1312	3rd Floor	3I	1	1	-	650	0.2004%
1313	3rd Floor	3J	2	1	-	938	0.2941%
1314	4th Floor	4A	2	1	-	846	0.2623%
1315	4th Floor	4B	2	1	-	849	0.2676%
1316	4th Floor	4C	0	1	-	458	0.1423%
1317	4th Floor	4D	2	1	-	795	0.2461%
1318	4th Floor	4E	2	1	-	793	0.2493%
1319	4th Floor	4F	1	1	-	524	0.1672%
1320	4th Floor	4G	2	1	-	899	0.2775%
1321	4th Floor	4H	0	1	-	441	0.1402%
1322	4th Floor	4I	1	1	-	650	0.2014%
1323	4th Floor	4J	1	1	-	575	0.1796%
1324	4th Floor	4K	0	1	-	524	0.1616%
		Affordable Unit Total				14,547	4.5335%
1325	5th and 6th Floor	*5A**	3	2	-	1,782	0.6867%
1326	5th Floor	5B	2	2	-	1,293	0.5016%
1327	5th Floor	5C	2	2	-	1,351	0.5232%
1328	5th Floor	5D	2	2	-	1,358	0.5240%
1329	5th Floor	5E	3	2.5	-	1,752	0.6811%
1330	5th Floor	5F	2	3	-	1,617	0.6201%
1331	5th Floor	5G	3	3	-	1,871	0.7193%
1332	6th Floor	6A	2	2	-	1,481	0.5696%
1333	6th Floor	6B	2	2	-	1,293	0.5040%
1334	6th Floor	6C	2	2	-	1,351	0.5258%
1335	6th Floor	6D	2	2	-	1,358	0.5265%
1336	6th Floor	6E	3	2.5	-	1,752	0.6845%
1337	6th Floor	6F	3	3	-	1,700	0.6588%
1338	6th Floor	6G	3	3	-	1,871	0.7229%
1339	7th Floor	7A	2	2	-	1,403	0.5502%
1340	7th Floor	7B	5	5.5	679	3,387	1.3817%
1341	7th Floor	7C	2	2	-	1,408	0.5486%
1342	7th Floor	7D	2	2	-	1,282	0.5015%
1343	7th Floor	7E	3	2.5	-	1,793	0.6989%
1344	7th Floor	7F	4	4	1,306	2,274	1.0125%
1345	8th Floor	8A	5	4.5	2,156	3,564	1.5896%
1346	8th Floor	8B	4	4.5	1,460	2,735	1.2305%
1347	8th Floor	8C	3	3	-	1,959	0.7676%
1348	9th Floor	9A	5	4.5	-	3,564	1.3868%
1349	9th Floor	9B	4	4.5	-	2,735	1.0911%
1350	9th Floor	9C	3	3	-	1,959	0.7714%
1351	10th Floor	10A	5	4.5	-	3,564	1.3835%
1352	10th Floor	10B	4	4.5	-	2,735	1.0964%
1353	10th Floor	10C	3	3	-	1,959	0.7751%
1354	11th Floor	11A	5	4.5	-	3,564	1.4003%
1355	11th Floor	11B	4	4.5	-	2,735	1.1017%

1356	11th Floor	11C	3	3	3	1,959	0.7789%
1357	12th Floor	12A	5	4.5	4.5	3,564	1.4070%
1358	12th Floor	12B	4	4.5	4.5	2,735	1.1070%
1359	12th Floor	12C	3	3	3	1,959	0.7826%
1360	14th Floor	14A	5	4.5	4.5	3,564	1.4137%
1361	14th Floor	14B	4	4.5	4.5	2,735	1.1123%
1362	14th Floor	14C	3	3	3	1,959	0.7863%
1363	15th Floor	15A	5	4.5	4.5	3,564	1.4205%
1364	15th Floor	15B	4	4.5	4.5	2,735	1.1176%
1365	15th Floor	15C	3	3	3	1,959	0.7901%
1366	16th Floor	16A	5	4.5	4.5	3,564	1.4272%
1367	16th Floor	16B	4	4.5	4.5	2,735	1.1229%
1368	16th Floor	16C	3	3	3	1,959	0.7938%
1369	17th Floor	17A	5	4.5	4.5	3,564	1.4339%
1370	17th Floor	17B	4	4.5	4.5	2,735	1.1282%
1371	17th Floor	17C	3	3	3	1,959	0.7976%
1372	18th Floor	18A	5	4.5	4.5	3,564	1.4407%
1373	18th Floor	18B	4	4.5	4.5	2,735	1.1335%
1374	18th Floor	18C	3	3	3	1,959	0.8013%
1375	19th Floor	19A	5	4.5	4.5	3,564	1.4474%
1376	19th Floor	19B	4	4.5	4.5	2,735	1.1388%
1377	19th Floor	19C	3	3	3	1,959	0.8051%
1378	20th Floor	20A	5	4.5	4.5	3,564	1.4541%

1380	20th Floor	20C	3	3	-	1,959	0.8088%
1381	21st Floor	21A	5	4.5	-	3,564	1.4609%
1382	21st Floor	21B	4	4.5	-	2,735	1.1484%
1383	21st Floor	21C	3	3	-	1,959	0.8126%
1384	22nd Floor	22A	5	4.5	-	3,564	1.4676%
1385	22nd Floor	22B	4	4.5	-	2,735	1.1547%
1386	22nd Floor	22C	3	3	-	1,959	0.8163%
1387	23rd Floor	23A	5	4.5	-	3,564	1.4743%
1388	23rd Floor	23B	4	4.5	-	2,735	1.1600%
1389	23rd Floor	23C	3	3	-	1,959	0.8200%
1390	24th Floor	24A	5	4.5	-	3,564	1.4811%
1391	24th Floor	24B	4	4.5	-	2,735	1.1652%
1392	24th Floor	24C	3	3	-	1,959	0.8238%
1393	25th Floor	25A	5	4.5	-	3,564	1.4878%
1394	25th Floor	25B	4	4.5	-	2,735	1.1705%
1395	25th Floor	25C	3	3	-	1,959	0.8275%
1396	26th Floor	26A	5	4.5	-	3,564	1.4945%
1397	26th Floor	26B	4	4.5	-	2,735	1.1758%
1398	26th Floor	26C	3	3	-	1,959	0.8313%
1399	27th Floor	27A	5	4.5	-	3,525	1.4714%
1400	27th Floor	27B	4	4.5	-	2,688	1.1654%
1401	27th Floor	27C	3	3	-	1,938	0.8350%
1402	28th Floor	28A	5	4.5	-	3,525	1.4780%
1403	28th Floor	28B	4	4.5	-	2,688	1.1706%
1404	28th Floor	28C	3	3	-	1,938	0.8388%
1405	29th Floor	29A	4	4.0	418	3,115	1.4068%
1406	29th Floor	29B	4	4.5	1,357	3,236	1.3892%
1407	30th Floor	30A	5	5.5	1,466	5,188	2.2705%
1408	Subcellar	DR Unit				15	0.0001%
		Tower Unit Total			8,842	209,877	86.1360%
		Affordable Total			-	14,547	4.5335%
		Residential Grand Total			8,842	224,424	90.6695%
1301	Cellar, 3rd - Roof	Retail Unit 1				9,449	3.9590%
1302	1st Floor	Retail Unit 2				11,820	4.8016%
1303	1st Floor	Retail Unit 3				1,165	0.5699%
		Retail Unit Total				22,210	9.3305%
		Grand Total			8,842	246,858	100.0000%

*Resident Managers Unit

**Duplex

EXHIBIT C

DEFINITIONS

421-a Rules:	The rules governing the 421-a program, currently set forth in 28 RCNY §§6-01 through 6-09, as may be amended from time to time.
Affordable Unit:	Each of the Residential Units referenced in the Declaration which are being offered to Purchasers who qualify as Eligible Purchasers pursuant to Section 421-a of the New York Real Property Tax Law and the 421-a Rules. All such Units are collectively, "Affordable Units."
Affordable Unit Owner:	Any owner of an Affordable Unit. All Affordable Unit Owners are, collectively, "Affordable Unit Owners".
Affordable Unit Purchaser:	Any person who has entered into an Option Agreement with Sponsor to purchase an Affordable Unit.
AHC:	The New York State Affordable Housing Corporation, or successor agency.
AHC Grant Enforcement Note and Mortgage:	That certain note and mortgage executed between an Affordable Unit Owner, as mortgagor, and AHC, as mortgagee, and recorded against such Affordable Unit Owner's Affordable Unit.
Appurtenant Interest:	With respect to any Unit, the undivided interest of the owner thereof, pursuant to the terms of Section 339 x of the Condominium Act, in and to: (i) the Common Elements; (ii) any other Units owned or leased at the time in question by the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners; (iii) any proceeds of the sale or lease of Units of the nature described in subdivision (ii) above; and (iv) any other assets of the Condominium.
Arbitration:	The method for resolution of certain disputes, as defined in the By-Laws.
Area Median Income or AMI:	The area median income for 2015 for the New York metropolitan statistical area as determined by the United States Department of Housing and Urban Development (HUD) under the United States Housing Act of 1937, as revised or updated from time to time.
Board of Managers or Condominium Board:	The board of managers of the Condominium.
Board Member:	A member of the Condominium Board.

Building:	The structure located at 200 East 95th Street, New York, New York.
Business Days:	Monday to Friday, except holidays observed by the federal, state or local governments.
By-Laws:	The by-laws governing the operations of the Condominium, which are set forth in Exhibit D to the Declaration.
Closing:	The consummation of the transfer of fee title to a Unit and its Appurtenant Common Interest to a Purchaser pursuant to a fully executed Option Agreement.
Closing Date:	The date upon which a Closing occurs.
Common Charges:	Assessments payable by the Unit Owners to the Condominium Board to meet the Common Expense in accordance with the By-Laws.
Common Elements:	All portions of the Property other than the Units. Common Elements are comprised of General Common Elements and Limited Common Elements.
Common Expenses:	The General Common Expenses, the Residential Common Expenses and the Retail 1 and 3 Common Expenses.
Common Interest:	The proportionate, undivided interest of each Unit of the Common Elements as set forth in Exhibit B to the Declaration.
Condominium:	The Kent Condominium.
Condominium Act:	Article 9-B of the Real Property Law of the State of New York, as the same may be amended from time to time.
Condominium Documents:	The Declaration and all Exhibits thereto, the By-Laws, and the Residential Rules and Regulations.
Declarant:	The Sponsor of the Offering Plan, or its designee, and successors and/or assigns.
Declaration or Declaration of Condominium:	The instrument by which the Property is submitted to the provisions of the New York Condominium Act, consistent with the provisions of the New York Condominium Act, including all Exhibits thereto, as may be amended from time to time.
Department of Law:	The New York State Department of Law.
Development Rights:	All air and/or other development rights otherwise appurtenant to the Property and not used in connection with the original construction of the Building as described in the Plan.
Development Rights Owner:	Sponsor or any Person which acquires all or any portion of the Development Rights from Sponsor or other Development Rights Owner.

Eligible Purchaser:	A Purchaser who qualifies for the purchase of an Affordable Unit.
Emergency:	Any situation where a particular action is immediately necessary (i) to avoid material damage to all or any portion of the Building or Property, (ii) to protect any person from harm, (iii) to avoid the unforeseen and unforeseeable suspension of any material service in or to the Building, the Property or any Unit thereof, the failure of which service would have a material effect on the Building, the Property, any Unit and/or materially impair the use, operation and/or enjoyment of the Building, the Property or any Unit.
Facilities:	Includes, but is not limited to, the following items (grouped more or less functionally) which are set forth only for purposes of illustrating the broad scope of that term: system, equipment, apparatus, convertor, radiator, heater, heat exchanger, mechanism, device, machinery, motor, pump, control, tank or tank assembly, insulation, induction unit, condenser, compressor, cooling tower, fan, damper, blower, thermostat, thermometer, coil, vent, sensor, shut-off valve or other valve, gong, panel, receptacle, outlet, relay, alarm, sprinkler head, electric distribution facility, wiring, wireway, switch, switchboard, circuit breaker, transformer, fitting, siamese connection, hose, plumbing fixture, lighting fixture, other fixture, bulb, sign, telephone, meter, meter assembly, scaffolding, piping, line, duct, conduit, cable riser, main shaft, pit, flue, lock or other hardware, rack, screen, strainer, trap, drain, catch basin, leader, filter, canopy, incinerator, closet, cabinet, door, railing, coping, step, furniture, mirror, furnishing, appurtenance, urn, basket, mail box, tree, shrubbery, flower or other planting and horticulture tub, box or planter, valves and meter to separate utilities, fire pump, smoke evacuation fans, stair pressurization fans, booster pump and emergency generator.
Family Member:	With respect to Tower Unit Owners, shall mean the spouse, domestic partner, their children, stepchildren, grandchildren, siblings, step siblings, aunts, uncles, nieces, nephews, parents, stepparents, parents-in-law and grandparents of a Tower Unit Owner who reside in such Unit Owner's Unit.
Family Member:	With respect to Affordable Unit Owners, shall mean those members of the Affordable Unit Owner's family included within the definition of "Family Member" in the 421-a Rules at the time in question.
Filing Date:	The date on which the Plan is accepted for filing by the Department of Law.
First Unit Closing:	The first Closing of title with a bona fide Purchaser of a Unit.

Floor Plans:	The floor plans of the Units certified by a registered architect or licensed professional engineer, and filed in the Register's Office simultaneously with the recording of the Declaration, together with any supplemental floor plans thereto.
Force Majeure:	All acts of God, strikes, non-availability of materials, war or national defense, acts of terrorism, exemptions, governmental restrictions of actions, injunctions or court orders or other similar causes beyond the reasonable cause of the Person required to perform the work or satisfy the condition which has not been performed or satisfied as a result thereof and not attributable to the improper acts or omissions of such Person and not arising solely from the lack of funds.
General Common Charges:	Assessments payable to the Condominium Board by the Unit Owners for the purpose of meeting General Common Expenses.
General Common Elements:	The Land and all parts of the Building, including its foundations, support and main roof (as specified in the Declaration), other than the Units, the Residential Common Elements, the Tower Limited Common Elements, and the Retail 1 and 3 Common Elements.
General Common Expenses:	Costs and expenses incurred or projected in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to, the General Common Elements.
Governmental Authority:	Any Federal, New York State, New York City, New York County governments, any or all departments, subdivisions, bureaus, agencies, or offices thereof or any other governmental, public, or quasi-public authorities having jurisdiction over the Property and/or the Condominium.
HPD:	The New York City Department of Housing Preservation and Development, or successor agency.
Incremental AHC Award:	The portion of the AHC Grant allocated to each Affordable Unit by AHC.
Initial Affordable Unit Sale:	With respect to each Affordable Unit, the first closing of such Affordable Unit to an Affordable Unit Purchaser.
Institutional Lender:	A savings bank, a savings and loan association, a retail bank or trust company (whether acting individually, as a trustee, as a serving agent or in a fiduciary capacity), a private pension fund, a credit union or a credit company, an insurance company, a federal, state or municipal employee's welfare, benefit, pension or retirement fund, any governmental agency or entity insured by a governmental agency, any brokerage or investment banking organization (or an affiliate thereof), and other co-lenders and their successors and assigns whether acting in its

own capacity or on behalf of its clients, any real estate mortgage investment conduit or similar investment vehicle, or any combination of Persons that would otherwise constitute Institutional Lenders; provided, however, that (i) a Person (other than a real estate mortgage investment conduit or similar investment vehicle) shall not constitute an Institutional Lender for purposes hereof unless such Person has net assets of at least Two Hundred Fifty Million Dollars (\$250,000,000) and (ii) an Institutional Lender shall also include any other Person that is generally recognized in the capital markets as an institutional lender from after the date of the Declaration.

- Insurance Trustee:** An Institutional Lender designated by the Condominium Board in accordance with the provisions of the By-Laws.
- Land:** All that certain tract, plot, piece and parcel of land situate, lying and being in the City and State of New York, County of New York, as more particularly described in Exhibit A to the Declaration.
- Law:** The laws, ordinances, rules, regulations, and directives of any Governmental Authority.
- Majority of Unit Owners:** Either (i) more than 50% in Common Interest in the aggregate, or (ii) more than 50% in number of Units in the aggregate, or (iii) more than 50% in the aggregate in both Common Interest and in number of Units, as may be specified in the Declaration or the By-Laws with respect to any matter or matters.
- Managing Agent:** The agent retained by the Condominium Board to manage the Property in accordance with the By-Laws.
- Mortgage Representative:** One or more representatives of a holder of the Permitted Mortgages secured by a Unit who are empowered to act on behalf of a holder of a Permitted Mortgage, with respect to any matter requiring its consent or approval under the Declaration or By-Laws.
- Offering Plan or Plan:** The document filed with the New York State Department of Law pursuant to which individual Units in the Condominium are offered for sale, as the same may be amended from time to time.
- Operation of the Property:** The administration and operation of the Property and the maintenance, repair and replacement of, and the making of any additions and improvements to, the Common Elements.
- Option Agreement:** The agreement to purchase a Unit pursuant to the Offering Plan.
- Partnership Restrictive Declaration:** That Restrictive Declaration executed between an Affordable Unit Owner, and the New York City Partnership Housing Development Fund Company, Inc., and recorded against such Affordable Unit Owner's Affordable Unit.

Permitted Mortgage:	A mortgage permitted to be placed on a Unit pursuant to the By-Laws.
Permitted Mortgagee:	The holder of a Permitted Mortgage or a guarantor of record.
Person:	A natural person, corporation, partnership, association, limited liability company, trustee or other legal entity.
Power of Attorney:	The document, executed and delivered by Unit Owner, which appoints the Condominium Board and the Sponsor to take certain actions on behalf of the Unit Owners as set forth in the Declaration and By-Laws.
Premium Payment:	The deposit(s), advances and payments delivered by a Purchaser prior to the Closing of Title to a Unit, whether made in one or more payments or installments.
Primary Residence:	With respect to an Affordable Unit, the Affordable Unit Owner's residence in the Unit for 187 days or more in the preceding calendar year, unless such Unit Owner proves, by providing documentation, that such Unit Owner's residence in the Unit for less than 187 days was caused by (i) active service in the Armed Forces of the United States; (ii) a serious/long-term disability requiring hospitalization or rehabilitation; (iii) involuntarily institutionalization; or (iv) the Unit Owner began occupancy during the preceding calendar year.
Property:	The Land, the Building and all other improvements thereon, owned in fee simple absolute, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, which have been or are intended to be submitted to the provisions of the Condominium Act.
Purchaser:	Any Person who has entered into an agreement with Sponsor to purchase a Unit.
Register's Office:	The Register of the City of New York.
Residential Common Charges:	Assessments payable to the Condominium Board by the Residential Unit Owners for the purpose of meeting (a) Residential Common Expenses and (b) each Residential Unit Owner's share of General Common Expenses.
Residential Common Elements:	Those Common Elements which serve or benefit exclusively the Residential Units and/or the Residential Unit Owners in accordance with the By-Laws.
Residential Common Expenses:	Costs and expenses incurred or projected in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to, the Residential Common Elements and/or the Tower Limited Common Elements (to the extent that such expenses are not the obligation of the Residential Unit Owners owning the Residential Units to

which the Tower Limited Common Elements are appurtenant) or in connection with any services or Facilities exclusively benefiting the Residential Unit Owners.

- Residential Common Interest:** The proportionate undivided interest, expressed as a numerical percentage, of the Residential Common Elements appertaining to each Residential Unit, as determined in accordance with the Declaration.
- Residential Unit:** Any Unit designated as a Residential Unit in the Declaration. All such Residential Units, are, collectively, referred to as the "Residential Units."
- Residential Unit Owner:** Any owner of a Residential Unit. All such owners are, collectively, "Residential Unit Owners".
- Retail 1 and 3 Common Charges:** Assessments payable to the Condominium Board by a Retail Unit Owner for the purpose of meeting (a) Retail 1 and 3 Common Expenses and (b) a Retail Unit Owner's pro rata share of General Common Expenses.
- Retail 1 and 3 Common Elements:** Those Common Elements which serve or benefit exclusively Retail Unit 1 and Retail Unit 3 and/or the owners of Retail Unit 1 and Retail Unit 3.
- Retail 1 and 3 Common Expenses:** Costs and expenses incurred or projected in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to, the Retail 1 and 3 Common Elements.
- Retail Unit:** A Unit designated as a Retail Unit in the Declaration. All such Retail Units are, collectively as "Retail Units".
- Retail Unit Owner:** Any owner of a Retail Unit. All such Unit Owners are, collectively, "Retail Unit Owners".
- Residential Rules and Regulations:** The rules and regulations of the Condominium, which are annexed as an addendum to the By-Laws, as any of the same may be amended, modified, added to, or deleted from time to time pursuant to the terms of the By-Laws.
- Section 421-a:** Section 421-a of the New York Real Property Tax Law, as amended from time to time, or any successor statute.
- Special Assessment:** A charge allocated and assessed by the Board of Managers to the Unit Owners, pro rata, in accordance with their respective Common Interests, except as otherwise provided in the Declaration or in the By-Laws.
- Sponsor:** 95th and Third LLC, a Delaware limited liability company.
- Sponsor-designee:** Any Person designated by Sponsor to hold title to any Unit or to exercise Sponsor's rights under the Declaration. Sponsor's statement in writing that a Person is a Sponsor-designee shall

be conclusive evidence of such status so as to entitle such Person to all the rights of a Sponsor-designee under the Offering Plan. A Sponsor-designee shall have the right to designate a Person to succeed to its rights and any such designee shall also be deemed a "Sponsor-designee".

Storage Bin:

Any Storage Bin in the Building, including the structural framework and materials out of which the Storage Bin is constructed. References in the Offering Plan to "owning a Storage Bin" means that the Tower Unit Owner has entered into a Storage Bin License for the Storage Bin and possesses a right to exclusively use such Storage Bin.

Storage Bin License:

The agreement pursuant to which a Storage Bin is licensed to a Tower Unit Owner.

Terrace:

Any terrace, balcony, patio or garden appurtenant to a Unit, including the fixtures attached to or forming part of such Terrace.

Tower DR Unit:

A non-residential Unit that will initially be retained by Sponsor, which the Unit Owner thereof will have the exclusive right to utilize, transfer or sell any Development Rights appurtenant to the Property now or hereafter acquired.

Tower DR Unit Owner:

The Owner of the Tower DR Unit at the time in question.

Tower Limited Common Elements:

Those Common Elements which serve or benefit one or more Tower Unit(s) or Tower Unit Owner(s), but not all of the Tower Units or Tower Unit Owners.

Tower Unit:

One of the Residential Units which are being offered for sale without restrictions as to household income eligibility of Purchasers and without the requirements of consent to the purchase of such Unit by any Governmental Authority.

Tower Unit Owner:

Any owner of a Tower Unit. All such owners are collectively referred to as "Tower Unit Owners".

Tower Unit Purchaser:

Any Person who has entered into an Option Agreement with Sponsor to purchase a Tower Unit.

Unit:

Any space in the Building designated as a Unit in the Declaration. All such Units are, collectively, the "Units".

Unit Owner:

The Person(s) owning a Unit in fee simple absolute. All such unit owners are, collectively, the "Unit Owners."

Unit Deed:

The deed transferring title to a Unit from Sponsor to Purchaser or from one Unit Owner to another Unit Owner.

Unsold Affordable Unit:

Any Affordable Unit owned by Sponsor or its designee at the time in question.

Unsold Retail Unit:	Any Retail Unit owned by Sponsor or its designee at the time in question.
Unsold Residential Unit:	Any Residential Unit owned by Sponsor or its designee at the time in question.
Unsold Tower Unit:	Any Tower Unit owned by Sponsor or its designee at the time in question.
Unsold Units:	Any Unit owned by Sponsor or its designee at the time in question.

EXHIBIT D
BY-LAWS

INDEX TO BY-LAWS

ARTICLE 1	GENERAL	1
Section 1.1	Purpose	1
Section 1.2	Definitions.....	1
Section 1.3	Applicability of By-Laws	1
Section 1.4	Application of By-Laws	1
Section 1.5	Principal Office of the Condominium.....	1
ARTICLE 2	CONDOMINIUM BOARD	1
Section 2.1	General.....	1
Section 2.2	Status of the Condominium Board.....	1
Section 2.3	Principal Office of the Condominium Board	2
Section 2.4	Powers and Duties of the Condominium Board	2
Section 2.5	Certain Limitations on the Powers of the Condominium Board	5
Section 2.6	Exercise and Delegation of Powers and Duties.....	6
Section 2.7	Number, Election and Qualification of Members.....	7
Section 2.8	Term of Office of Members.....	7
Section 2.9	Removal and Resignation of Members.....	8
Section 2.10	Vacancies	8
Section 2.11	Organizational Meeting of the Condominium Board	8
Section 2.12	Regular Meetings of the Condominium Board	9
Section 2.13	Special Meetings of the Condominium Board	9
Section 2.14	Waiver of Notice of Meetings	9
Section 2.15	Quorum of the Condominium Board	9
Section 2.16	Conduct of Meetings	9
Section 2.17	Decisions by the Condominium Board	10
Section 2.18	Compensation of Members.....	10
Section 2.19	Common or Interested Members of the Condominium Board	10
Section 2.20	Indemnification	10
ARTICLE 3	OFFICERS	11
Section 3.1	General.....	11
Section 3.2	President.....	11
Section 3.3	Vice President	11
Section 3.4	Secretary	11
Section 3.5	Treasurer	12
Section 3.6	Election, Term of Office and Qualification of Officers.....	12
Section 3.7	Removal and Resignation of Officers.....	12
Section 3.8	Vacancies.....	12
Section 3.9	Compensation of Officers.....	12
Section 3.10	Indemnification of Officers	12
ARTICLE 4	UNIT OWNERS	12
Section 4.1	Annual Meetings of the Unit Owners	12
Section 4.2	Special Meetings of the Unit Owners	12
Section 4.3	Place of Meetings.....	13
Section 4.4	Notice of Meetings.....	13
Section 4.5	Quorum of the Unit Owners	13

Section 4.6	Conduct of Meetings	13
Section 4.7	Order of Business	13
Section 4.8	Voting	14
Section 4.9	Election of Members of the Condominium Board	14
Section 4.10	Designation of Non-Residential Members to the Condominium Board	15
Section 4.11	Action Without a Meeting	15
Section 4.12	Title to Residential Units	15
Section 4.13	Contractual Liability of the Condominium Board and the Unit Owners.....	16
ARTICLE 5	OPERATION OF THE PROPERTY	16
Section 5.1	Maintenance and Repairs.....	16
Section 5.2	Alterations, Additions, Improvements, or Repairs in and to Units	18
Section 5.3	Alterations, Additions, or Improvements to the Common Elements	21
Section 5.4	Insurance.....	21
Section 5.5	Casualty or Condemnation	23
Section 5.6	Use of the Property.....	26
Section 5.7	Use of the Units.....	26
Section 5.8	Use of the Common Elements	27
Section 5.9	Use of the Storage Bins	28
Section 5.10	Rights of Access.....	28
Section 5.11	Modification of the Residential Rules and Regulations.....	29
Section 5.12	Real Estate Taxes	29
Section 5.13	Fuel	30
Section 5.14	Water Charges and Sewer Rents.....	30
Section 5.15	Electricity	30
Section 5.16	Record and Audits.....	31
ARTICLE 6	COMMON CHARGES	31
Section 6.1	Determination of Common Expenses and Fixing of Common Charges	31
Section 6.2	Payment of Common Charges	33
Section 6.3	Statement of Common Charges	34
Section 6.4	Common Charge Deposit for Foreign Owners.....	34
Section 6.5	Default in Payment of Common Charges	35
ARTICLE 7	SELLING AND LEASING OF UNITS AND ASSIGNMENT OF STORAGE BIN LICENSES	36
Section 7.1	General.....	36
Section 7.2	Right of First Refusal	36
Section 7.3	Acceptance of Offer	37
Section 7.4	Failure to Accept Offer.....	38
Section 7.5	Termination of, and Exceptions to, the Right of First Refusal.....	38
Section 7.6	No Severance of Ownership	39
Section 7.7	Payment of Common Charges and fees	40
Section 7.8	Power of Attorney	40
Section 7.9	Gifts and Devises, Etc.	40
Section 7.10	Commencement of Time	40
Section 7.11	Costs and Expenses	40
Section 7.12	Sales and Leasing of Affordable Units	40

Section 7.13	Sale or Lease of Retail Unit and the Tower DR Unit	41
Section 7.14	Assignment of Storage Bin Licenses	42
ARTICLE 8	MORTGAGING OF UNITS	43
Section 8.1	General.....	43
Section 8.2	Restrictions on Mortgaging	43
Section 8.3	Notice of Unpaid Common Charges and Default.....	43
Section 8.4	Performance by Permitted Mortgagees.....	44
Section 8.5	Examination of Books	44
Section 8.6	Consent of Mortgagees; Designation of Mortgage Representatives	44
Section 8.7	Notice to Permitted Mortgagees	44
ARTICLE 9	CERTAIN REMEDIES	45
Section 9.1	Self Help	45
Section 9.2	Abatement and Enjoinment	45
Section 9.3	Remedies Cumulative.....	45
Section 9.4	Costs and Expenses	46
ARTICLE 10	ARBITRATION	46
Section 10.1	Procedure	46
Section 10.2	Binding Effect	46
Section 10.3	Costs and Expenses	46
ARTICLE 11	NOTICES	47
Section 11.1	General.....	47
Section 11.2	Waiver of Service of Notice	47
ARTICLE 12	AMENDMENTS TO BY-LAWS	47
Section 12.1	General.....	47
Section 12.2	Special Amendments.....	48
ARTICLE 13	FURTHER ASSURANCES	49
Section 13.1	General.....	49
Section 13.2	Failure to Deliver or Act.....	49
ARTICLE 14	MISCELLANEOUS	50
Section 14.1	Inspection of Documents.....	50
Section 14.2	Waiver.....	50
Section 14.3	Conflict	50
Section 14.4	Severability	50
Section 14.5	Successors and Assigns	50
Section 14.6	Gender.....	50
Section 14.7	Captions	50
ADDENDUM TO THE BY-LAWS RESIDENTIAL RULES AND REGULATIONS		51

BY-LAWS

ARTICLE 1 GENERAL

Section 1.1 *Purpose.* The purpose of these By-Laws is to set forth the rules and procedures concerning the conduct of the affairs of the Condominium. The Condominium covers the Property, which consists of: (i) the Land, which is more particularly described in Exhibit A to the Declaration; (ii) the Building, which includes, without limitation, the Units, the Common Elements and all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, intended for use in connection therewith; and (iii) all other property, real, personal, or mixed, intended for use in connection therewith, except for the Development Rights, as set forth in the Declaration. The Property has been submitted to the provisions of the Condominium Act by the recording of the Declaration in the Register's Office, of which Declaration these By-Laws form a part. The purpose of the Condominium is to carry on the acquisition, construction, management, maintenance and care of the Common Elements and to perform related functions with respect to the other portions of the Property.

Section 1.2 *Definitions.* All capitalized terms used in these By-Laws that are not otherwise defined in any of the Articles hereof shall have the meanings set forth in Exhibit C to the Declaration, unless the context in which the same are defined in any of the Articles hereof shall have the meanings ascribed to them in such Articles, unless the context in which the same are used shall otherwise require. Each of the aforementioned capitalized terms shall be applicable to singular and to plural nouns, as well as to verbs of any tense.

Section 1.3 *Applicability of By-Laws.* These By-Laws are applicable to the Property and to the use and occupancy thereof.

Section 1.4 *Application of By-Laws.* All present and future Unit Owners, mortgagees, lessees, sublessees and occupants of Units, and employees and guests of Unit Owners, as well as all other Persons who may use the Property, are and shall be subject to the Declaration, these By-Laws and the Residential Rules and Regulations, as each of the same may be amended from time to time. The acceptance of a deed or other instrument of conveyance, or the succeeding to title to, or the execution of a lease or sublease for, or the act of occupancy of, a Unit shall constitute an agreement that the provisions of the Declaration, these By-Laws and the Residential Rules and Regulations, as each of the same may be amended from time to time, are accepted, ratified and will be complied with.

Section 1.5 *Principal Office of the Condominium.* The principal office of the Condominium shall be located either at the Property or at such other place reasonably convenient thereto in the Borough of Manhattan as may be designated from time to time by the Condominium Board.

ARTICLE 2 CONDOMINIUM BOARD

Section 2.1 *General.* As more particularly set forth in Sections 2.4, 2.5 and 2.6 hereof, the affairs of the Condominium shall be governed by the Condominium Board. In exercising its powers and performing its duties under the Declaration and these By-Laws, the Condominium Board shall act as, and shall be, the Agent of the Unit Owners, subject to, and in accordance with, the terms of the Declaration and these By-Laws.

Section 2.2 *Status of the Condominium Board.* Unless and until the Condominium Board shall incorporate in accordance with the terms of Section 2.4 hereof, the Condominium Board shall have, to the extent permitted by Law, the status conferred upon unincorporated associations under, or pursuant to, the terms of the General Association Law of the State of New York. If the Condominium Board shall incorporate in

accordance with the terms of Section 2.4 hereof, the Condominium Board shall have, to the extent permitted by Law, the status conferred upon it under, or pursuant to, the terms of the applicable statutes of the State of New York. In either event, however, the Condominium Board shall also have the status conferred upon it under, or pursuant to, the terms of the Condominium Act.

Section 2.3 *Principal Office of the Condominium Board.* The principal office of the Condominium Board shall be located either at the Property or at such other place reasonably convenient thereto in the Borough of Manhattan as may be designated from time to time by the Condominium Board.

Section 2.4 *Powers and Duties of the Condominium Board.*

(A) The Condominium Board shall have all of the powers and duties necessary for, or incidental to, the administration of the affairs of the Condominium, provided, however, that the Condominium Board shall not have such powers and duties that by Law, or pursuant to the terms of the Declaration and these By-Laws, may not be delegated to the Condominium Board by the Unit Owners. Without intention to limit the generality of the foregoing in any respect, the Condominium Board shall have the following specific powers and duties:

(i) to operate, maintain, repair, restore, add to, improve, alter and replace the Common Elements, including, without limitation, as the Condominium Board shall deem necessary or proper in connection therewith, (a) the purchase and leasing of supplies, equipment and material and (b) the employment, compensation and dismissal of personnel.

(ii) to acquire, in the name of the Condominium Board or its designee, corporate or otherwise, and on behalf of the Unit Owners, all rights, titles and interests in real and personal property deemed necessary or proper by the Condominium Board for use in connection with the ownership and operation of the Property as a condominium.

(iii) to maintain complete and accurate books and records with respect to the finances and the operation of the Condominium, including without limitation: (a) detailed accounts, in chronological order, of receipts and expenditures affecting the Property; (b) detailed books of account of the Condominium Board; (c) other financial records, as well as other books of account of the Condominium, as may be required to be kept pursuant to the terms of these By-Laws; and (d) minutes and other records of all meetings held pursuant to the terms of these By-Laws.

(iv) to adopt a budget for the Condominium for each fiscal year thereof, setting forth, without limitation: (a) a detailed accounting of the anticipated Common Expenses for the ensuing fiscal year and (b) a detailed projection of all sources and amounts of income necessary to discharge the same.

(v) to approve the amount and the means and methods of payment of, and collection of, the Common Charges and Special Assessments from the Unit Owners; provided, however, that in no event shall Common Charges or Special Assessments or other funds received by the Condominium Board in connection with the General Common Elements be utilized to defray any Residential Common Expenses and in no event shall Common Charges or Special Assessments or other funds received by the Condominium Board in connection with the Residential Common Elements be utilized to defray any General Common Expenses.

(vi) to borrow money on behalf of the Condominium in accordance with Section 339-jj of the Real Property Law when required in connection with the operation, maintenance, repair, restoration, improvement, alteration and replacement of the General Common Elements, provided, however, that: (a) the affirmative consent of at least 66 2/3% of the Members of the Condominium Board shall be required for the borrowing of any sum in excess of \$1,000,000

in any one fiscal year (regardless of the balance of any loans outstanding from previous fiscal years (b) with respect to the operation, maintenance, repair, restoration, improvement, alteration and replacement of the Residential Common Elements and/or the Tower Limited Common Elements, the affirmative consent of at least 66 2/3%, in aggregate Residential Common Interest, of all Residential Unit Owners shall be required for the borrowing of any sum in excess of \$500,000 in any one fiscal year (regardless of the balance of any loans outstanding from previous fiscal years) and the Retail Unit Owners will not be liable for the repayment of any portion of such loan; (c) no lien to secure repayment of any sum borrowed may be created on any Unit or its Appurtenant Interests without the consent of the owner of such Unit; and (d) the documentation executed in connection with any such borrowing shall provide that, if any sum borrowed by the Condominium Board pursuant to this subparagraph (vi) shall not be repaid by the Condominium Board, any Unit Owner who pays to the creditor thereunder such proportion of the then outstanding indebtedness represented or secured thereby as such Unit Owner's Common Interest or Residential Common Interest, as applicable, bears to the aggregate Common Interests of all Unit Owners or Residential Common Interests of all Residential Unit Owners, as applicable, shall be entitled to obtain from the creditor a release of any judgment or other lien that the said creditor shall have filed, or shall have the right to file against such Unit Owner's Unit.

(vii) to open and maintain bank accounts on behalf of the Condominium and to designate the signatories required therefor which shall at no time be less than two and that each check drawn on such account shall need at least two signatures.

(viii) to use the Common Charges and Special Assessments collected from Unit Owners, as well as all other funds held by the Condominium Board or received in connection with the operation of the Property, for the administration of the Condominium, including, without limitation: (a) the payment of Common Expenses and (b) the making of restorations, additions, alterations and improvements to the Common Elements.

(ix) to obtain insurance for the Property, including portions of the Units, pursuant to the terms of Section 5.4 hereof.

(x) to adjust and settle claims under insurance policies obtained pursuant to the terms of Section 5.4 hereof, and to execute and deliver releases upon such adjustment and settlement on behalf of: (a) all Unit Owners (except as otherwise provided herein); (b) all holders of mortgages and other liens on Units; and (c) all holders of any other interest in the Property.

(xi) to make, or to contract with others for the making of, repairs, maintenance, additions and improvements to, and alterations, restorations and replacements of, the Property after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings, all in accordance with the terms of these By-Laws.

(xii) to obtain and keep in force fidelity bonds, in amounts deemed appropriate by the Condominium Board, but in no event less than \$100,000, for: (a) all Members of the Condominium Board; (b) all officers and employees of the Condominium; and (c) the Managing Agent, and the premiums on all such fidelity bonds shall constitute a part of the Common Expenses.

(xiii) to accept the surrender of any Residential Unit pursuant to the terms of paragraph (D) of Section 6.2 hereof, in the name of the Condominium Board or its designee, corporate or otherwise, and on behalf of all Residential Unit Owners.

(xiv) to purchase, lease, or otherwise acquire Residential Units offered for sale, lease or assignment by their owners, in the name of the Condominium Board or its designee,

corporate or otherwise, and on behalf of all Residential Unit Owners but only with the consent of a Majority of Residential Unit Owners.

(xv) to purchase Units at foreclosure or other judicial sales, in the name of the Condominium Board or its designee, corporate or otherwise and on behalf of all Unit Owners but only with the consent of a Majority of Unit Owners.

(xvi) to sell, lease, license, mortgage and otherwise deal with Residential Units and Storage Bins acquired by, and to sublease Residential Units leased by, the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, provided, however, that the Condominium Board or its designees shall in no event be entitled to vote the interest appurtenant to any such Residential Unit.

(xvii) to adopt and amend the Residential Rules and Regulations and to levy and authorize collection of fines against Unit Owners for violations of the Residential Rules and Regulations and these By-Laws (any such fines and fees shall be deemed to constitute Common Charges payable by Unit Owners of the Unit against which they are levied).

(xviii) to enforce by legal means the terms, covenants and conditions contained in the Condominium Documents and to bring or defend against any proceedings that may be instituted on behalf of, or against, the Unit Owners.

(xix) to incorporate, to the extent and in the manner provided in the Condominium Act, provided, however, that: (a) the certificate of incorporation and By-Laws of any such resulting corporation shall conform as closely as practicable to the terms of the Declaration and these By-Laws and (b) the terms of the Declaration and these By-Laws shall prevail in the event of any inconsistency or conflict between the terms thereof and the terms of such certificate of incorporation and By-Laws.

(xx) to organize corporations to act as the designees of the Condominium Board in acquiring title to, or leasing of, Units and in acquiring rights, titles and interests in real and personal property for use in connection with the ownership and operation of the Property as a condominium.

(xxi) to execute, acknowledge and deliver: (a) any and all declarations (including a declaration of single zoning lot) or other instrument affecting the Property that the Condominium Board deems necessary or appropriate to comply with any law applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Building, and (b) any consent, covenant, restriction, easement, or declaration affecting the Property that the Condominium Board deems necessary or appropriate, and (c) any and all declarations, consents, waivers or other instruments requested by Sponsor, or the Tower DR Unit Owner, or other Development Rights Owner, with respect to Sponsor's, or the Tower DR Unit Owner's, or such other Development Rights Owner's utilization, sale or transfer of Development Rights.

(xxii) to prepare, execute, acknowledge and record on behalf of all Unit Owners, as their attorney in fact, coupled with an interest, a restatement of the Declaration or these By-Laws, whenever, in the Condominium Board's estimation, it is advisable to consolidate and restate all amendments, modification, additions and deletions theretofore made to the same.

(xxiii) to prepare, execute, acknowledge and institute on behalf of all Residential Unit Owners, as their attorney-in-fact, coupled with an interest, protests of real property tax assessments and tax certiorari proceedings with respect to all Units and to assess any costs incurred thereby as a Common Expense.

(xxiv) to commence summary eviction proceedings in the name of or on behalf of the Condominium Board and/or a Unit Owner or Unit Owners, as the case may be, against an authorized guest and/or a tenant of a Unit Owner if such authorized guest and/or tenant does not conform to the Residential Rules and Regulations of the Condominium, annexed hereto as Addendum to the By-Laws, as said Residential Rules and Regulations may at any time and from time to time, be modified, amended or added to in accordance with the terms of these By-Laws. All costs in connection with the removal of the authorized guest and/or tenant, including attorneys' fees, shall be borne by the Unit Owner.

(xxv) to establish policies, procedures, and Residential Rules and Regulations in connection with the sale, lease or alteration of a Residential Unit, and to impose fees in connection with such sales, leases, and/or alterations.

(xxvi) to establish policies and procedures with respect to the services and facilities of the Condominium, including, without limitation, the right to impose usage fees on Affordable Unit Owners for the use of amenity areas (which shall constitute additional Common Charges) and impose restrictions on the hours of access and use of amenity areas by Residential Unit Owners.

(xxvii) to allow the Partnership to determine and approve the eligibility of resale purchasers and resale purchase prices of Affordable Units for so long as the AHC Enforcement Note and Mortgage and/or the Partnership Restrictive Declaration is in effect with respect to the respective Affordable Unit(s);

(xxviii) to prepare, execute and administer Storage Bin Licenses and assignments thereof and to impose license fees and/or Special Assessments in connection therewith (payable by Storage Bin Licensees other than Sponsor or Sponsor's designees), which shall constitute additional Common Charges.

(xxvix) to carry out any other duties imposed upon the Condominium Board pursuant to the Declaration and these By-Laws.

(xxx) to acquire in the name of the Condominium Board or its designee, corporate or otherwise, and on behalf of all Residential Unit Owners, Storage Bin Licenses terminated or surrendered to the Condominium.

(xxxi) to adjust the First Year's Budget to reduce the Common Charges if some or all of the services or facilities are not available at the First Closing.

(B) The Condominium Board shall be responsible for carrying out the duties imposed upon it under the Condominium Documents regardless of whether a Unit is vacant or occupied by the owner thereof or by a permitted lessee or other permitted occupant.

Section 2.5 *Certain Limitations on the Powers of the Condominium Board.*

(A) Notwithstanding anything to the contrary contained in these By-Laws, upon the later of (i) the date upon which Sponsor shall continue to own Units having an aggregate Common Interest of 10% or less, or (ii) 5 years from the First Closing, the Condominium Board may not, without Sponsor's prior written consent:

(i) make any addition, alteration, or improvement to the Common Elements or to any Unit, unless the same shall be required by Law;

(ii) assess any Common Charges or Special Assessments for the creation or replacement of, or the addition to, all or any part of a working capital, reserve, contingency, or surplus fund;

(iii) increase or decrease the number of, or change the kind of employees from those described in the First Years Budget;

(iv) enter into any service or maintenance contracts for work or otherwise contract for work or otherwise provide services in excess of those described in the First Year's Budget set forth in the Plan, except as is required to reflect normal annual increases in operating services incurred in the ordinary course of business;

(v) borrow money on behalf of the Condominium; or

(vi) exercise a right of refusal to lease or purchase a Unit.

However, Sponsor may not diminish or eliminate services, facilities or any line items described in the First Year's Budget and Sponsor's written consent shall not be necessary to perform any function or take any action described in clauses (i) through (vi) above, if, and only if, the performance of such function or the carrying out of such action is necessary to: (i) comply with Law; or (ii) remedy any notice of violation; or (iii) remedy any work order of the Condominium's insurer or (iv) to ensure the health and safety of the occupants of the Building.

(B) Notwithstanding anything to the contrary contained in these By-Laws, all determinations of the Condominium Board which affect only the:

(i) Residential Units and do not materially and adversely affect the use and operation of a Retail Unit or the Tower DR Unit Owner, as applicable, shall be made by the Member(s) of the Condominium Board elected or designated by the Residential Unit Owners;

(ii) Retail Unit and do not materially and adversely affect the use and operation of the Residential Units or the Tower DR Unit Owner, as applicable, shall be made by the Member of the Condominium Board designated by such Retail Unit Owner; and

(iii) Tower DR Unit and do not materially and adversely affect the use and operation of the Residential Units or a Retail Unit, as applicable, shall be made by the Member of the Condominium Board designated by the Tower DR Unit Owner.

Any dispute as to whether or not a determination materially and adversely affects any Units shall be settled by arbitration in accordance with the provisions of the Declaration and these By-Laws. No dispute with respect to whether a determination materially and adversely affects a Unit shall be deemed to exist unless the objecting party specifies the grounds for its objection in writing to the Condominium Board within 10 Business Days of receipt by it of notice of such determination.

Section 2.6 *Exercise and Delegation of Powers and Duties.*

(A) Any act within the power of the Condominium Board to perform, and deemed necessary or desirable to be performed by the Condominium Board, shall be performed by the Condominium Board or shall be performed on its behalf and at its direction by the agents, employees, or designees of the Condominium Board.

(B) The Condominium Board may appoint an Executive Committee by duly adopted resolution, which Executive Committee shall have, and may exercise, all of the powers of the Condominium Board, subject to both the exceptions and limitations as the Condominium Board may from time to time deem

appropriate, during the intervals between the meetings of the Condominium Board. In addition, the Condominium Board may from time to time appoint, by duly adopted resolutions, such other committees as the Condominium Board may deem appropriate to perform such duties and services as the Condominium Board shall direct, each of which committees shall have, and may exercise, all of the powers delegated to it in its enabling resolution, subject, however, to the exceptions and limitations contained in paragraph (D) of this Section 2.6. The Executive Committee shall consist of 3 Members of the Condominium Board. The members of any other committees need not be Members of the Condominium Board, so long as at least one member of each such committee is a Member of the Condominium Board.

(C) The Condominium Board may employ a Managing Agent to serve at a compensation approved by the Condominium Board and to perform such duties and services as the Condominium Board shall direct. Subject to the exceptions and limitations contained in paragraph (D) of this Section 2.6, the Condominium Board may delegate to the Managing Agent any of the powers granted to the Condominium Board in these By-Laws.

(D) Notwithstanding anything to the contrary contained in this Section 2.6, the Executive Committee and the Managing Agent shall neither have nor be entitled to exercise, and the Condominium Board shall not delegate to either of them or to any other committee, the powers or duties described in subparagraphs (ii), (iv), (v), (vi), (xiii), (xiv), (xv), (xvi) and (xvii) of paragraph (A) of Section 2.4 hereof. In addition, neither the Managing Agent nor any of the committees described in paragraph (B) of this Section 2.6 shall have, or be entitled to exercise, any of the powers of the Condominium Board, except to the extent permitted by Law.

Section 2.7 *Number, Election and Qualification of Members.*

(A) Until the First Annual Meeting held pursuant to the terms of Section 4.1 hereof, the Condominium Board shall consist of 3 individuals, all of whom are to be designated from time to time by Sponsor. From and after the First Annual Meeting and for so long as Sponsor continues to own at least 1 Unsold Residential Unit, the Condominium Board shall consist of 7 individuals, 5 of whom shall be elected and/or designated in accordance with the terms of these By-Laws by the Residential Unit Owners (including Sponsor) (collectively, the "Residential Members"), one of whom shall be designated by the Retail Unit Owners collectively ("Retail Unit Member") and one of whom shall be designated by the Tower DR Unit Owner ("Tower DR Member"). Sponsor may designate the same person to fill both the Tower DR Unit's and Sponsor's positions on the Condominium Board. The Retail Unit Owners may designate Sponsor or Sponsor's designee to represent the Retail Unit Owners on the Condominium Board.

(B) Except for Members designated by Sponsor and/or the Retail Unit Owners and/or the Tower DR Unit Owner pursuant to the terms of this Section 2.7 or of Section 2.10 or 4.9 hereof, all Members of the Condominium Board shall be either: (i) individual Residential Unit Owners or adult Family Members of an individual Residential Unit Owner; or (ii) individual Permitted Mortgagees; or (iii) officers, directors, shareholders, partners, principals, employees, or beneficiaries of corporations, partnerships, fiduciaries, or any other entities that are Residential Unit Owners or Permitted Mortgagees. After the Initial Sponsor Control Period, a majority of the Residential Members of the Condominium Board need not be owner-occupants of the Building who are unrelated to Sponsor or its principal. In addition, no individual may be elected to serve on the Condominium Board, (nor may continue to serve on the Condominium Board) if the Condominium Board has perfected a lien against such Unit and the amount necessary to release such lien has not been paid at the time of such election, or so long as such lien remains unpaid. In no event may more than one individual Unit Owner of a designated Unit serve on the Condominium Board or as an officer of the Condominium Board at the same time during the term of office.

Section 2.8 *Term of Office of Members.* The term of office of the 3 Members of the Condominium Board designated by Sponsor prior to the First Annual Meeting shall expire when the 7 individuals to be elected and/or designated at such meeting are so elected and qualified or designated, as the

case may be. The term of office of each of the 7 individuals elected and qualified or designated, as the case may be, at the First Annual Meeting pursuant to the terms of Section 4.9 hereof, shall be fixed at 1 year. Notwithstanding anything to the contrary contained in this Section 2.8, however, each Member of the Condominium Board shall serve until a successor shall be elected and qualified or designated, as the case may be.

Section 2.9 *Removal and Resignation of Members.*

(A) Any Member of the Condominium Board who was elected thereto either by the Residential Unit Owners, pursuant to the terms of Section 4.9 hereof, may be removed from office, with or without cause, by a vote of a Majority of Residential Unit Owners. Any Member of the Condominium Board who was designated as such by Sponsor pursuant to the terms of Section 2.7, 2.10, or 4.9 hereof, may be removed, with or without cause, only by Sponsor. If any Member of the Condominium Board who was designated by Sponsor is removed, the successor shall also be designated by Sponsor. Any Member of the Condominium Board who was designated by the Retail Unit Owners or the Tower DR Unit Owner may be removed, with or without cause, only by the Retail Unit Owners or the Tower DR Unit Owner, as applicable. A Residential Member of the Condominium Board whose proposed removal is to be acted upon at a meeting of the Residential Unit Owners shall be given prior written notice thereof and an opportunity to be present and heard thereat.

(B) Any Member of the Condominium Board may resign such Member's membership at any time by giving written notice thereof to the Condominium Board. In addition, any Member of the Condominium Board who shall cease to be qualified for membership pursuant to the terms of Section 2.7 hereof shall be deemed to have resigned such Member's membership effective as of the date upon which such qualification shall cease.

Section 2.10 *Vacancies.*

(A) Any vacancy on the Condominium Board that is caused by the removal, resignation, or death of a Member who was elected thereto by the Residential Unit Owners shall be filled by an individual who is qualified to be a Residential Member pursuant to the terms of Section 2.7 hereof and who is elected by a vote of the majority of the Members of the Condominium Board elected or designated by the Residential Unit Owners then in office. A special meeting of the Condominium Board shall be held for the purpose of filling any such vacancy promptly after the occurrence thereof, and the election held thereat shall be effective to fill such vacancy even if the number of Members present at such meeting shall not constitute a quorum.

(B) Any vacancy on the Condominium Board that is caused by the removal, resignation, or death of a Member who was designated as such or elected by Sponsor shall be filled by an individual designated by Sponsor. Any vacancy on the Condominium Board that is caused by the removal, resignation or death of a Member who was designated by the Retail Unit Owners or the Tower DR Unit Owner shall be filled by an individual designated by the Retail Unit Owners or the Tower DR Unit Owner, as applicable.

(C) Each Member of the Condominium Board who is elected thereto or designated as such to fill a vacancy pursuant to the terms of paragraph (A) or (B), respectively, of this Section 2.10 shall serve as a Member of the Condominium Board for the remainder of the term of the Member replaced and until a successor shall be selected and qualified at the next annual meeting of the Unit Owners pursuant to the terms of Section 4.9 hereof; provided that successor(s) to the Member(s) designated by the Retail Unit Owners and the Tower DR Unit Owner may be selected and qualified by the Retail Unit Owners and/or the Tower DR Unit Owner at any time.

Section 2.11 *Organizational Meeting of the Condominium Board.* The first meeting of the Condominium Board following each annual meeting of the Unit Owners shall be held within 10 days of such annual meeting, at such time and place as shall be both fixed informally by a majority of the Members of the

Condominium Board and designated by the Secretary in a written notice given to all Members thereof by personal delivery, mail, overnight courier, facsimile or e-mail not later than 3 Business Days prior to such date. At such meeting, the officers of the Condominium Board shall be elected.

Section 2.12 *Regular Meetings of the Condominium Board.* Regular meetings of the Condominium Board may be held at such time and place as shall be determined from time to time by a majority of the Members thereof, provided that at least 4 such meetings shall be held during each fiscal year. Written notice of all regular meetings of the Condominium Board shall be given by the Secretary to each Member thereof by personal delivery, mail, overnight courier, facsimile or e-mail, at least 3 Business Days prior to the day named for such meeting.

Section 2.13 *Special Meetings of the Condominium Board.* The President may call a special meeting of the Condominium Board whenever the President deems the same to be necessary or desirable. However, the President shall call such a meeting upon the written request of 3 or more Members of the Condominium Board. Written notice of all special meetings shall be given by the Secretary to each Member thereof by personal delivery, mail, overnight courier, facsimile, or e-mail at least 1 Business Day prior to the day named for such meeting, which notice shall state the time, place and purpose of the meeting.

Section 2.14 *Waiver of Notice of Meetings.* Any Member of the Condominium Board may, at any time, waive notice of any meeting thereof in writing, and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Member of the Condominium Board at any meeting thereof shall constitute a waiver by the Member of notice of the time and place thereof. If all of the Members of the Condominium Board are present at any meeting thereof, no notice of such meeting shall be required and any business may be transacted at such meeting.

Section 2.15 *Quorum of the Condominium Board.* A quorum of the Condominium Board is required to be present at a Condominium Board meeting in order to make any determination or to transact any business. To constitute a quorum of the Condominium Board, the following majority of the Members of the Condominium Board shall be present at the Condominium Board meeting:

(A) Attendance of a majority of all of the Members of the Condominium Board will be required for any business relating to the General Common Elements, the General Common Expenses, or, all or a portion of the Residential Units, the Retail Units and the Tower DR Unit.

(B) Attendance of a majority of the Residential Members of the Condominium Board will be required for any business relating solely to the Residential Common Expenses, the Residential Common Elements, or, all or a portion of the Residential Units.

In connection therewith, one or more Members of the Condominium Board may participate in any meeting thereof by means of a conference telephone or similar communications equipment permitting all individuals participating in the meeting to hear each other at the same time, and such participation shall constitute presence at such a meeting for all purposes. If, at any meeting of the Condominium Board, there shall be less than a quorum present, a majority of the Members of the Condominium Board in attendance may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business that might have been transacted at the meeting originally called but for the lack of a quorum may be transacted without further notice.

Section 2.16 *Conduct of Meetings.* The President shall preside at all meetings of the Condominium Board, and the Secretary shall faithfully record the minutes thereof, which minutes shall include the full text of all resolutions duly adopted by the Condominium Board and a record of all transactions and proceedings occurring thereat. The then current edition of Robert's Rules of Order, or any other rules of procedure from time to time acceptable to a majority of the Condominium Board, shall govern the conduct of the meetings of

the Condominium Board unless the same shall be in conflict with the terms of the Declaration, these By-Laws, or the Condominium Act.

Section 2.17 *Decisions by the Condominium Board.* Except as otherwise provided in the Declaration or these By-Laws:

(A) The vote of a majority of the Members attending a duly constituted meeting of the Condominium Board at which a quorum is present shall decide all matters on behalf of the Condominium Board relating solely to the General Common Elements; the General Common Expenses, or, all or a portion of the Residential Units, the Retail Units and the Tower DR Unit.

(B) The vote of a majority of those Residential Members attending a duly constituted meeting of the Residential Members at which a quorum is present shall decide all matters on behalf of the Condominium Board relating solely to the Residential Common Expenses; the Residential Common Elements; or, all or a portion of the Residential Units.

Alternatively, any decision that is required or permitted to be made by the Condominium Board may be made without a meeting thereof if all of the Members of the Condominium Board shall individually or collectively consent in writing to such decision, and all such written consents shall be duly filed by the Secretary of the Condominium in the minutes of the Condominium Board.

Section 2.18 *Compensation of Members.* No Member of the Condominium Board shall receive any compensation from the Condominium for acting as such.

Section 2.19 *Common or Interested Members of the Condominium Board.* Each Member of the Condominium Board shall perform duties, and shall exercise powers, in good faith and with a view to the interests of the Condominium. To the extent permitted by Law, no contract or other transaction between the Condominium Board and either (i) any of its Members or (ii) any corporation, partnership, fiduciary, firm, association, or other entity in which any of the Members of the Condominium Board are officers, directors, employees, partners, fiduciaries, beneficiaries, or principals, or are otherwise interested, pecuniarily or otherwise, shall be deemed either void or voidable because either (a) any such Member of the Condominium Board was present at the meeting or meetings of the Condominium Board during which such contract or transaction was discussed, authorized, approved, or ratified, or (b) the vote of any such Member was counted for such purpose, provided, however, that either: (x) the fact thereof is disclosed to, or known by, the Condominium Board or a majority of the Members thereof and noted in the minutes thereof, and the Condominium Board shall authorize, approve, or ratify such contract or transaction in good faith by a vote of a majority of the entire Condominium Board, less the number of such Members; or (y) the fact thereof is disclosed to, or known by, a Majority of Unit Owners, and a Majority of Unit Owners shall authorize, approve, or ratify such contract or transaction.

Any such Member of the Condominium Board may be counted in determining the presence of a quorum of any meeting of the Condominium Board that authorizes, approves, or ratifies any such contract or transaction, but no such Member shall be entitled to vote thereat to authorize, approve, or ratify such contract or transaction.

Section 2.20 *Indemnification.*

2.20-1 *Indemnification of Board Members and Officers.*

2.20-1.1 To the extent permitted by Law, the Members of the Condominium Board shall have no personal liability with respect to any contract, act or omission of the Condominium Board or of any Managing Agent or manager in connection with the affairs or operation of the Condominium (except in their capacities as Unit Owners) and the liability of any Unit Owner with respect thereto shall be limited as set forth in Section 4.13 hereof. Every contract made by the Condominium Board or by the Managing Agent shall state

that it is made by the Condominium Board or the Managing Agent, only as agent for all Unit Owners and that the Members of the Condominium Board or the Managing Agent shall have no personal liability thereon (except in their capacities as Unit Owners). Any such contract may also provide that it covers the assets, if any, of the Condominium Board. To the extent permitted by Law, the Members of the Condominium Board shall have no liability to Unit Owners except that a Member of the Condominium Board shall be liable for such Member's own bad faith or willful misconduct. All Unit Owners shall jointly and severally, to the extent of their respective interests in their Units and their appurtenant Common Interests, indemnify each Member of the Condominium Board against any liability or claim except those arising out of such Member's own bad faith or willful misconduct. The Condominium Board may contract or effect any other transaction with any Member of the Condominium Board, any Unit Owner, Sponsor or any affiliate of any of them without incurring any liability for self-dealing, except in cases of bad faith or willful misconduct.

2.20-1.2 Neither the Condominium Board nor any Member thereof shall be liable for either:

(i) any failure or interruption of any utility or other services to be obtained by, or on behalf of, the Condominium Board or to be paid for as a Common Expense except when any such failure or interruption is caused by the acts of bad faith or willful misconduct of the Condominium Board or any Member thereof; or

(ii) any injury, loss or damage to any individual or property, occurring in or upon either a Unit or the Common Elements and either: (a) caused by the elements, by any Unit Owner, or by any other Person; (b) resulting from electricity, water, snow, or ice that may leak or flow from a Unit or any portion of the Common Elements; or (c) arising out of theft or otherwise.

ARTICLE 3 OFFICERS

Section 3.1 *General.* The principal officers of the Condominium shall be the President, the Vice President, the Secretary and the Treasurer. The Condominium Board may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as in its discretion may be necessary or desirable. All agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed, upon the direction of the Condominium Board, by any two officers of the Condominium or by such lesser number of officers or by such other Person or Persons as may be designated from time to time by the Condominium Board.

Section 3.2 *President.* The President shall be the chief executive officer of the Condominium and shall preside at all meetings of the Unit Owners and of the Condominium Board. The President shall have all of the general powers and duties that are incident to the office of president of a stock corporation organized under the Business Corporation Law of the State of New York (hereinafter referred to as the "BCL"), including, but not limited to, the power to appoint the members of all committees created by the Condominium Board from amongst the Unit Owners from time to time as the President may decide, in the President's discretion, are appropriate to assist in the conduct of the affairs of the Condominium.

Section 3.3 *Vice President.* The Vice President shall take the place of the President and perform the President's duties whenever the President shall be absent or unable to act. If both the President and the Vice President are unable to act, the Condominium Board shall appoint some other Member of the Condominium Board to act in the place of the President on an interim basis. The Vice President shall also perform such other duties as shall be imposed upon the Vice President from time to time by the Condominium Board or by the President.

Section 3.4 *Secretary.* The Secretary shall keep the minutes of all meetings of the Unit Owners and of the Condominium Board. The Secretary shall have charge of such books and papers as the Condominium Board shall direct and, in general, shall perform all of the duties that are incident to the office of secretary of a stock corporation organized under the BCL.

Section 3.5 *Treasurer.* The Treasurer shall have the care and custody of the funds and securities of the Condominium and shall be responsible for keeping full and accurate financial records and books of account thereof, showing all receipts and disbursements necessary for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all funds and other securities in the name of the Condominium Board or in the name of the Managing Agent in such depositories as may from time to time be designated by the Condominium Board and, in general, shall perform all of the duties incident to the office of treasurer of a stock corporation organized under the BCL.

Section 3.6 *Election, Term of Office and Qualification of Officers.* Each of the officers of the Condominium shall be elected annually by a majority vote of all Members of the Condominium Board taken at the organizational meeting of each new Condominium Board, and shall serve at the pleasure of the Condominium Board. The President, Vice President, and the Treasurer shall be elected from amongst the Members of the Condominium Board. Such officers need not be Unit Owners and need not have any interest in the Condominium if they are designated by Sponsor. Such officers must be Unit Owners if they are elected by the other Unit Owners. The other officers of the Condominium Board need not be Unit Owners and need not have any interest in the Condominium.

Section 3.7 *Removal and Resignation of Officers.* Any officer of the Condominium Board may be removed from office, with or without cause, by an affirmative vote of a majority of the Members of the Condominium Board. In addition, any officer may resign at any time by giving written notice to the Condominium Board. Finally, if the President, Vice President, or the Treasurer of the Condominium shall cease to be or shall be suspended as a Member of the Condominium Board during their term of office, such officer shall be deemed to have resigned office effective upon the date upon which the membership shall cease.

Section 3.8 *Vacancies.* Any vacancy in an office shall be filled by a majority vote of the Condominium Board at any regular meeting of the Condominium Board or at a special meeting thereof called for such purpose.

Section 3.9 *Compensation of Officers.* No officer of the Condominium shall receive any compensation from the Condominium for acting as such.

Section 3.10 *Indemnification of Officers.* Each officer shall be indemnified as set forth in Paragraph 2.20.

ARTICLE 4

UNIT OWNERS

Section 4.1 *Annual Meetings of the Unit Owners.* The First Annual Meeting shall be held approximately 30 days after the later to occur of (i) the second anniversary of the First Closing; or (ii) the Closing of Title with Purchasers under the Plan of Tower Units representing at least 50% in number of all Tower Units offered for sale. At such meeting, a 7 Member Condominium Board shall be elected, as provided both in this Article 4 and in Article 2 hereof. Thereafter, annual meetings of the Unit Owners shall be held on or about the anniversary date of the First Annual Meeting. At each such subsequent meeting, the Unit Owners (including Sponsor) shall elect successors to the Members of the Condominium Board whose term of office expires on the day of such meeting and shall transact such other business as may properly come before such meeting.

Section 4.2 *Special Meetings of the Unit Owners.* The President shall call a special meeting of the Unit Owners whenever so directed by a duly adopted resolution of the Condominium Board or upon receipt by the Secretary of a petition calling for such a meeting signed by Unit Owners having, in the aggregate, not less than 40% of the Common Interests of all Residential Unit Owners (excluding the Common Interest appurtenant to the Retail Units). Each such resolution or petition shall set forth, in reasonable detail, the

purposes for calling such a meeting, and no business shall be transacted at such special meeting except business reasonably related to such stated purposes.

Section 4.3 *Place of Meetings.* Meetings of the Unit Owners shall be held at the principal office of the Condominium or at such other suitable and convenient place in the Borough in which the Property is located as may be designated by the Condominium Board.

Section 4.4 *Notice of Meetings.*

(A) The Secretary of the Condominium shall give notice of each annual or special meeting of the Unit Owners to all Unit Owners then of record entitled to vote at such meeting, which notice shall set forth the purpose, time and place of such meeting. Such notice may be given to any Unit Owner by personal delivery or mail addressed to the Unit Owner's address at the Property, not less than 10 nor more than 40 days prior to the day fixed for the meeting. Any Unit Owner may designate an address for the giving of notice other than such Unit Owner's address at the Property by giving written notice thereof to the Secretary of the Condominium not less than 10 days prior to the giving of notice of the applicable meeting.

(B) If the business to be conducted at any meeting of the Unit Owners shall include the consideration of a proposed amendment to the Declaration or to these By-Laws, the notice of such meeting shall be mailed to all Unit Owners at least 30 days prior to the day fixed for such meeting and shall be accompanied by a copy of the text of such proposed amendment.

Section 4.5 *Quorum of the Unit Owners.* Except as otherwise provided in these By-Laws, the presence, in person or by proxy, of Tower Unit Owners owning Tower Units to which 40% or more of the aggregate Common Interests shall constitute a quorum at all meetings of the Unit Owners. If, at any meeting of the Unit Owners, there shall be less than a quorum present, a majority of the Unit Owners present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours from the time fixed for the original meeting.

Section 4.6 *Conduct of Meetings.* The President shall preside at all meetings of the Unit Owners, and the Secretary shall faithfully record the minutes thereof, which minutes shall include the full text of all resolutions duly adopted by the Unit Owners and a record of all transactions and proceedings occurring thereat. The then current edition of Robert's Rules of Order, or any other rules of procedure acceptable to a majority of the Unit Owners present at any meeting, in person or by proxy, shall govern the conduct of the meetings of the Unit Owners, unless the same shall be in conflict with the terms of the Declaration, these By-Laws, or the Condominium Act. All votes of the Unit Owners shall be tallied by the persons appointed by the presiding officer of the meeting.

Section 4.7 *Order of Business.* The order of business at all meetings of the Unit Owners shall be as follows:

- (A) Roll call;
- (B) Proof of notice of meeting;
- (C) Reading of the minutes of the preceding meeting (unless waived);
- (D) Reports of officers of the Condominium;
- (E) Reports of Members of the Condominium Board;
- (F) Reports of committees;
- (G) Election of inspectors of election (when so required);

- (H) Election of Members of the Condominium Board (when so required);
- (I) Unfinished business; and
- (J) New business.

The order of business at meetings of Unit Owners can be adjusted in the sole discretion of the Condominium Board.

Section 4.8 *Voting.*

(A) Subject to the terms of Section 4.9 hereof, each Unit Owner (including Sponsor for so long as Sponsor shall own any Unsold Unit and/or the Tower DR Unit) shall be entitled to cast 1 vote at all meetings of the Unit Owners for each percentage of Common Interest attributable to such Unit Owner's Unit(s).

(B) Notwithstanding the terms contained in paragraph (A) hereof, no Unit Owner may vote at any meeting of the Unit Owners if the Condominium Board has perfected a lien against such Unit Owner's Unit and the amount necessary to release such lien has not been paid at the time of such meeting. In addition, neither the Condominium Board nor any designee thereof shall be entitled to vote the Common Interest appurtenant to any Unit owned by the Condominium Board or such designee. The Common Interests of all Units whose owners are precluded from voting pursuant to the terms of this paragraph (B) will be excluded when computing the aggregate Common Interests of all Unit Owners for voting purposes.

(C) A fiduciary shall be the voting Member with respect to a Unit owned in a fiduciary capacity. In addition, if 2 or more Persons own a Unit, they shall designate 1 Person amongst them to vote the Common Interest appurtenant to their Unit in a writing given to the Secretary of the Condominium, and the vote of such designee shall be binding upon all of such Persons. Failing such a designation, all of such Persons shall mutually vote such Common Interest under 1 ballot without division, and the concurrence of all such Persons shall be conclusively presumed if any one of them purports to vote such Common Interest without protest being contemporaneously made to the individual presiding over the meeting at which such vote is taken. If protest is made, the Common Interest appurtenant to such Unit shall be counted solely for the purpose of determining whether a quorum is present for such voting.

(D) The owner of any Unit may designate any Person to act as a proxy on such Unit Owner's behalf. The designation of any such proxy shall be made in a written notice both signed and dated by the designator and delivered to the Secretary of the Condominium at or before the appointed time for the meeting(s) during which the same is to be effective. Any such designation shall be revocable at any time upon written notice given to the Secretary of the Condominium; however, no revocation of such designation shall be effective with respect to any votes cast by such proxy prior to the receipt of such revocation notice by the Secretary of the Condominium or, if such revocation is made at a meeting of the Unit Owners during which the Secretary of the Condominium is not in attendance, by the individual acting as the secretary of such meeting, except with respect to the designation of a Permitted Mortgagee to act as the proxy of its mortgagor(s), no designation to act as a proxy shall be effective for a period in excess of 6 months after the date thereof.

Section 4.9 *Election of Members to the Condominium Board.*

(A) When voting for Members of the Condominium Board, each Unit Owner (including Sponsor for so long as Sponsor shall own any Unsold Units and/or the Tower DR Unit) shall be entitled to cast 1 vote for each .0001% of Common Interest attributable to the Unit(s) per Member to be elected. However, nothing contained herein shall be deemed to permit any Unit Owner to cumulate the votes attributable to the ownership of a Unit in favor of any 1 or more Members to be elected. In addition, the terms of paragraphs (B), (C) and (D) of Section 4.8 and the terms of Section 4.11 hereof shall apply to all elections of Members of the Condominium Board.

(B) All elections of Members of the Condominium Board shall be by written ballot, and each ballot cast shall state: (i) the name of the voting Residential Unit Owner and, if such ballot is cast by proxy, the name of the proxy; (ii) the designation number(s) of the Residential Unit(s) owned by the voting Unit Owner; (iii) the percentage(s) of the Common Interest appurtenant to such Unit(s); and (iv) the names of the candidates for whom such ballot is cast (the number of which names shall not exceed the number of Members to be elected). Any ballot that is not cast in conformity with this paragraph (B) shall not be counted. All election ballots shall be retained in the records of the Condominium, appropriately segregated by election for a period of 2 years.

(C) Subject to the terms of paragraph (D) of this Section 4.9, and Section 4.11 hereof, all elections of Members of the Condominium Board shall be determined by plurality vote of Unit Owners present, in person or by proxy, at a duly convened meeting.

(D) At meetings of the Unit Owners, Sponsor will have the right to vote all of the Common Interests attributable to the Unsold Units as it sees fit. However, at elections of Members to the Condominium Board held during the Initial Sponsor Control Period, Sponsor shall have the right to designate 3 of the 5 Residential Members to the Condominium Board, and Sponsor, and all other Residential Unit Owners shall have the right to vote for the remaining Residential Members of the Condominium Board. Sponsor may designate the same person to fill both the Tower DR Unit's and Sponsor's positions on the Condominium Board. The Retail Unit Owners may designate Sponsor or Sponsor's designee to represent the Retail Unit Owners on the Condominium Board. Sponsor reserves the right to relinquish voting control of the Condominium Board prior to the expiration of the Initial Sponsor Control Period.

(E) Subsequent to the Initial Sponsor Control Period, and for so long as Sponsor continues to own at least 1 Unsold Residential Unit, Sponsor shall have the right to designate 1 Residential Member to the Condominium Board, and shall have the right to vote its Common Interest attributable to the Unsold Residential Units for the remaining Residential Members of the Condominium Board. There is no restriction on the right of Sponsor to vote for Residential Members of the Condominium Board who are not related to or affiliated with Sponsor.

(F) Within 30 days after the expiration of the Initial Sponsor Control Period, 2 of the 3 Residential Members of the Condominium Board who was designated by Sponsor shall resign and such Residential Member's replacement shall be elected by a vote of the Residential Unit Owners (including Sponsor for so long as Sponsor shall own any Unsold Residential Unit) at a special meeting called for such purpose.

Section 4.10 *Designation of Non-Residential Members to the Condominium Board.* The Tower DR Unit Owner shall be entitled to designate 1 Member (the "Tower DR Member") to the Condominium Board, who may only be removed or replaced by the Tower DR Unit Owner, and the Retail Unit Owners shall be entitled to collectively designate 1 Member (the "Retail Unit Member") to the Condominium Board who may only be removed or replaced by the Retail Unit Owners.

Section 4.11 *Action Without a Meeting.* Any action required or permitted to be taken by the Unit Owners at a duly constituted meeting may be taken without such a meeting if the number of Unit Owners sufficient (both in absolute number and aggregate Common Interests whenever applicable) to approve such an action at a duly constituted meeting of the Unit Owners pursuant to the Declaration or to these By-Laws consent in writing to the adoption of a resolution approving such action. All written consents given by Unit Owners pursuant to this Section 4.11 shall be retained in the records of the Condominium together with a true copy of the resolutions to which they relate.

Section 4.12 *Title to Residential Units.* Title to any Residential Unit may be held by any Person or by any two or more Persons as joint tenants, tenants in common, or tenants by the entirety, as may be appropriate. Notwithstanding anything to the contrary in this Section 4.12, title to an Affordable Unit may be held only by natural persons and not by any entity. The sale of a Residential Unit to a corporation, partnership,

limited partnership, trust or any other entity (including any entity or person entitled to diplomatic or sovereign immunity) shall require the delivery to the Condominium Board or its managing agent at Closing (i) any and all documents as are reasonably requested by the Condominium Board, including without limitation, a personal guaranty, a subjection to jurisdiction, occupancy agreement and escrow agreement; and (ii) an amount equal to the current Common Charges for such Residential Unit for a period of 2 years, to be held in escrow by the Condominium Board, as security for the faithful observance by such Residential Unit Owner of the terms, provisions and conditions contained in these By-Laws.

Section 4.13 *Contractual Liability of the Condominium Board and the Unit Owners.* Every contract made by the Condominium Board, by any officer of the Condominium, or by any manager or Managing Agent thereof shall state that it is made by the Condominium Board or such officer or manager or Managing Agent only as agent for the Condominium, and that the Members of the Condominium Board or manager or Managing Agent shall have no personal liability with respect thereto, and may also state the applicable limitations of liability of Unit Owners provided for in this Section 4.13, provided that the absence of such statement or statements in any such contract shall not be deemed to imply any personal liability on the part of the Condominium Board, its Members, managing agent or manager, or any Unit Owner. No Unit Owner, in its capacity as a Unit Owner, shall be personally liable for any contract, act or omission of the Condominium. The liability of any Unit Owner with respect thereto shall be limited to: (i) such proportionate share of the total liability thereunder as the Common Interest of such Unit Owner bears to the aggregate Common Interests of all Unit Owners in the case of a contract relating to the General Common Elements, (ii) such proportionate share of the total liability thereunder as the Residential Common Interest of such Residential Unit Owner in a case relating to the Residential Common Elements, and (iii) such Unit Owner's interest in the Unit and its Appurtenant Interests, unless otherwise provided by Law.

ARTICLE 5

OPERATION OF THE PROPERTY

Section 5.1 *Maintenance and Repairs.*

(A) Except as otherwise provided in the Declaration or in these By-Laws, all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, ordinary or extraordinary:

(i) in or to any Unit and all portions thereof, including, but not limited to, the interior walls, partitions, ceilings and floors in the Unit, kitchen and bathroom fixtures and appliances, mechanical systems located in the Unit (including HVAC filters and parts), window panes (including washing the interior and exterior of such windows), all entrance doors and terrace doors and their frames and saddles, exposed plumbing, gas and heating fixtures and equipment, heating and cooling systems, air conditioning units, lighting and electrical fixtures and any Common Elements incorporated therein pursuant to paragraph (B) of Section 5.8 hereof, but excluding any other Common Elements contained therein, shall be performed by the owner of such Unit at such Unit Owner's sole cost and expense, and

(ii) in or to the General Common Elements (other than any General Common Elements incorporated into one or more Units pursuant to the terms of paragraph (B) of Section 5.8 hereof) shall be performed by the Condominium Board and the cost and expense thereof shall be charged to all Unit Owners as a General Common Expense;

(iii) in or to the Residential Common Elements and other than any Residential Common Elements incorporated into one or more Units (pursuant to the terms of paragraph (B) of Section 5.8 hereof) shall be performed by the Condominium Board and the cost and expense thereof shall be charged to all Residential Unit Owners as a Residential Common Expense; and

(iv) in or to the Tower Limited Common Elements shall be performed (a) by the Condominium Board as a Residential Common Expense, if involving structural or extraordinary maintenance, repairs, or replacements (including, but not limited to, the repair of any leaks that are not caused by the acts or omissions of the Tower Unit Owner having direct and exclusive access thereto), or (b) by the Tower Unit Owner having direct and exclusive access thereto at such Tower Unit Owner's sole cost and expense, if involving painting, decorating and non-structural ordinary maintenance, repairs or replacements, (including without limitation, the removal of snow, ice and accumulation of water on any Terrace).

(v) in or to the Retail 1 and 3 Common Elements, if any, shall be performed by the owners of Retail Unit 1 and Retail Unit 3 at such Retail Unit Owner(s)' sole cost and expense, excluding any General Common Elements or Residential Common Elements that may be located therein, which shall be performed by the Condominium Board in accordance with this Section 5.1 (A).

Promptly upon obtaining knowledge thereof, each Unit Owner shall report to the Condominium Board or to the Managing Agent any defect or need for repairs for which the Condominium Board is responsible pursuant to the terms hereof. All painting, decorating, maintenance, repairs and replacements performed hereunder or otherwise, whether by or at the behest of a Unit Owner or the Condominium Board, shall be performed in such a manner as shall not unreasonably disturb or interfere with any Unit Owners or the tenants and occupants of any Units.

(B) Notwithstanding anything to the contrary provided in paragraph (A) of this Section 5.1, if any painting, decorating, maintenance, repairs, or replacements to the Property or any part thereof, whether structural or non-structural, ordinary or extraordinary, are necessitated by the negligence, misuse, or abuse of (i) any Unit Owner, the entire cost and expense thereof shall be borne by such Unit Owner, or (ii) the Condominium Board, the entire cost and expense thereof shall be borne by the Condominium as a General Common Expense attributable to all Unit Owners if relating to the General Common Elements, and as a Residential Common Expense attributable to all Residential Unit Owners if relating to the Residential Common Elements and/or the Tower Limited Common Elements except, in all events, to the extent that such cost and expense is covered by the proceeds of any insurance maintained pursuant to the terms of these By-Laws. Similarly, each Unit Owner shall be responsible for any and all damage to any Unit or to the Common Elements resulting from such Unit Owner's failure to maintain, repair, or replace the Unit or any portion thereof as required herein.

(C) Each Unit and all portions of the Common Elements shall be kept in first-class condition, order and repair (and free of snow, ice and accumulation of water with respect to any roof, Terrace, or other part of the Property exposed to the elements) by the Unit Owner or the Condominium Board, whichever is responsible for the maintenance thereof as set forth herein, and such Unit Owner or the Condominium Board, as the case may be, shall promptly make or perform, or cause to be made or performed, all maintenance work, including, without limitation, painting, repairs and replacements that is necessary in connection therewith. The Condominium Board shall be responsible for the maintenance and repair of all sidewalks surrounding the Building (including, cleaning and snow and ice removal) as if the sidewalks were General Common Elements, except that the cost of such maintenance and repair shall be borne by a Retail Unit Owner if a Retail Unit Owner is utilizing such sidewalks in connection with the operation of a Retail Unit. The exterior and interior glass surfaces of all windows located in any Residential Unit shall not be colored or painted by the Unit Owner. All interior and exterior glass surfaces located in any Residential Unit shall be washed and cleaned by the Residential Unit Owner at such Residential Unit Owner's sole cost and expense. Any replacement of glass windows in any Residential Unit because of breakage or otherwise shall be made by the Unit Owner thereof, at the sole cost and expense of the Unit Owner (unless such breakage is caused by the Condominium Board or any other Unit Owner, in which event such replacement of glass windows will be at the sole cost and expense of the Condominium Board or such Unit Owner). Notwithstanding the foregoing, prior to the replacement of

any glass window the Unit Owner must obtain the prior written approval of the Condominium Board, with respect to the type of replacement windows installed. In addition, the public areas of the Building and those residential areas exposed to public view shall be kept in good appearance, in conformity with the dignity and character of the Building, as determined by the Condominium Board in its sole discretion, by (i) the Condominium Board, with respect to such parts of the Building required to be maintained by it, and (ii) each Unit Owner, with respect to the interior surfaces of windows and shades, venetian or other blinds, drapes, curtains or other window decorations in or appurtenant to such Unit Owner's Unit. To promote a consistent appearance of the Building from the outside, (x) no Residential Unit Owner shall be permitted to enclose, erect a greenhouse and/or alter a Terrace appurtenant to a Unit, in such a way that will alter the conformity of the Building, without the prior written approval of the Condominium Board; and (y) all window treatments in a Residential Unit must contain white backing on the side facing the outside of the Building so that when the shades are down or curtains drawn, the effect from the outdoors is a visually harmonious white appearance. Additionally, the type, size, weight and quantity of plantings and other installations to be placed on Terraces shall be subject to the prior written approval of the Condominium Board and shall be in compliance with Law. A Retail Unit Owner shall be responsible, at its sole cost and expense, for washing, cleaning and replacing because of breakage the exterior and interior glass surfaces of windows located in a Retail Unit (unless the breakage is caused by the Condominium Board or any other Unit Owner, in which event the replacement of glass windows will be at the sole cost and expense of the Condominium Board or such Unit Owner).

(D) In the event that any Unit Owner, after receipt of written notice from the Condominium Board, fails or neglects in any way to perform any of its obligations with respect to the painting, decorating, maintenance, repair or replacement of its Unit as provided in this Section 5.1 (or of any Common Elements for which such Unit Owner is responsible under the Declaration or these By-Laws), the Condominium Board may perform or cause to be performed such painting, decorating, maintenance, repair or replacement unless such Unit Owner, within 5 days after receiving notice of such default by the Condominium Board, cures such default, or in the case of a default not reasonably susceptible to cure within such period, commences and thereafter prosecutes to completion, with due diligence, the curing of such default. All sums expended and all costs and expenses incurred in connection with the making of any such painting, decorating, maintenance, repair or replacement in such Unit Owner's Unit or to any such Common Element for which such Unit Owner is responsible, together with interest thereon at the rate of 2% per month (but in no event in excess of the maximum rate permitted by Law), shall be immediately payable by such Unit Owner to the Condominium Board and shall, for all purposes hereunder, constitute Common Charges payable by such Unit Owner.

Section 5.2 *Alterations, Additions, Improvements, or Repairs in and to Units.*

(A) Subject to the terms of paragraph (B) of this Section 5.2, no Residential Unit Owner may make any structural alteration, addition, improvement or repair, in or to the Residential Unit or its appurtenant Tower Limited Common Elements without the prior written approval of the Condominium Board. Prior to, and as a condition of, the granting of any such approval, the Condominium Board may, at its sole option, require the Residential Unit Owner to: (i) procure and agree to maintain during the course of such work such insurance as the Condominium Board may reasonably prescribe; and (ii) execute an alteration agreement, in form and substance satisfactory to the Condominium Board, setting forth the terms and conditions under which such alteration, addition, improvement or repair, may be made, including, without limitation, the indemnity referred to in paragraph (D) hereof and the days and hours during which any such work may be done. The Condominium Board shall have the right to approve Unit Owner's contractors and materialmen. In connection with such alterations, additions, improvements and/or repairs, each Residential Unit Owner shall employ only such laborers and other workers as shall not conflict with any other worker employed in the Building or otherwise cause disharmony with any Building service union. Residential Unit Owners shall not be permitted to engage any Building staff or any contractors or sub-contractors engaged by either the Condominium Board or Sponsor in connection with a Residential Unit Owner's alterations, additions, improvements or repairs to such Residential Unit. The Condominium may impose charges upon the

Residential Unit Owner to reimburse the Condominium for architectural, engineering, legal and other fees incurred in reviewing the Residential Unit Owner's request for approval and in monitoring the work performed until completion and a fee payable to the Managing Agent for processing the alteration application.

(B) Notwithstanding anything to the contrary contained in paragraph (A) of this Section 5.2, however, Sponsor shall have the right, pursuant to the terms of Article 12 of the Declaration, to (i) make any alterations, additions, improvements, or repairs in or to any Unsold Residential Unit or its appurtenant Tower Limited Common Elements (if any), whether structural or non-structural, interior or exterior, ordinary or extraordinary, and (ii) subdivide, combine and change the boundary walls of any Unsold Residential Units, all without the approval of the Condominium Board. In addition, a Retail Unit Owner shall have the right, pursuant to the terms of Article 12 of the Declaration and the provisions of these By-Laws, to (i) make any alterations, additions, improvements or repairs in or to a Retail Unit and Retail 1 and 3 Common Elements (if any), whether structural or non-structural, interior or exterior, ordinary or extraordinary (provided there is no adverse effect on the structural integrity of the Building and no adverse effect on the functionality or operation of the mechanical, electrical, plumbing or communications systems of the Building resulting therefrom), and (ii) subdivide, combine and change the boundary walls of a Retail Unit, all without the approval of the Condominium Board. Notwithstanding the foregoing, all Unit Owners, including Sponsor and a Retail Unit Owner, prior to the making of any alteration, addition, improvement or repair in or to their respective Unit and its appurtenant Tower Limited Common Elements or Retail 1 and 3 Common Elements, if any, must (i) procure and maintain such insurance as the Condominium Board may reasonably require, (ii) indemnify the Condominium Board and the Managing Agent against any liability arising from the work and (iii) comply with Law.

(C) All alterations, additions, improvements and repairs by Unit Owners shall be made in compliance with Law. In connection therewith, the Condominium Board shall execute applications to any departments of the City of New York, or to any other governmental agencies having jurisdiction thereof, for any and all permits required in connection with the making of alterations, additions, improvements, or repairs in or to a Unit provided that, with respect to all such work of a structural nature to a Residential Unit or its appurtenant Tower Limited Common Elements (but other than that of the nature described in paragraph (B) hereof), the same was approved in writing by the Condominium Board pursuant to the terms of paragraph (A) hereof, prior to the commencement of such work.

(D) Neither the Condominium Board nor any Unit Owner (other than the Unit Owner making any alterations, improvements, additions, or repairs, or causing any of the same to be made, in or to the Unit and appurtenant Tower Limited Common Elements) shall incur any liability, cost, or expense either (i) in connection with the preparation, execution, or submission of the applications referred to in paragraph (C) hereof; (ii) to any contractor, subcontractor, material person, architect, or engineer on account of any alterations, improvements, additions, or repairs made or caused to be made by any Unit Owner; or (iii) to any Person asserting any claim for personal injury or property damage arising therefrom. Any Unit Owner making any alterations, improvements, additions, or repairs, or causing any of the same to be made, in or to the Unit and appurtenant Tower Limited Common Elements, if any, shall agree (in a writing executed and delivered to the Condominium Board, if the Condominium Board shall so request), and shall be deemed to agree (in the absence of such writing), to indemnify and hold the Condominium Board, the Members of the Condominium Board, the officers of the Condominium, the Managing Agent and all other Unit Owners harmless from and against any such liability, cost and expense.

(E) In addition to the requirements set forth above in this Section 5.2, until a Permanent Certificate of Occupancy is obtained for the Building, no Residential Unit Owner shall make any alterations in or to the Residential Unit or its appurtenant Common Elements without first notifying Sponsor in writing and complying with Sponsor's requirements with respect to the alterations. Such requirements may include, but need not be limited to, the requirements that:

(i) such work not include any change that would result in a delay in obtaining a TCO or PCO for the Building, or any amendment to, or extension of, the TCO or PCO if theretofore issued;

(ii) the Residential Unit Owner post a bond or other similar security that is reasonably acceptable to Sponsor in any amount sufficient (in Sponsor's reasonable judgment) to insure the diligent completion of the work and the filing of any required notices or certificates with all governmental authorities having jurisdiction with respect to such work and the completion of the work;

(iii) such work not be commenced until the Residential Unit Owner causes all required plans, specifications, notices and/or certifications to be filed with all governmental authorities having jurisdiction, procures all required permits and licenses with respect to the same, and delivers copies of all such plans, specifications, notices, certifications, permits and licenses to Sponsor;

(iv) such work be diligently prosecuted to completion in compliance with all plans, specifications, notices and/or certifications and in conformity with all permits and licenses;

(v) Sponsor and its representatives shall be given reasonable opportunity, from time to time, to inspect such work as it progresses;

(vi) promptly after the completion of such work, all necessary inspections and approvals of the work shall be obtained, all necessary notices and/or certifications shall be filed with the appropriate governmental authorities and Sponsor shall be given a copy of all such inspections, approvals, notices and certifications;

(vii) the Residential Unit Owner shall indemnify and hold Sponsor harmless from any cost, expense, claim, or liability arising, directly or indirectly, from such work, including, without limitation, any cost, expense, claim, or liability incurred or suffered by Sponsor due to any violation of Law or due to any delay in obtaining a TCO or PCO for the Building (or any amendment to, or extension of, the TCO or PCO if theretofore issued) as a result of such work or the failure to make all appropriate governmental filings in connection with same; and

(viii) all contractors shall be duly licensed to the extent required by applicable Law and, if required under any contract with any union whose members are performing services at the Building (including, without limitation, services directly or indirectly at the behest, for the benefit, or for the account of Sponsor, any other Unit Owner, or the Condominium Board), such work shall be performed solely by union members.

If any Residential Unit Owner commences any such alterations in violation of the foregoing terms and conditions, or fails to comply with the reasonable requirements of Sponsor in connection with the alterations, Sponsor shall be entitled to cause such work by the Residential Unit Owner to be halted, including, without limitation, to cause the Managing Agent to deny access to the Building to the Residential Unit Owner's workers and suppliers, until the Residential Unit Owner complies with the same. During the period until the Residential Unit Owner is permitted hereunder to resume its work, Sponsor shall have the right to perform any and all work in and to the Residential Unit as shall be necessary, in Sponsor's sole judgment, in order to avoid any delay in obtaining a TCO or PCO for the Building (or any amendment to, or extension of, the TCO or PCO), whether or not such work shall be in compliance with the plans and specifications for the work theretofore performed by, or on behalf of, such Residential Unit Owner. The cost and expense of any such work performed by Sponsor shall be borne by such Residential Unit Owner and shall be paid to Sponsor within 15 days of Sponsor's written demand therefor.

Section 5.3 *Alterations, Additions, or Improvements to the Common Elements.* Except as otherwise provided in the Declaration or in these By-Laws, all necessary or desirable alterations, additions, or improvements in or to any of the Common Elements shall be made by the Condominium Board, and the cost and expense thereof shall constitute a General Common Expense attributable to all Unit Owners, if relating to the General Common Elements, or a Residential Common Expense attributable to all Residential Unit Owners, if relating to the Residential Common Elements and/or Tower Limited Common Elements. Notwithstanding the foregoing, however, whenever the cost and expense of such alterations, additions, or improvements would, in the judgment of the Condominium Board, exceed \$500,000 with respect to the General Common Elements or the Residential Common Elements and/or the Tower Limited Common Elements, at any one time, in any fiscal year, such proposed alterations, additions or improvements shall not be made unless first approved by the Unit Owners if relating to the General Common Elements, or the Residential Unit Owners, if relating to the Residential Common Elements and/or the Tower Limited Common Elements (including Sponsor if Sponsor then owns any Unsold Residential Unit) owning 66 2/3% of the aggregate Common Interests or Residential Common Interests, as applicable, at a duly constituted meeting of the Unit Owners or the Residential Unit Owners, as applicable, and by the Mortgage Representatives, if any. Except as otherwise provided in the Declaration and in these By-Laws, all such alterations, additions, or improvements costing \$500,000 or less, in any fiscal year may be made as aforesaid without the approval of either the Unit Owners or any Mortgage Representatives. Notwithstanding the foregoing, no additions, alterations, or improvements shall be made to any of the Common Elements, regardless of the cost thereof, unless the prior written consent of Sponsor is first obtained, provided, however, that Sponsor's written consent is not necessary if such additions, alterations, or improvements to the Common Elements is required to (i) comply with Law; or (ii) remedy any notice of violation; or (iii) remedy any work order of the Condominium's issuer. In no event will the limitations imposed in the preceding sentence continue beyond the earlier to occur of (i) 5 years from the First Closing, or (ii) until such time as Sponsor no longer owns Residential Units having an aggregate Common Interest of 10% or less.

Section 5.4 *Insurance.*

(A) If the same shall be obtainable and maintainable at commercially reasonable rates, the Condominium Board, at or prior to the First Closing, shall obtain, and shall maintain in full force and effect, insurance against loss customarily included in so-called Special Causes of Loss or Special Form Perils property insurance written with Replacement Costs and Agreed Amount Endorsements, including building collapse and such other insurable hazards as, under good insurance practices from time to time, are insured against for other property and buildings similar to the Building in use, location, height, and type of construction. Such insurance policy shall also insure costs of demolition and increased cost of construction, including, without limitation, increased costs arising out of changes in applicable laws and codes regulating reconstruction following a loss (which insurance for demolition and increased cost of construction shall be in an amount not less than \$10,000,000), insuring the General Common Elements, and covering the interests of the Condominium, the Condominium Board, all Unit Owners, all Permitted Mortgagees (as a group) and all Registered Mortgagees, as their respective interests may appear. In addition, the Special Causes of Loss property insurance shall also provide flood (including sewer backup) and earth movement coverage, which flood and earthquake coverages may contain a sublimit per occurrence and in the annual aggregate in an amount not less than \$25,000,000. The amount of such "All Risk" insurance shall be not less than 100% of the aggregate replacement cost value of the General Common Elements (without deduction for depreciation), and such insurance shall include Extra Expense and Expediting Expense coverage in such amounts as the Condominium Board, from time to time, may determine. Each such insurance policy shall contain a removal or waiver of the co-insurance provisions and a replacement cost endorsement. Such coverage shall include coverage for the (other than the bare walls and bare ceilings (i.e., sheetrock only, no paint or wallcoverings), and bare floors (i.e., plywood or concrete only, no wood, stone or other material)) of the Units but shall not include any Unit, or any fit-out work, additions, alterations, fixtures,

improvements, furnishings, betterments and improvements, decorations, appliances and other personal property within any Unit; Each of the said policies shall contain:

(i) waivers of (a) subrogation and (b) any defense based upon co-insurance or other insurance;

(ii) a provision that any adjustment of loss will be made by the Condominium Board and that all proceeds thereof shall be paid to either the Condominium Board or the Insurance Trustee, as provided in Section 5.5 hereof;

(iii) a New York standard mortgagee clause in favor of each Permitted Mortgagee, which shall provide that the proceeds thereof shall be paid to such Permitted Mortgagee as its interest may appear, subject, however, to the loss payment provisions in favor of the Condominium Board and the Insurance Trustee set forth in subparagraph (ii) above and in Section 5.5 hereof; and

(iv) a provision that such policy may not be either canceled or substantially modified except upon at least 30 days prior written notice to the Condominium Board.

Duplicate originals or certificates of insurance of all such policies and of all renewals thereof, together with proof of payment of premiums, shall be on file at the office of the Managing Agent. Copies thereof shall be delivered to any Unit Owner or Permitted Mortgagee on written request thereof.

(B) The Condominium Board, at or prior to the First Closing, shall also obtain and maintain, to the extent it deems practicable:

(i) rent insurance;

(ii) worker's compensation and New York State disability benefits insurance;

(iii) If not included in the coverage described in Section 5.4 (A), boiler and machinery insurance;

(iv) water damage insurance;

(v) directors and officers errors and omissions insurance with respect to the Condominium Board;

(vi) crime insurance and bonds covering all officers, directors and employees of the Condominium and Managing Agent;

(viii) commercial umbrella insurance; and

(ix) Commercial General Liability policy of insurance form ISO CG 001 07 98 (which includes water damage insurance), or equivalent liability coverage, covering claims for bodily injury or property damage arising out of any occurrence on the Property and listing as additional insureds (a) the Condominium Board and each Member thereof, (b) the Managing Agent or manager (if any), (c) each officer and employee of the Condominium and (d) each Unit Owner (except that such insurance shall not cover any liability of a Unit Owner arising from occurrences within such Unit Owner's Unit or its appurtenant Tower Limited Common Elements (if any) or Storage Bin (if any)); and

(x) such other insurance as the Condominium Board shall from time to time determine.

Each of the aforementioned policies of insurance shall also cover cross-liability claims of one insured against another.

(C) All policies of insurance to be maintained by the Condominium Board shall contain such limits as the Condominium Board shall from time to time determine, provided, however, that:

(i) with respect to insurance policies maintained by the Condominium Board pursuant to paragraph (A) hereof, the coverage shall be in an amount equal to not less than 80% of the full replacement cost of the Building, excluding the interior fit-out of the Units, exclusive of footings and foundations, without deduction for depreciation, as approved by a fire insurance company, a qualified insurance broker, or another qualified source;

(ii) with respect to insurance policies maintained by the Condominium Board pursuant to subparagraph (i) of paragraph (B) hereof, such policies shall contain single limits of not less than \$1,000,000 in the aggregate; and

(iii) with respect to insurance policies maintained by the Condominium Board pursuant to subparagraph (ii) of paragraph (B) hereof, the coverage shall be in an amount equal to the aggregate of all of the Unit Owners' Common Charges for one year.

Any insurance policies maintained by the Condominium Board may also provide for such deductible amounts as the Condominium Board shall determine. The Condominium Board shall review the limits of each insurance policy, as well as the amount of any deductible sum thereunder, at least once each year.

(D) The cost of all insurance maintained by the Condominium Board pursuant to this Section 5.4, together with the fees and disbursements of any Insurance Trustee appointed by the Condominium Board pursuant to the terms of these By-Laws, shall be borne by the Unit Owners as a General Common Expense or by the Residential Unit Owners as a Residential Common Expense, depending on the item to which the coverage relates.

(E) For so long as Sponsor owns at least 1 Unsold Unit, unless Sponsor's prior written consent is obtained, the Condominium Board must maintain, at a minimum, the types and coverage amounts of insurance set forth in the First Year's Budget.

(F) Unit Owners are required to carry other insurance, at their expense, in amounts determined by the Condominium Board in its sole discretion, insuring the interior fit-out and contents of their Units, the Tower Limited Common Elements appurtenant thereto, if any, and any Storage Bins as well as liability insurance with respect to acts occurring therein. All such policies shall contain waivers of subrogation and provide that the liability of the carriers issuing the insurance maintained by the Condominium Board shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner. For so long as Sponsor owns at least 1 Unsold Residential Unit, any change or elimination of such requirement may only be made upon Sponsor's prior written consent.

Section 5.5 *Casualty or Condemnation.*

(A) In the event that either (i) the Building or any part thereof is damaged or destroyed by fire or other casualty ("Casualty Loss") or (ii) the General Common Elements and/or Residential Common Elements and/or Limited Residential Common Expense, or any part thereof is taken in condemnation or by eminent domain ("Taking"), the net insurance proceeds payable under the insurance policies maintained by the Condominium Board pursuant to the terms of Section 5.4 hereof by reason of such Casualty Loss or the net condemnation awards receivable by reason of such Taking, as the case may be, shall be payable either to the Condominium Board, if the same shall be \$1,000,000 or less in the aggregate, or to the Insurance Trustee, if the same shall exceed \$1,000,000 in the aggregate. In either instance, all such monies actually received ("Trust Funds") shall be held in trust for the benefit of all Unit Owners, with respect to the portion thereof allocated to

a Casualty Loss to or Taking of the General Common Elements and the Units, and for the benefit of all Residential Unit Owners with respect to the portion thereof allocated to a Casualty Loss to or Taking of the Residential Common Elements, the Tower Limited Common Elements and the Residential Units, and their Permitted Mortgagees and shall be disbursed pursuant to the terms of this Section 5.5. Notwithstanding anything to the contrary contained either in this paragraph (A) or elsewhere in this Section 5.5, however, no Unit Owner whose Unit, its appurtenant Tower Limited Common Elements, if any, or any portion thereof are taken in condemnation or by eminent domain (whether or not all or a part of the Common Elements are contemporaneously taken) shall be deemed to have waived whatever rights that the Unit Owner may have to pursue a separate claim against the condemning authority by reason thereof.

(B) Subject to the terms of paragraph (D) hereof, the Condominium Board shall arrange for the prompt repair or restoration ("Work") of: (i) in the event of a Casualty Loss, the portion(s) of the Building affected by such Casualty Loss, or (ii) in the event of a Taking, the portion(s) of the Common Elements or the Units affected by such Taking. If, pursuant to the immediately preceding sentence, Work is to be performed in or to Units, Common Elements that service or enclose Units and other Common Elements, or any combination of the foregoing, the Work shall be performed to the extent practicable, first in or to the Units, next in or to the Common Elements that service or enclose Units and then in or to the balance of the Common Elements. Each Unit Owner whose Unit, its appurtenant Tower Limited Common Elements, if any, or any portion thereof, shall be the subject of all or part of any Work shall have the right subject to the terms of Section 5.2 hereof, to supervise any redecorating of the Unit or of such Limited Residential Common Element, if any.

(C) In the event that Work shall be performed pursuant to the terms of paragraphs (B) and (D) of this Section 5.5, the Condominium Board or the Insurance Trustee, as the case may be, shall disburse the Trust Funds to the contractors engaged in the Work in appropriate progress payments. If the Trust Funds shall be less than sufficient to discharge the cost and expense of performing the Work, the Condominium Board shall levy a Special Assessment against all Unit Owners for the amount of such deficiency in proportion to their respective Common Interests, for Work to the General Common Elements and against all Residential Unit Owners, and all proceeds of such Special Assessment shall become part of the Trust Funds. If, conversely, the Trust Funds shall prove to be more than sufficient to discharge the cost and expense of performing the Work, such excess shall be paid to all Unit Owners in proportion to their respective Common Interests, with respect to Work to the Common Elements, except that no payment shall be made to a Unit Owner until there has first been paid, out of such Unit Owner's share of such excess, such amounts as may be necessary to reduce unpaid liens on the Unit Owner's Unit (other than mortgages that are not Permitted Mortgages) in the order of priority of such liens. Notwithstanding the foregoing, however, in the event that the Unit Owners are assessed pursuant to the terms of the second sentence of this paragraph (C) for any projected deficiency in the amount of the Trust Funds available to the Condominium Board and, after the payment of all costs and expenses incurred in connection with the Work, any portion of the Trust Funds remaining unspent, such excess Trust Funds shall, to the extent of such Special Assessment, be deemed to be, and shall constitute, an unspent Special Assessment and shall be paid to the Unit Owners so assessed in proportion to their respective Common Interests, with respect to Work to the Common Elements, free of any claim of any lienor (including without limitation, any Permitted Mortgagee).

(D) If either 75% or more of the Building is destroyed or substantially damaged by fire or other casualty or 75% or more of the Common Elements are taken in a Taking, the Work shall not be performed unless 75% or more of all Unit Owners (including Sponsor if Sponsor shall then own any Units), in aggregate Common Interests, shall promptly resolve to proceed with the same. In the event that a sufficient number of Unit Owners shall so resolve, the Work shall be performed pursuant to the terms of paragraphs (B) and (C) hereof. Conversely, in the event that a sufficient number of Unit Owners shall either fail or refuse to so resolve, the Work shall not be performed and the Property shall be subject to an action for partition by any Unit Owner or lienor, as if owned in common, in which event the net proceeds of the resulting sale, together with any Trust Funds, shall be paid to all Unit Owners in proportion to their respective Common Interest, to the extent allocated

to destroyed or damaged portions of the General Common Elements and to all Residential Unit Owners in proportion to their respective Residential Common Interest, to the extent allocated to destroyed or damaged portions of the Residential Units or the Residential Common Elements or the Tower Limited Common Elements, and to a Retail Unit Owner, to the extent allocated to destroyed or damaged portions of a Retail Unit, except that no payment shall be made to a Unit Owner until there first has been paid, out of such Unit Owner's share of such funds, such amounts as may be necessary to pay off any Permitted Mortgage and other unpaid liens on the Unit Owner's Unit in the order of priority of such liens. Notwithstanding anything to the contrary set forth herein, any action to terminate the legal status of the Condominium after substantial destruction or a Taking shall require the written consent (which consent shall not be unreasonably withheld or delayed) of the Permitted Mortgagees representing at least fifty-one (51%) percent of the Common Interests of all Units which are subject to Permitted Mortgages or by a majority of the Mortgage Representatives, if any. The Condominium Board shall not be required to take any action to obtain the consent of the Permitted Mortgagees or Mortgage Representatives as set forth in this Section 5.5(D) other than the requirements set forth in Section 8.7 of these By-Laws. The provisions of this Section 5.5(D) may not be amended, modified or deleted without the prior written consent of Sponsor for so long as Sponsor continues to own at least 1 Unsold Residential Unit.

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

(F) If (i) a portion of any Unit shall be taken in condemnation or by eminent domain and (ii) the Condominium shall not be terminated by reason of a simultaneous Taking pursuant to the terms of paragraph (D) hereof, the Common Interest and Residential Common Interest, where applicable, appurtenant to such Unit shall be adjusted in the proportion that the total floor area of such Unit and its appurtenant Tower Limited Common Elements, if any, after such Taking bears to the total floor area of such Unit and its appurtenant Tower Limited Common Elements, if any, prior to such Taking. The Condominium Board shall promptly prepare and record an amendment to the Declaration reflecting the new Common Interest and new Residential Common Interest, where applicable, appurtenant to such Unit, which amendment shall be executed by the owner of such Unit together with the holders of record of any liens thereon (or, in lieu of execution by such Unit Owner and lienors, the same may execute a consent to such amendment in recordable form). Following the Taking of a portion of a Unit and the recording of the aforementioned amendment to the Declaration, the votes appurtenant to such Unit shall be based upon the new Common Interest and new Residential Common Interest, where applicable, of such Unit, and, in the event of a Taking of an entire Unit, the right to vote appurtenant to such Unit shall wholly terminate. In either event, the Common Interests and Residential Common Interest, where applicable, of the other remaining Units shall be adjusted accordingly and reflected in a duly filed amendment to the Declaration duly executed and acknowledged by the Condominium Board and the owners of all of the other or remaining Units together with the holders of the Permitted Mortgages.

(G) As used in this Section 5.5, the terms:

(i) "Prompt repair or restoration" shall mean that the Work is to be commenced not more than either: (a) 60 days after the date upon which the Insurance Trustee notifies the Condominium Board that it has received Trust Funds sufficient to discharge the estimated cost and expense of the Work, or (b) 90 days after the date upon which the Insurance

Trustee notifies the Condominium Board that it has received Trust Funds insufficient to discharge the estimated cost and expense of the Work, or (c) in the event that the Trust Funds are payable to the Condominium Board pursuant to the terms of paragraph (A) of this Section 5.5, 60 days after the date upon which the Condominium Board notifies the Unit Owners that it has received the Trust Funds, whether or not the same are sufficient to discharge the cost and expense of the Work;. In the event there are insufficient Trust Funds to discharge the estimated cost and expense of the Work, the Condominium Board shall levy a Special Assessment for the amount of such deficiency in accordance with paragraph (C) of this Section 5.5; and

(ii) "Promptly resolve" shall mean that a resolution shall be duly made not more than 60 days after the date upon which the Condominium Board notifies the Unit Owners that it has received the Trust Funds and that the same are or are not sufficient to discharge the estimated cost and expense of the Work, as the case may be.

(H) Any dispute that may arise under this Section 5.5 between Unit Owners or between any Unit Owner(s) and the Condominium Board shall be resolved by arbitration pursuant to the terms of Article 10 hereof.

Section 5.6 *Use of the Property.*

(A) Nothing shall be done or kept in any Unit or in any of the Common Elements that would increase the rate of insurance for the Property, except upon the prior written consent of the Condominium Board. In the event that the rate of insurance for the Property is increased as a direct result of a particular or unique use being made of a Retail Unit, and not as a result of the typical uses for which a Retail Unit may be occupied or for which commercial spaces in similar Building are normally occupied, a Retail Unit Owner shall be obligated to pay the amount of such increase in the rate of insurance. No Unit Owner shall permit anything to be done or kept in a Unit or in the Common Elements that will result in the cancellation of insurance on the Property or the contents thereof, or that would be in violation of any Law. No waste shall be committed in the Common Elements.

(B) Nothing shall be done in any Unit or in, on, or to the Common Elements that will impair the structural integrity of the Property or will structurally change the Building, except as is otherwise provided in the Declaration or in these By-Laws. In no event shall interior partitions contributing to the support of any Unit or the Common Elements be altered or removed.

Section 5.7 *Use of the Units.*

(A) In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the use of Units shall be restricted to, and shall be in accordance with, the terms contained in the balance of this Section 5.7 and the provisions of Article 8 of the Declaration.

(B) Subject to the terms of paragraphs (C) and (D) of this Section 5.7, each Residential Unit shall be used for residential purposes only, including permitted "home occupation" as defined in the Zoning Resolution and not more than one family may occupy a Residential Unit at any one time; and each Retail Unit may be used for any purpose permitted by Law. A Residential Unit owned or leased by an individual, corporation, partnership, limited liability company, fiduciary, or any other entity (including, but not limited to, any federal or state agency, any foreign government and any embassy, consulate or other official representative thereof) may only be occupied (unless the Condominium Board otherwise consents in writing) by such individual, or by an individual officer, director, stockholder, or employee of such corporation, or by an individual partner or employee of such partnership, or a member of such limited liability company, or by such individual fiduciary (including directors, officers, stockholders, or employees of corporate fiduciaries and partners or employees of partnership fiduciaries), or by an individual beneficiary of said fiduciary, or by an individual principal or employee of such other entity, respectively, or by Family Members and guests of any of

the foregoing (and nothing herein contained shall be deemed to prohibit the exclusive occupancy of any such Residential Unit by such Family Members). Notwithstanding the foregoing, Sponsor (with respect to the Unsold Tower Units) or the Condominium (with respect to sold Tower Units) may, in their respective sole discretion, permit Persons other than those set forth above to occupy such Residential Unit. In no event, however, shall a portion of a Residential Unit (as opposed to the entire Residential Unit) be sold, conveyed, leased, or subleased. All Residential Unit Owners are prohibited from smoking in or around any of the General Common Elements, Residential Common Elements, Tower Limited Common Elements, and within all Units. The use of the Residential Units is subject to all Laws.

(C) The Condominium Board may, in its sole discretion, consent to the use of a Tower Unit as a professional or business office or for any purpose other than that set forth in paragraph (B) hereof, provided that the nature and manner of such use is permitted by, and complies with Law (including the provisions of Real Property Tax Law Section 421-a) and does not violate the TCO or PCO covering the Building. Any such consent shall be in writing and shall be personal to such Residential Unit Owner. Any lessee of, or successor in title to, such Residential Unit Owner shall be required to obtain the prior written consent of the Condominium Board before using such Residential Unit for any purpose other than that set forth in paragraph (B) hereof. No use other than a residential dwelling unit may be permitted with respect to an Affordable Unit.

(D) Notwithstanding anything to the contrary contained in this Section 5.7, Sponsor may, without the consent of either the Condominium Board or the Unit Owners:

(i) grant permission for the use of any Unsold Tower Unit as a professional or business office or for any other purpose, provided that the nature and manner of such use complies with Law and the user thereof complies with all applicable governmental regulations; and

(ii) use any one or more Unsold Tower Units as model Units and offices for the sales promotion, rental, management and operation of the Unsold Residential Units or for any other purpose, subject only to compliance with Law.

Section 5.8 *Use of the Common Elements.*

(A) Subject to the terms of paragraphs (B) and (C) of this Section 5.8, the Common Elements (including, without limitation, the electrical, heating, gas, plumbing and other mechanical systems and equipment of the Building and the Facilities) may be used only for the furnishing of the services and facilities, and for the other uses, for which they are reasonably suited and capable. In addition, no furniture, packages, or objects of any kind shall be placed in the lobbies, vestibules, public halls, stairways, public elevators, or any other part of the Common Elements (except for those areas designated as Storage Bin Areas) without the prior written consent of the Condominium Board. The lobbies, vestibules, public halls, stairways and public elevators shall be used only for normal passage through them. Accordingly, all Unit Owners shall require their tradesperson to utilize exclusively the elevator and entrance designated by the Condominium Board for transporting packages, merchandise, or other objects.

(B) The owner or owners of any 2 or more Tower Units, which Residential Units are the only Units serviced or benefited by any Residential Common Element adjacent or appurtenant to such Residential Units (for example, that portion at the end of any residential hallway that is directly adjacent to any such Residential Units located on opposite sides of such hallway) shall, with the consent of the Condominium Board (which consent shall not be unreasonably withheld or delayed), have the right to use such Residential Common Elements exclusively, as if it were a part of such Residential Units (including the right, in the above example of a portion of a hallway, to enclose such portion), and no amendment to the Declaration or reallocation of Common Interests shall be made by reason thereof. In such event, however, such owner or owners shall, at such owner's or their sole cost and expense, shall enter into a license agreement for such use, and, (i) operate, maintain and repair such Residential Common Element for so long as such owner or owners

exercise such exclusive right of use, and (ii) restore such Residential Common Element to its original condition, reasonable wear and tear excepted, after such owner or owners cease to exercise such exclusive right of use.

(C) The terms of paragraph (A) of this Section 5.8 shall not apply to Sponsor for so long as there are any Unsold Residential Units. Sponsor shall have the right, without charge or limitation, to: (i) enter into license agreements; (ii) erect and maintain signs, of any size or content determined by Sponsor on or about any portion of the Common Elements chosen by Sponsor including, the area adjacent to the main entrance of the Building; (iii) have its employees, contractors, subcontractors and sales agents present on the Property; and (iv) do all things necessary or appropriate, including the use of the Common Elements (such as lobbies, corridors and the like), to sell, lease, manage, or operate Unsold Residential Units, to complete any work or repairs to the Building expressly undertaken by Sponsor and to comply with Sponsor's obligations under the Plan and the Condominium Documents. In no event, however, shall Sponsor be entitled to use any Common Elements in such a manner as will unreasonably interfere with the use of any Unit for its permitted purposes.

(D) Sponsor, for so long as Sponsor continues to own any Unsold Tower Unit, and the Condominium Board shall have the right, and the lease, sublease, license, sell or otherwise convey to a Unit Owner any portion of the Common Elements which either Sponsor or the Condominium Board determines is no longer needed for the furnishing of the services and facilities (including reasonable access) for which such Common Elements are reasonably intended. Any revenue received for the sale, leasing, subleasing, licensing or other conveyance of such Common Elements shall be retained solely by Sponsor or the Condominium Board, as applicable.

Section 5.9 *Use of the Storage Bins.*

(A) A Storage Bin may be used only for the storage of personal effects of a Tower Unit Owner, and in no event shall any food or other perishable item, or any flammable or explosive item, or any item which would impose a health or safety threat or cause noxious odors, dirt or other sanitary problems or create a nuisance, be stored therein. Sponsor and Sponsor's designees shall have the right to use any unassigned Storage Bin for any purpose permitted by Law or to change the permitted use of any unassigned Storage Bin, subject, however, to the provisions of the By-Laws. Except for Sponsor, Sponsor's designees and the Condominium Board, a Storage Bin may not be licensed independently of a Tower Unit.

(B) The Condominium Board has the authority to promulgate additional rules regarding the use of, insurance coverage for, and access to the Storage Bins and Storage Bin Areas and the procedures for assigning such Storage Bins including restrictions on the hours of access and use. A Tower Unit Owner may transfer or surrender a Storage Bin License to the Condominium Board which shall be authorized to reissue such Storage Bin License to another Tower Unit Owner for such consideration as the Condominium Board shall deem appropriate.

(C) Sponsor and its designees, may, without the consent of either the Condominium or the Unit Owners, use any Unsold Storage Bin for any purpose, provided such use is permitted by Law, and shall not be required to pay any license fee imposed by the Condominium Board on account of such use.

Section 5.10 *Rights of Access.*

(A) Each Unit Owner shall grant to the Condominium Board, to the Managing Agent or manager (if any), to the non-resident manager or to any other Person authorized by any of the foregoing a right of access (including the right of forced entry if required in the discretion of the party seeking such entry) to the Unit and its appurtenant Tower Limited Common Elements, if any, and any Storage Bin and Storage Bin Area for the purposes of:

(i) making inspections of, or removing violations noted or issued by any governmental authority against, the Common Elements or any other part of the Property;

(ii) curing defaults hereunder or under the Declaration or violations of the Residential Rules and Regulations committed by such Unit Owner or correcting any conditions originating in the Unit and threatening another Unit or all or a portion of the Common Elements;

(iii) performing maintenance, installations, alterations, repairs, or replacements to the structural elements, mechanical or electrical services, or other portions of the Common Elements located within the Unit, Storage Bin or elsewhere in the Building;

(iv) reading, maintaining, or replacing utility meters relating to the Common Elements, to the Unit, or to any other Unit; or

(v) correcting any condition that violates the provisions of any Permitted Mortgage encumbering another Unit.

Except in cases of emergency (that is, a condition requiring repairs or replacement immediately necessary for the preservation or safety of the Building or for the safety of the occupants of the Building or other individuals, or required to avoid the suspension of any necessary service in the Building), the foregoing rights of access shall be exercised only upon not less than 1 day's advance notice and only in such a manner as will not unreasonably interfere with the normal conduct of business of a Retail Unit Owner or other occupants of a Retail Unit or with the use of the Residential Units and their appurtenant Tower Limited Common Elements for their permitted purposes. In cases of emergency, however, such rights of access may be exercised immediately, without advance notice and whether or not the Unit Owner is present.

(B) Each Unit Owner shall grant a right of access to the Unit and its appurtenant Tower Limited Common Elements, if any, and the Condominium Board shall grant rights of access to the Common Elements, to Sponsor and its contractors, subcontractors, agents and employees for the purpose of fulfilling Sponsor's obligations as set forth in the Plan or in any amendment thereto, provided that access thereto shall not be exercised, with respect to any Unit and its appurtenant Tower Limited Common Elements, if any, in such a manner as will unreasonably interfere with the use of such Unit and its appurtenant Tower Limited Common Elements, if any, for their permitted purposes.

(C) Sponsor and its contractors, subcontractors, agents and employees will have a right of access to each Unit and to all of the Common Elements for the purpose of fulfilling Sponsor's obligations under the Plan and performing certain alterations and repairs in or about the Units and the Common Elements. Sponsor will use reasonable efforts in order to exercise such access in such a manner as will not unreasonably interfere with the use of any Unit for its permitted purposes. If reasonable care under the circumstances is exercised to safeguard the Unit Owner's property, such entry shall not render Sponsor or its authorized agents liable for any damage to the Unit or to the personal property or fixtures contained therein.

Section 5.11 *Modification of the Residential Rules and Regulations.* The Condominium Board shall have the right to amend, modify, add to, or delete any of the Residential Rules and Regulations from time to time, provided, however, that any such amendment, modification, addition, or deletion may be overruled by a vote of at least 66 2/3% of all Residential Unit Owners, in number and Common Interest. Copies of the text of any amendments, modifications, additions, or deletions to the Residential Rules and Regulations shall be furnished to all Unit Owners not less than 30 days prior to the effective date thereof. Notwithstanding the foregoing, the Condominium Board shall not have the right to amend, modify, add to, or delete any of the Residential Rules and Regulations if the same would materially or adversely affect Sponsor and/or the Tower DR Unit Owner or a Retail Unit Owner, without the prior written consent of Sponsor or the Tower DR Unit Owner or a Retail Unit Owner, as applicable.

Section 5.12 *Real Estate Taxes.* Unless and until real estate taxes are billed directly to Unit Owners by the City Collector, the Condominium Board shall promptly pay such taxes as a Common Expense. In the event of a proposed sale of any Unit, the Condominium Board (for so long as the Condominium Board is still

paying such real estate taxes) shall, upon the written request of the selling Unit Owner, execute and deliver to the purchaser of such Unit, or to such purchaser's title company, a letter agreeing to promptly pay all such real estate taxes affecting such Owner's Unit to the date of the Closing of Title to such Unit.

Section 5.13 *Fuel.* Unless and until fuel is billed directly to Unit Owners by the supply company, in accordance with and subject to the provisions of the Plan, the cost and expense of fuel (for heating and cooling) serving or benefiting any Unit and/or Common Element shall be: (i) considered part of the expense of maintaining such Unit and/or Common Element, (ii) determined by the Condominium Board, (iii) paid by the Condominium Board, and (iv) charged to: (a) the Unit Owners as a General Common Expense for such portion attributable to the General Common Elements, (b) a Retail Unit Owner as a General Common Expense for such portion attributable to a Retail Unit, and (c) the Residential Unit Owners as a Residential Common Expense for such portion attributable to the Residential Units and/or the Residential Common Elements and/or the Tower Limited Common Elements. In the event there is a particular or unique use being made of a Unit and/or Common Element, the Condominium Board shall cause a new survey to be made the cost of which shall be borne by the Unit Owners as a General Common Expense.

Section 5.14 *Water Charges and Sewer Rents.* Unless and until water is separately metered in a Unit and water charges and sewer rents are billed directly to a Unit Owner by the City Collector, in accordance with and subject to the provisions of the Plan, the cost and expense of water serving or benefiting a Unit and/or Common Element shall be: (i) considered part of the expense of maintaining such Unit and/or Common Element, (ii) determined by the Condominium Board, (iii) paid by the Condominium Board, and (iv) charged to: (a) the Residential Unit Owners as a Residential Common Expense for such portion attributable to the Residential Units and/or Residential Common Elements and/or Tower Limited Common Elements, and (b) the Unit Owners as a General Common Expense for such portion attributable to the General Common Elements. In addition, the cost of submetering shall be a Residential Common Expense if pertaining to Residential Units and a General Common Expense if pertaining to all Units.

Section 5.15 *Electricity.*

(A) Electricity for each Residential Unit and each Retail Unit (including tenants occupying portions of a Retail Unit) shall be either individually direct metered or submetered for each Unit (or portion thereof).

(B) If individually direct metered, each Unit Owner shall be required to pay the billing utility directly for electricity consumed in such Unit Owner's Unit (or portion thereof) and in the Tower Limited Common Elements to which such Residential Unit has exclusive access (if any).

(C) If the Residential Units or the Retail Units are submetered, each Unit Owner shall be required to pay bills for electricity consumed in such Unit Owner's Unit either to the Condominium Board or to the utility company or to the servicing company engaged by the Condominium Board to perform such services all at the direction of the Condominium Board. The Common Expenses shall include fees for administering and servicing the submeters. In the event that a Unit Owner fails to pay for its submetered electricity, the Condominium Board shall be responsible to pay such expense on the Unit Owner's behalf and such electricity charges shall be deemed Common Charges allocable to the defaulting Unit Owner and the Condominium Board shall have a lien for non-payment of the expense as provided in Article 6.5 of these By-Laws.

(D) Electricity for the Residential Common Elements shall be supplied through one or more separate meters therefor and the cost thereof will be paid by the Condominium Board and will be borne by the Residential Unit Owners as Common Charges. In addition, the cost of submetering shall be Residential Common Expense if pertaining to Residential Units and a General Common Expense if pertaining to all Units.

(E) In addition, the cost of submetering shall be a Residential Common Expense if pertaining to Residential Units and a General Common Expense if pertaining to all Units.

(F) Any disputes with respect to submetering rates and billing must be submitted to Arbitration pursuant to Article 10 of these By-Laws.

Section 5.16 *Record and Audits.*

(A) The Treasurer of the Condominium, or the Managing Agent under the supervision of such Treasurer, shall keep full, detailed and accurate records and books of account with respect to the financial affairs of the Condominium, which records and books of account shall include, without limitation, (i) a listing of all receipts of and expenditures by the Condominium Board and the Managing Agent and (ii) a separate listing for each Unit, setting forth, among other things, the amount of each assessment of Common Charges and Special Assessments levied against such Unit, the date when due, the amounts paid thereon and the balance, if any, remaining unpaid, as well as all Permitted Mortgages having an interest in such Unit.

(B) Within 4 months after the end of each fiscal year of the Condominium, the Condominium Board shall submit to each Unit Owner, and, if so requested, to any Permitted Mortgagee, an annual report of the receipts and expenditures of the Condominium prepared and certified by an independent certified public accountant. The cost of preparing and distributing each such report shall be borne by the Condominium Board as a General Common Expense. The fiscal year of the Condominium shall be a calendar year.

**ARTICLE 6
COMMON CHARGES**

Section 6.1 *Determination of Common Expenses and Fixing of Common Charges.*

(A) From time to time, but not less frequently than once a year, the Condominium Board shall: (i) prepare and adopt a budget for the Condominium, subject, in all respects, to the strictures set forth in Section 2.5 hereof; (ii) determine the aggregate amount of Common Charges necessary to be charged to the Unit Owners in order to meet the Common Expenses; and (iii) allocate and assess such Common Charges amongst the Unit Owners in accordance with allocations set forth in the First Year's Budget. The Condominium Board shall advise all Unit Owners promptly thereafter in writing of the amount of Common Charges payable by each of them, not later than 10 days prior to the date upon which the first installment of newly-determined Common Charges is due, shall furnish copies of the budget (in a reasonably itemized form) upon which such Common Charges are based to all Unit Owners and to their respective Permitted Mortgagees whenever requested in writing by such Permitted Mortgagees. Subject to paragraph (E) of this Section 6.1, the Condominium Board may, at its sole discretion, from time to time increase or decrease the amount of Common Charges allocated to the Units and payable by the Unit Owners and may modify its prior determination of the Common Expenses for any fiscal year so as to increase or decrease the amount of Common Charges payable for such fiscal year or portion thereof; however, no such revised determination of Common Expenses shall have a retroactive effect on the amount of Common Charges payable by Unit Owners for any period prior to the date of such new determination. Notwithstanding the foregoing, however, the Condominium Board shall not reduce the Common Charges payable during any fiscal year occurring within the Initial Sponsor Control Period solely as a result of either reducing the number of employees of the Condominium below the number employed (or anticipated in the First Year's Budget) for the Property on the date of recording the Declaration except with Sponsor's prior written consent, or eliminate or reduce the insurance coverage below that provided for the Property on such date, except with the concurrence of a majority of the Members of the Condominium Board elected by Unit Owners other than Sponsor. All Unit Owners will be given a copy of the proposed

annual budget of the Condominium at least 10 days prior to the date set for adoption thereof by the Condominium Board.

(B) The failure or delay of the Condominium Board to prepare or adopt a budget or to determine the Common Expenses for any fiscal year or portion thereof shall not be deemed a waiver or modification in any respect of the covenants and provisions hereof or a release of any Unit Owner from the obligation to pay Common Charges. In such event, the Common Charges that were computed on the basis of the Common Expenses last determined for any fiscal year or portion thereof shall continue thereafter to be the Common Charges payable by the Unit Owners until a new determination of the Common Expenses shall be made.

(C) In addition to the foregoing duty to determine the amount of and assess Common Charges, the Condominium Board shall have the right, subject, in all respects, to the strictures contained in Section 2.5 hereof, to levy Special Assessments to meet the Common Expenses. All Special Assessments relative to the General Common Elements shall be levied against all Unit Owners in proportion to their respective Common Interests and all Special Assessments relative to the Residential Common Elements and/or the Tower Limited Common Elements shall be levied against all Residential Unit Owners in proportion to their Residential Common Interests, except for (i) Special Assessments relating to the Storage Bins, which shall be levied solely against all Unit Owners owning such Storage Bins (except for Sponsor and Sponsor's designees). Special Assessments may be payable either in one lump sum or in installments, as the Condominium Board shall determine, provided, however, that the Condominium Board shall give each Unit Owner not less than 15 days' written notice prior to the date upon which such Special Assessment, or the first installment thereof, shall be due and payable, which notice shall set forth, in reasonable detail, the nature and purpose thereof. The Condominium Board shall have all rights and remedies for the collection of Special Assessments as are provided herein for the collection of Common Charges (including, without limitation, the provisions of Section 6.5 hereof).

(D) The excess of all rents, profits and revenues derived from the rental or use of any space forming a part of, or included in, any, General Common Element, or Residential Common Element remaining after deduction of all expenses incurred in connection with generating the same shall constitute income of the Unit Owners or the Residential Unit Owners, as applicable and shall be collected on behalf of the Unit Owners or Residential Unit Owners, as applicable by the Condominium Board and applied against the General Common Expenses attributable to the General Common Elements, or the Residential Common Expenses attributable to the Residential Common Elements, or the Tower Limited Common Elements, as appropriate for the fiscal year in which collected. In the event that such net rents, profits and revenues, together with the Common Charges and any Special Assessments collected from the Unit Owners, for any year of operation shall exceed the Common Expenses for such year, then such excess shall be applied by the Condominium Board against the General Common Expenses attributable to the General Common Elements, or the Residential Common Expense attributable to the Residential Common Elements or the Tower Limited Common Elements depending on whether the excess relates to the General Common Elements or the Residential Common Elements or the Tower Limited Common Elements for the next succeeding year(s) of operation. No Unit Owner shall be entitled to a distribution of any portion of such excess unless the Condominium Board shall determine to distribute all or part of such excess to all Unit Owners pro-rata, in proportion to their respective Common Interests, or Residential Common Interests, as appropriate and any such distributions must be made out of the Common Charges collected from Unit Owners.

(E) Pursuant to Section 339(m) of the Condominium Act, the Condominium Board has the authority to determine and allocate Common Expenses payable by a Retail Unit Owner in a manner different from the Retail Unit's percentage of Common Interest, including allocating Common Expenses between the Residential Units (in the aggregate) and the Retail Unit on the basis of usage rather than Common Interest. The First Year's Budget sets forth the percentage for each line item, if any, to be paid for by the Residential Units in the aggregate and the Retail Unit, which percentages are deemed presumptive evidence of

reasonableness. The Condominium Board may not modify these allocations with respect to a Retail Unit without the consent of the affected Retail Unit Owner. Any new line items which may be added to the budget by the Condominium Board in the future shall be paid for on the same basis.

(F) Pursuant to Section 339(m) of the Condominium Act, notwithstanding anything set forth in these By-Laws to the contrary, the Condominium Board does not have the authority to allocate any Common Expenses to, or assess any Common Charges against, the Owner of the Tower DR Unit.

Section 6.2 *Payment of Common Charges.*

(A) All Unit Owners (including Sponsor with respect to Unsold Residential Units for so long as the same are owned thereby) shall be obligated to pay Common Charges and Special Assessments assessed by the Condominium Board pursuant to the terms of Section 6.1 hereof at such time or times (but not less than annually) as the Condominium Board shall determine. Unless otherwise determined by the Condominium Board, Common Charges shall be payable in installments on the first day of every month in advance. To the extent permitted by Law, the Condominium Board shall have a lien on each Unit, on behalf of all Unit Owners, for unpaid Common Charges and Special Assessments assessed against such Unit. Such lien, however, shall be subordinate, to the extent required by Law, to any liens for real estate taxes assessed against such Unit and any sums unpaid on a Permitted Mortgage recorded against the Unit.

(B) Notwithstanding anything to the contrary contained in paragraph (A) above, Sponsor shall have the right, in its sole and absolute discretion, to cause the Condominium Board to waive the collection of some or all of the Condominium Common Charges from Unit Owners for a period of time prior to full occupancy of the Building (the "Waiver Period"); provided, however, that Sponsor shall either (a) be solely responsible for payment of all actual expenses to operate the Condominium during the Waiver Period (the "Waiver Period Operating Expenses"), or (b) assess Unit Owners their proportionate share based on their respective Common Interest of the Waiver Operating Expenses. In connection with the Waiver Period, (i) Sponsor will disclose the implementation of such Waiver Period in the amendment to the Plan that discloses the occurrence of the First Closing; (ii) Sponsor will file an amendment to the Plan disclosing the expiration of the Waiver Period at least 30 days prior to such expiration; (iii) during any such Waiver Period, Sponsor or Sponsor and the Unit Owners (if the Waiver Period Operating Expenses are assessed as provided for herein, as applicable), will timely pay all expenses of the Condominium, including but not limited to insurance premiums and any reserve fund payments required by lenders to the extent otherwise included in Schedule B; (iv) upon the commencement of the collection of Common Charges, there will not be an assessment for any item set forth in the approved budget for the Condominium; and (v) Sponsor will remain obligated to update the budget for the Condominium, as provided in the Declaration and this Section 6.2 (B) of the By-Laws.

(C) No Unit Owner shall be liable for the payment of any part of the Common Charges and any Special Assessments assessed against the Unit subsequent to a sale, transfer, or other conveyance by the Unit Owner of such Unit, together with its Appurtenant Interests, made in compliance with the terms of Article 7 hereof. A purchaser or other successor-in-title to the owner of a Unit shall be liable for the payment of all Common Charges and any Special Assessments accrued and unpaid against such Unit prior to such purchaser's acquisition thereof, except that, to the extent permitted by Law, a Permitted Mortgagee, or a designee thereof, acquiring title to a mortgaged Unit or a purchaser at a mortgage foreclosure sale held with respect to a Permitted Mortgage shall not be liable, and such mortgaged Unit shall not be subject to a lien, for the payment of any Common Charges and Special Assessments assessed subsequent to the recording of such Permitted Mortgage and prior to the acquisition of title to such Unit by the Permitted Mortgagee, or a designee thereof, or by such purchaser. However, in the event of a foreclosure of a Permitted Mortgage (whether by sale, deed in lieu of foreclosure, or otherwise), the defaulting Unit Owner shall remain fully liable for the payment of all unpaid Common Charges and Special Assessments that accrued prior to such foreclosure or sale. Any excess proceeds from such foreclosure or sale shall be paid directly to the Condominium Board in

payment of all unpaid Common Charges and Special Assessments. In the case of a Residential Unit, any remaining unpaid Common Charges and Special Assessments that are not collected from such foreclosure sale or from the defaulting Residential Unit Owner shall be deemed a Residential Common Expense, collectible from all those who are Residential Unit Owners at the time the same is levied. In the case of the Retail Unit, any remaining unpaid Common Charges and Special Assessments that are not collected from such foreclosure or sale or from the defaulting Retail Unit Owner shall be deemed a Common Expense, collectible from all those who are Unit Owners at the time that the same is levied.

(D) Subject to the terms and conditions contained in these By-Laws, any Unit Owner may convey the Unit, together with its Appurtenant Interests, to the Condominium Board or to its designee, corporate or otherwise, on behalf of all Unit Owners, without being compensated therefor, and, in such event, be exempt from the payment of Common Charges and Special Assessments thereafter accruing, provided, however, that: (i) all Common Charges and any Special Assessments then due and payable with respect to such Residential Unit have been paid; (ii) such Residential Unit is free and clear of all liens and encumbrances other than a Permitted Mortgage and the statutory lien for unpaid Common Charges and Special Assessments; and (iii) no violation of any provision of the Condominium Documents then exists with respect to such Residential Unit. However, in no event shall Sponsor be permitted to convey any Unsold Residential Unit to the Condominium Board and thereby exempt itself from Common Charges and any Special Assessments attributable to such Residential Unit thereafter accruing unless the aggregate Residential Common Interests then appertaining to the Unsold Residential Units constitute 15% or less of the total Residential Common Interests then appertaining to all Residential Units, at least five years shall have elapsed from the date of the First Closing and, at the time of conveyance, Sponsor shall pay to the Condominium Board an amount equal to the product of the then current monthly Common Charges for the Unsold Residential Unit(s) being conveyed multiplied by 24.

(E) No Unit Owner shall be exempted from liability for the payment of Common Charges or Special Assessments by waiving the use or enjoyment of any or all of the Common Elements or by abandoning the Unit (except with respect to a conveyance of the same to the Condominium Board, without compensation, pursuant to the terms of paragraph (C) hereof). Except as expressly provided to the contrary in paragraph (E) of Section 5.5 hereof, no Unit Owner shall be entitled to a diminution or abatement in the Common Charges or Special Assessments payable thereby for any inconvenience or discomfort arising from: (i) the failure or interruption of any utility or other services; (ii) the making of repairs or improvements to the Common Elements or any Unit (including, without limitation, such Unit) pursuant to the terms of Section 5.1, 5.2, or 5.3 hereof; or (iii) any action taken by the Condominium Board or the officers of the Condominium to comply with Law.

Section 6.3 *Statement of Common Charges.* The Condominium Board shall promptly provide a written statement of unpaid Common Charges due from any Unit Owner upon its receipt of a written request therefor from such Unit Owner.

Section 6.4 *Common Charge Deposit for Foreign Owners.* Any Unit Owner that is a foreign government, a resident representative of a foreign government or such other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity) shall deposit with the Condominium Board an amount equal to two (2) times the then current annual Common Charges for such Unit, subject to increase from time to time as such Common Charges increase, together with the full amount of any Special Assessment levied against, or allocable to, such Unit, as security for the faithful observance by such Unit owner of the terms, provisions and conditions of these By-Laws. In the event that such Unit Owner defaults in respect of the terms, provisions and conditions of these By-Laws, the Condominium Board may use, apply or retain the whole or any part of the security so deposited, to the extent required for the payment of any Common Charges or any other sum to which such Unit Owner is in default. If the Condominium Board applies or retains any part of said security, the Unit Owner in question, within ten (10) days after notice from the Condominium Board, shall deposit with the Condominium Board the amount

so applied or retained so that such Condominium Board has the full amount of said security on hand at all times.

Section 6.5 *Default in Payment of Common Charges.*

(A) The Condominium Board shall take prompt action to collect any Common Charges due to the Condominium Board that remain unpaid for more than 10 days after the due date for the payment thereof, including, but not limited to the imposition of late charges, notice fees and the institution of such actions for the recovery of interest and expenses as provided in this Article 6. All costs and expenses incurred by the Condominium Board (including attorneys' fees) as a result of its attempt to collect unpaid Common Charges and/or Special Assessments shall be borne by the Unit Owner and shall constitute Common Charges payable by such Unit Owner. In connection therewith, the Condominium Board shall have the right and obligation to (i) cause liens for all sums due and owing to the Condominium Board to be filed in the Register's Office pursuant to the terms of Section 339-z of the Condominium Act, (ii) with respect to Tower Units and Retail Units only, cause such liens to be foreclosed in the manner provided in Section 339-aa of the Condominium Act and/or to institute all other proceedings deemed necessary or desirable by the Condominium Board to recover all such unpaid Common Charges, together with all additional sums of money collectible by the Condominium Board by reason of such nonpayment pursuant to the terms of paragraph (B) hereof. A suit to recover a money judgment for unpaid Common Charges, however, shall be maintainable without foreclosing or waiving the lien securing such charges.

(B) In the event that any Unit Owner shall fail to make prompt payment of Common Charges, such Unit Owner shall be obligated to pay: (i) interest thereon at the rate of 1.5% per month of such unpaid amounts (less any late "charges" theretofore collected), to be computed from the due date thereof until paid in full, together with all costs and expenses paid or incurred by the Condominium Board, the Managing Agent, or the manager (if any) in connection with collecting such unpaid Common Charges with interest as aforesaid and/or in foreclosing the aforementioned lien, including, without limitation, attorneys' fees and disbursements and court costs; (ii) a late charge of \$150 per month for Common Charges which remain unpaid for more than 10 days after the date when due, plus all expenses of collection including but not limited to attorneys' fees, in such amount as may be determined by the Condominium Board from time to time, to be computed from the due date thereof until paid in full. In addition, if the Condominium Board shall bring an action to foreclose the aforementioned lien, the defaulting Unit Owner will be required to pay a reasonable rental for the use of the Unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. All such late charges, interest, costs and expenses and rentals shall be added to and shall constitute Common Charges payable by such Unit Owner.

(C) In any action brought by the Condominium Board to foreclose a lien because of unpaid Common Charges, the Condominium Board shall have, on behalf of all Unit Owners, the power to purchase such Unit at the foreclosure sale thereof and to acquire, hold, lease, mortgage, convey, or otherwise deal with such Unit (but not to vote the votes appurtenant to the same). In the event that the net proceeds received on such foreclosure (after deduction of all legal fees and disbursements, advertising costs, brokerage commissions, court costs and other costs and expenses paid or incurred in connection therewith) shall be insufficient to satisfy the defaulting Unit Owner's obligations to the Condominium, such Unit Owner shall remain liable for the deficit. Any surplus on such foreclosure shall be paid to the defaulting Unit Owner after first paying all liens on such Unit Owner's Unit in the order of priority of such liens.

(D) If the Unit Owner shall at any time lease the Unit and shall default in the payment of any Common Charges or additional Common Charges, the Condominium Board may, at its option, so long as such default shall continue, demand and receive from the tenant the rent due or becoming due from such tenant to the Unit Owner, and apply the amount to pay sums due and to become due from the Unit Owner to the Condominium. Any payment by a tenant to the Condominium shall constitute a discharge of the obligation of such tenant to the Unit Owner, to the extent of the amount so paid. The acceptance of rent from any tenant

shall not be deemed a consent to or approval of any leasing by the Unit Owner, or a release or discharge of any of the obligations of the Unit Owner hereunder. In the event the tenant fails to pay the rent to the Condominium after demand by the Condominium Board, the Condominium Board shall have the right to commence summary eviction proceedings in the name of or on behalf of the Unit Owner, against the tenant. All costs and expenses incurred by the Condominium Board (including attorneys' fees) in connection therewith, shall be borne by the Unit Owner and shall constitute Common Charges payable by such Unit Owner.

ARTICLE 7

SELLING AND LEASING OF UNITS AND ASSIGNMENT OF STORAGE BIN LICENSES

Section 7.1 *General.* Subject to the terms of Section 7.5 hereof, and Section 7.12 hereof with respect to the selling and leasing of Affordable Units during the term of the AHC Grant Enforcement Note and Mortgage and/or the Partnership Restrictive Declaration, each Residential Unit Owner may (i) sell the Residential Unit, and (ii) lease the Residential Unit for periods of not less than 12 months nor more than 5 years at any one time, provided however, that no Residential Unit Owner may lease a portion of the Residential Unit (as opposed to the entire Residential Unit Owner) nor may sell or lease the Residential Unit except in compliance with the applicable provisions of this Article 7 and the policies and procedures established by the Condominium Board. Any purported sale or lease consummated in default in the applicable terms hereof shall be voidable at the sole election of the Condominium Board, and, if the Condominium Board shall so elect, the selling or renting Residential Unit Owner shall be deemed to have authorized and empowered the Condominium Board to institute legal proceedings to eject the purported purchaser (in the event of an unauthorized sale) or to evict the purported tenant (in the event of an unauthorized lease) in the name of such Residential Unit Owner. Such Residential Unit Owner shall reimburse the Condominium Board for all costs and expenses paid or incurred in connection with such proceedings, including, without limitation, attorneys' fees and disbursements and court costs.

Section 7.2 *Right of First Refusal.*

(A) Subject to the terms of Sections 7.5, 7.9 and 7.12 hereof, any contract to sell a Residential Unit together with its Appurtenant Interests and any lease of a Residential Unit ("Contract of Sale" or "Lease") shall contain the following language: "THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER ARE HEREBY MADE EXPRESSLY SUBJECT TO THE RIGHTS IF ANY, OF THE CONDOMINIUM BOARD OF THE CONDOMINIUM WITH RESPECT TO THE TRANSACTION EMBODIED HEREIN PURSUANT TO THE TERMS OF SECTIONS 7.2 AND 7.3 OF THE BY-LAWS OF THE CONDOMINIUM, AS THE SAME MAY HAVE BEEN AMENDED." Promptly after any such bona fide Contract of Sale or Lease shall be fully executed, the Residential Unit Owner executing the same ("Offeree Unit Owner") shall send written notice thereof to the Condominium Board by certified or registered mail, return receipt requested, which notice shall be accompanied by a fully executed, original counterpart of the Contract of Sale or Lease as the case may be, containing all of the terms offered in good faith by the prospective purchaser or tenant ("Outside Offeror").

(B) The sending of the notice referred to in paragraph (A) of this Section 7.2 shall constitute an offer by the Offeree Unit Owner to sell the Residential Unit, together with its Appurtenant Interests, or to lease the Residential Unit, as the case may be, to the Condominium Board or to its designee, corporate or otherwise, on behalf of all Residential Unit Owners, subject, however, to any variance therefrom provided in Section 7.3 hereof. The giving of such notice shall further constitute a representation and warranty by the Offeree Unit Owner to the Condominium Board, on behalf of all Unit Owners, that such Offeree Unit Owner believes the Contract of Sale or Lease to be bona fide in all respects. Thereafter, upon the written demand of the Condominium Board, the Offeree Unit Owner shall submit to the Condominium Board, in writing, such further information with respect to the Outside Offeror and the Contract of Sale or Lease as the Condominium Board may reasonably request.

(C) The Condominium Board may elect, by sending written notice thereof to the Offeree Unit Owner by certified or registered mail not later than 30 days (in the event of a proposed sale) and 30 days (in the event of a proposed lease) after receipt of the notice referred to in paragraph (A) hereof together with such further information as may have been requested pursuant to the terms of paragraph (B) hereof, to purchase such Residential Unit together with its Appurtenant Interests or to lease such Residential Unit, as the case may be (or to cause the same to be purchased or leased by its designee, corporate or otherwise) on behalf of all Residential Unit Owners upon the same terms and conditions as were contained in the Contract of Sale or Lease and stated in the response(s) by the Offeree Unit Owner to any requests for additional information pursuant to the terms of paragraph (B) hereof. Notwithstanding anything to the contrary contained herein, however, the Condominium Board shall not exercise any option set forth in this Section 7.2 to purchase or lease any Residential Unit without the prior approval of a Majority of all Unit Owners.

(D) The Condominium Board may not discriminate against any person on the basis of race, creed, color, sex, sexual orientation, disability, marital status, age, ancestry, national origin or other ground proscribed by Law in connection with its exercise of its right of first refusal with respect to the sale or rental of a Unit.

Section 7.3 *Acceptance of Offer.*

(A) In the event that the Condominium Board shall elect, within the time and in the manner provided in Section 7.2 hereof, to purchase a Residential Unit together with its Appurtenant Interests, to lease such Residential Unit, or to cause the same to be purchased or leased by its designee, title shall close or a lease shall be executed, in either event in accordance with the terms of the Contract of Sale or Lease, at the office of the attorneys for the Condominium Board within 60 days after the day upon which the Condominium Board shall give notice of its election to accept such offer.

(B) If such Residential Unit and its Appurtenant Interests are to be purchased by the Condominium Board or its designee on behalf of all Residential Unit Owners, such purchase may be made from the funds deposited in the capital and/or expense accounts of the Condominium. If the funds in such accounts are insufficient to effectuate such purchase, the Condominium Board may levy a Special Assessment against each Residential Unit Owner (other than the Offeree Unit Owner) in accordance with the terms of paragraph (C) of Section 6.1 hereof and/or the Condominium Board may, in its discretion, finance the acquisition of such Residential Unit; provided, however, that no such financing may be secured by an encumbrance on or a hypothecation of any portion of the Property other than the Residential Unit to be purchased together with its Appurtenant Interests. In addition, if the Outside Offeror was to assume or to take title to the Residential Unit subject to the Offeree Unit Owner's existing mortgage or mortgages pursuant to the Sale Agreement, the Condominium Board may purchase the Residential Unit and assume or take title thereto subject to such mortgage or mortgages as the case may be. At the Closing of Title, the Offeree Unit Owner shall convey the Residential Unit, together with its Appurtenant Interests, to the Condominium Board or to its designee, on behalf of all Residential Unit Owners, by deed in the form required by Section 399-o of the Condominium Act with all tax and/or documentary stamps affixed at the expense of the Offeree Unit Owner, who shall also pay all other transfer taxes arising out of such sale (including, if applicable, all New York State and New York City Real Property Transfer Taxes) notwithstanding any terms of the Contract of Sale to the contrary. Real estate taxes, mortgage interest (if applicable) and Common Charges shall be apportioned between the Offeree Unit Owner and the Condominium Board or its designee as of the Closing date, notwithstanding any terms of the Contract of Sale to the contrary. Thereafter, such Residential Unit shall be held, so long as the same is owned by the Condominium Board or its designee, on behalf of all Residential Unit Owners, as tenants-in-common, and all such Unit Owners shall be deemed to have waived all rights of partition with respect to such Residential Unit and the entire Property, as herein provided.

(C) In the event that such Residential Unit is to be leased by the Condominium Board or its designee on behalf of all Residential Unit Owners, the Offeree Unit Owner shall execute and deliver to the

Condominium Board or such designee a lease covering such Residential Unit by and between the Offeree Unit Owner, as landlord, and the Condominium Board or such designee, as tenant. Such lease shall be in the then current form of apartment lease recommended by the Real Estate Board of New York, Inc. or similar industry organization, and shall contain all of the terms and conditions of the Lease Agreement not in conflict with such form of lease, including, without limitation, the rental and term provided for therein. Notwithstanding anything to the contrary set forth hereinabove or in the Lease, such lease shall expressly provide that the Condominium Board or such designee may enter into a sublease of the premises demised thereunder without consent of the landlord.

Section 7.4 *Failure to Accept Offer.*

(A) In the event that the Condominium Board shall fail to accept an offer made pursuant to the terms of Section 7.2 hereof within the respective times set forth in paragraph (C) thereof, the Offeree Unit Owner shall be free to consummate the transaction embodied in the Contract of Sale or Lease within 60 days after (i) notice of refusal is sent to the Offeree Unit Owner by the Condominium Board or (ii) the expiration of the period within which the Condominium Board or its designee might have accepted such offer, as the case may be. If the Offeree Unit Owner shall fail to consummate the transaction embodied in the Contract of Sale or Lease within such 60 day period, then, should the Offeree Unit Owner thereafter elect to sell such Residential Unit together with its Appurtenant Interests or to lease such Unit, the Offeree Unit Owner shall be required again to comply with all of the terms and provisions of Section 7.2, 7.3 and 7.4 hereof, but not more often than once in any 12 month period, except the Condominium Board, in its sole discretion, shall have the right to waive this requirement.

(B) Any deed of a Residential Unit and its Appurtenant Interests to an Outside Offeror shall expressly provide that the acceptance thereof by the grantee shall constitute an assumption of all of the terms of the Condominium Documents, and, in the absence of such express language, the same shall be conclusively deemed to have been included herein.

(C) Each lease of a Residential Unit to an Outside Offeror shall be in the then current form of apartment lease recommended by the Real Estate Board of New York, Inc. or similar industry organization, subject to such modifications as may be approved in writing by the Condominium Board or such other form approved in writing by the Condominium Board. Notwithstanding the foregoing, however, each such lease shall be consistent with the Condominium Documents and shall expressly provide that:

(i) such lease may not be amended, modified, or extended without the prior written consent of the Condominium Board in each instance;

(ii) the tenant thereunder shall not assign the tenant's interest in such lease or sublet the premises demised thereunder or any part thereof without the prior written consent of the Condominium Board in each instance; and

(iii) the Condominium Board shall have the power to terminate such lease and/or to bring summary proceedings to evict the tenant in the name of the landlord thereunder in the event of (a) a default by the tenant in the performance of its obligations under such lease or (b) a foreclosure of the lien granted by Section 339-z of the Condominium Act.

Section 7.5 *Termination of, and Exceptions to, the Right of First Refusal.*

(A) A certificate executed and acknowledged by the Secretary of the Condominium or the Managing Agent, stating that the provisions of Section 7.2 hereof have been met by a Residential Unit Owner or that the right of first refusal provided for therein has been duly released or waived by the Condominium Board and that, as a result thereof, the rights of the Condominium Board thereunder have terminated, shall be conclusive upon the Condominium Board and all Unit Owners in favor of all persons who

rely upon such certificate in good faith. After the due issuance of such a certificate, the Residential Unit to which the same shall relate, together with its Appurtenant Interests, may be sold, conveyed, or leased free and clear of the terms and conditions contained in Section 7.2 hereof. The Condominium Board shall furnish or cause the Managing Agent to furnish without charge, such certificate upon written request to any Residential Unit Owner in respect to whom the provisions of Sections 7.2 hereof have, in fact, been terminated. In no event, however, shall the right of first refusal described in Section 7.2 hereof be deemed released or waived by the Condominium Board (as opposed to satisfied pursuant to the express terms of Sections 7.2, 7.3 and 7.4 hereof) in the absence of the certificate that has been duly executed, acknowledged and issued by the Secretary of the Condominium or the Managing Agent as aforesaid.

(B) The terms and conditions contained in Section 7.2, 7.3 and 7.4 hereof shall not apply with respect to any sale, lease or conveyance of a Residential Unit, together with its Appurtenant Interests, by:

(i) the Residential Unit Owner thereof, except for an Affordable Unit Owner during the term of the AHC Grant Enforcement Note and Mortgage and/or the Partnership Restrictive Declaration to any adult Family Members, to any combination of the same, or to a trust for the benefit of any of them (in which case the Condominium Board shall have the right to review the trust documents and provide for such terms and restrictions on such transfer as the Condominium Board deems advisable), provided, however, that if the succeeding Residential Unit Owner is an infant or a person judicially declared incompetent of managing affairs, then such Residential Unit shall be held by the personal representative of such infant or incompetent, or in the case of a Residential Unit Owner that is not an individual, to any entity or individual that owns more than 50% of the legal and beneficial interests of such Residential Unit Owner or to any entity with respect to which such Residential Unit Owner (individual or otherwise) owns more than 50% of the legal and beneficial interest thereof:

(ii) Sponsor;

(iii) the Condominium Board;

(iv) any proper officer conducting the sale of a Residential Unit in connection with the foreclosure of a mortgage or other lien covering such Residential Unit or delivering a deed in lieu of such foreclosure; or

(v) any Permitted Mortgagee or its nominee, who has acquired title to any Residential Unit at any foreclosure sale of its Permitted Mortgage or by deed in lieu thereof delivered in a bona fide transaction;

(vi) a Retail Unit Owner; or

(vii) the Tower DR Unit Owner;

(C) provided, however, that each succeeding Residential Unit Owner shall be bound by, and the Residential Unit shall be subject to, all of the terms and conditions of this Article 7.

(D) The terms and conditions contained in Section 7.2, 7.3, 7.4 and 7.7 hereof shall not apply with respect to any sale, lease or conveyance of a Retail Unit or the Tower DR Unit, together with its respective Appurtenant Interests.

Section 7.6 *No Severance of Ownership.* No Unit Owner shall execute any deed or other instrument conveying title to the Unit without including therein its Appurtenant Interests, it being the intention to prevent any severance of such combined ownership. Any deed or other instrument purporting to affect one or more such interests shall be taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the Appurtenant Interests of any Unit may be sold,

conveyed, or otherwise disposed of, except as part of a sale, conveyance, or other disposition of the Unit to which such interests are appurtenant or as part of a sale, conveyance, or other disposition of such part of the Appurtenant Interests of all Units. Nothing contained in this Section 7.6, however, shall prohibit the lease of any Unit without the simultaneous lease of its Appurtenant Interests.

Section 7.7 *Payment of Common Charges and Fees.* No Unit Owner shall be permitted to convey or lease the Unit unless (i) the Unit Owner shall have paid in full to the Condominium Board all unpaid Common Charges and Special Assessments theretofore assessed against such Unit and shall have satisfied all unpaid liens, other than that of Permitted Mortgages, levied against such Unit and (ii) paid in full all fees charged by the Condominium Board and/or the Managing Agent in connection with the sale or rental of Residential Units, including, without limitation, any working capital fund contribution imposed by the Condominium Board. However, where the payment of such unpaid Common Charges and/or Special Assessments is made by the grantee or provided for out of the proceeds of the sale, a sale may take place notwithstanding the foregoing. Notwithstanding the foregoing, the imposition of any fees by the Condominium Board and/or the Managing Agent in connection with the sale or rental of Residential Units shall not apply to the sale lease, sublease, license or conveyance of a Residential Unit by the reasons set forth in subsections 7.5(B) (ii), (iii), (iv), (v), (vi) and (vii) of this Article 7.

Section 7.8 *Power of Attorney.* At the time of acquiring title to a Unit and as a condition thereof, the new Unit Owner shall duly execute, acknowledge and deliver to the representative of the title insurance company (or, if no such representative is present, to the Condominium Board) for recording in the Register's Office (at such Unit Owner's sole cost and expense), the Unit Owner's Power of Attorney required in Article 14 of the Declaration, substantially in the form set forth as Exhibit F to the Declaration.

Section 7.9 *Gifts and Devises, Etc.* Any Unit Owner, except for Affordable Unit Owners during the term of the AHC Grant Enforcement Note and Mortgage and/or the Partnership Restrictive Declaration, shall be free to convey or transfer the Unit, together with its Appurtenant Interests, by gift, or to devise the same by will or to have the same pass by intestacy, without restriction, provided, however, that each succeeding Unit Owner shall be bound by, and the Unit shall be subject to, the provisions of this Article 7.

Section 7.10 *Commencement of Time.* The period of time set forth in Section 7.2 for which the Condominium Board has to waive its right of first refusal shall not commence until such time as the Condominium Board or its managing agent has received a completed sales or lease package, including all fees set forth therein, as the case may be, from a Residential Unit Owner. If the information provided by the Unit Owner or prospective purchaser or tenant, as the case may be, is incomplete, the Condominium Board shall have the right to request additional information and the 30 day period will commence on receipt by the Condominium Board of the additional information.

Section 7.11 *Costs and Expenses.* All costs and expenses incurred by the Condominium Board, including, without limitation, attorneys' fees and disbursements paid or incurred by the Condominium Board or by its Managing Agent in connection with any action taken by the Condominium Board with regard a violation of this Article 7, shall be borne by the Unit Owner as an Additional Common Charge.

Section 7.12 *Sales and Leasing of Affordable Units.*

(A) Affordable Unit Owners are prohibited from leasing their respective Units during the term of the AHC Grant Enforcement Note and Mortgage. However, after the satisfaction or expiration of the AHC Grant Enforcement Note and Mortgage (i.e., 10 years), but during the remaining 15 years of the term of the Partnership Restrictive Declaration, Affordable Unit Owners may, with the prior approval of the Partnership, lease their respective Units for not more than a total of 2 years out of the 4 year period preceding the termination date of the proposed lease, to a tenant who otherwise qualifies as an Eligible Purchaser (i.e., a 125% AMI Household) at a rent that does not exceed 30% of 125% of AMI, adjusted for family size. In the event of a dispute between the AHC Grant Enforcement Note and Mortgage, the Partnership Restrictive

Declaration, the 421-a Restrictive Declaration and this Section 7 of the By-Laws, the AHC Grant Enforcement Note and Mortgage, the Partnership Restrictive Declaration, and the 421-a Restrictive Declaration shall control. In addition, each Affordable Unit Owner shall comply with the sales and leasing restrictions set forth in the AHC Grant Enforcement Note and Mortgage and/or the Partnership Restrictive Declaration recorded against such Affordable Unit, for so long as the AHC Grant Enforcement Note and Mortgage and/or the Partnership Restrictive Declaration is in force and effect with respect to such Unit. Each contract for the resale of an Affordable Unit shall provide that such contract is subject to the Condominium Board's rights, as provided in this Article 7. All resales of an Affordable Unit by an Affordable Unit Owner while the AHC Grant Enforcement Note and Mortgage and/or the Partnership Restrictive Declaration encumbers such Affordable Unit shall be made exclusively to persons with an annual household income of not more than 125% of AMI at a resale price that shall not exceed the purchase price of the Affordable Unit at the Initial Affordable Unit Sale ("Initial Affordable Unit Sale Price"), plus an adjustment for inflation, as defined herein. The "adjustment for inflation" shall be calculated by multiplying the Initial Affordable Unit Sale Price by a fraction, the numerator of which shall be the Consumer Price Index ("CPI") for the calendar month immediately preceding the date of such adjustment, and the denominator of which shall be the CPI in effect at the Initial Affordable Unit Sale. CPI shall mean the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, New York, New York Northeastern New Jersey Area, All Items (1982-84=100), or any successor index thereto, appropriately adjusted. If the CPI ceases to be published, and there is no successor thereto, such other reasonably similar index as is designated by the Condominium Board shall be substituted for the CPI. For the purpose of calculating the resale price of an Affordable Unit, the Initial Affordable Unit Sale Price shall not include closing costs that were paid or payable in connection with such Initial Affordable Unit Sale. The Condominium Board shall determine and approve the eligibility of all Affordable Unit resale purchasers and the resale purchase price of all Affordable Units in accordance with the By-Laws contemporaneously with the Condominium Board's exercise or waiver of its right of first refusal.

(B) In addition to the foregoing, an Affordable Unit purchaser shall be required to execute an Affordable Unit Restrictive Declaration and Agreement at the Initial Affordable Unit Sale, which shall be recorded against such Unit in the Register's Office. The Affordable Unit Restrictive Declaration and Agreement provides that upon the first sale of an Affordable Unit by an Affordable Unit Owner (or qualified successor) to a bona fide purchaser after the satisfaction of, or the later to occur of the expiration of the term of the AHC Grant Enforcement Note and Mortgage or the Partnership Restrictive Declaration encumbering such Affordable Unit ("First Post-Restriction Sale"), the Affordable Unit Owner (or qualified successor) shall pay to Sponsor, or Sponsor's successors, 60% of the "Net Proceeds" of such First Post-Restriction Sale ("Grantor's Portion of Net Proceeds"), calculated as set forth herein. "Net Proceeds" shall mean the amount, if any, by which the gross sales price of such Affordable Unit at the First Post-Restriction Sale exceeds the sum of (i) the Initial Affordable Unit Sale Price for the Affordable Unit and (ii) the transfer taxes paid by the seller at the First Post-Restriction Sale. The Grantor's Portion of the Net Proceeds shall be payable to Sponsor, or Sponsor's successors, regardless of any intermediate sales or transfers of the Affordable Unit that may have occurred between the Initial Affordable Unit Sale and the First Post-Restriction Sale. If the Condominium Board is the owner of such Unit after the expiration of the term of the AHC Grant Enforcement Note and Mortgage or the Partnership Restrictive Declaration, the foregoing shall apply to the Condominium Board. The provisions of this Section 7.12 may not be amended without the prior written consent of Sponsor.

Section 7.13 *Sale or Lease of a Retail Unit and the Tower DR Unit.*

(A) A Retail Unit Owner and the Tower DR Unit Owner may sell, lease or convey a Retail Unit or the Tower DR Unit, as applicable, without the consent of the Condominium Board, the Managing Agent, the other Unit Owners or any other Person.

(B) Any proper officer conducting the sale of a Retail Unit or the Tower DR Unit in connection with the foreclosure of a mortgage or other lien covering such Unit or delivering a deed in lieu of

such foreclosure, or any Permitted Mortgagee or its nominee, who has acquired title to any Unit at any foreclosure sale of its Permitted Mortgage or by deed in lieu thereof in a bona fide transaction shall have the same rights as a Retail Unit Owner and the Tower DR Unit Owner to sell or lease such Unit as provided in paragraph (A) above.

(C) Upon the written request of a Retail Unit Owner, the Condominium Board shall deliver to a Retail Unit Owner or any designee, a statement ("Estoppel Certificate") indicating that a Retail Unit Owner is current in its payment of all amounts due under the Declaration and the By-Laws, that no written notice of default has been sent to such requesting party and to the knowledge of the Condominium Board, no such default exists. Any such statement may be relied upon by any mortgagee or purchaser of a Retail Unit. In addition, upon the written request of a Retail Unit Owner or the Tower DR Unit Owner, as applicable, accompanied by such documentation as is reasonably sufficient to allow the Condominium Board to proceed as hereinafter described, the Condominium Board will enter into a non-disturbance and attornment agreement ("Non-Disturbance Agreement") in a form reasonably satisfactory to such requesting Unit Owner with any tenant ("Tenant") of a Retail Unit Owner or the Tower DR Unit Owner, as applicable, which provides that: (i) the Tenant shall be entitled to continued undisturbed possession of such Unit or portion thereof leased by such Tenant, (ii) the Tenant's rights and privileges under the lease for such Unit or portion thereof ("Lease") shall not be diminished or interfered with by the Condominium Board for any reason whatsoever during the term of the Lease or any extensions or renewals thereof, and (iii) except as provided in the last paragraph of this paragraph (C), the Condominium Board will not join the Tenant as a party defendant in any action or proceeding to foreclose upon the Unit or to enforce any rights or remedies of the Condominium Board under the Declaration and By-Laws which would cut-off, destroy, terminate or extinguish the Lease, provided that (a) the Tenant is not in default (beyond any applicable grace periods) in the payment of rent or additional rent or in the performance or observance of any of the other terms, covenants, provisions or conditions of the Lease, (b) the Tenant is not in default of any of the provisions of the Declaration and By-Laws, both at the time of the request and at the time of execution of the Non-Disturbance Agreement, (c) the Lease is in full force and effect, (d) the Tenant attorns to the Condominium Board and pays to the Condominium Board, all rentals and other monies due and to become due to a Retail Unit Owner or the Tower DR Unit Owner, as applicable, under the terms of the Lease but (with respect to a Retail Unit only) only to the extent of a percentage of the unpaid Common Charges due from a Retail Unit Owner equal to the percentage of the total square footage of a Retail Unit leased by such Tenant, it being understood that without affecting the Tenant's rights and protection afforded by the Non-Disturbance Agreement, the Tenant shall not be required to pay any rentals or other monies otherwise due or to become due to a Retail Unit Owner or the Tower DR Unit Owner, as applicable to the Condominium Board if such payment is prohibited by the terms of any non-disturbance agreement granted to such Tenant by the mortgagee of any such Retail Unit or the Tower DR Unit, as applicable, holding a first mortgage on such Retail Unit or the Tower DR Unit as applicable. The Non-Disturbance Agreement shall be executed by the Tenant and the Condominium Board and prepared by the Condominium Board at the expense of the Unit Owner requesting the Non-Disturbance Agreement, which expense shall be limited to reasonable actual out-of-pocket expenses incurred by the Condominium Board, including attorneys' fees and disbursements.

Notwithstanding the foregoing, if it would be procedurally disadvantageous for the Condominium Board not to name or join the Tenant in a foreclosure proceeding with respect to a Retail Unit, the Condominium Board may name or join the Tenant without in any way diminishing or otherwise affecting the rights and privileges granted to, or inuring to the benefit of, the Tenant under this Article.

Section 7.14 *Assignment of Storage Bin Licenses.*

(A) Except for Sponsor and Sponsor's designees, no Tower Unit Owner shall be permitted to assign, convey or lease any Storage Bin to anyone other than a Tower Unit Owner. A Storage Bin License may be assigned by a Tower Unit Owner at any time (and not subject to any right of first refusal by the Condominium Board) provided (i) the assignee is another Tower Unit Owner at the Condominium; (ii) the

assignee assumes the obligations under the Storage Bin License; (iii) notification of the assignment is promptly delivered to the Condominium Board in compliance with its requirements; and (iv) all unpaid Common Charges and Special Assessments and other obligations due to the Condominium have been paid in full.

(B) If the Condominium Board terminates a Storage Bin License or a Tower Unit Owner surrenders a Storage Bin License without assigning the Storage Bin License to another Tower Unit Owner, the Condominium Board shall have the right to issue a new Storage Bin License for the Storage Bin to another Tower Unit Owner, in its sole discretion and the surrendering Tower Unit Owner shall not be entitled to any compensation.

ARTICLE 8 MORTGAGING OF UNITS

Section 8.1 *General.* Each Unit Owner shall have the right to mortgage the Unit, subject only to the terms and conditions contained in Section 8.2 hereof. Any Unit Owner who mortgages the Unit, or the holder of such mortgage, shall supply the Condominium Board with the name and address of the mortgagee and shall file a conformed copy of the note and mortgage with the Condominium Board. Any Unit Owner who satisfies a mortgage covering the Unit shall so notify the Condominium Board and shall file a conformed copy of the satisfaction of mortgage with the Condominium Board. The Secretary of the Condominium shall maintain such information in a book entitled "Mortgages of Units." The terms and conditions contained in this Section 8.1, however, shall not apply to Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, as applicable.

Section 8.2 *Restrictions on Mortgaging.*

(A) No Unit Owner shall be permitted to mortgage, pledge, or hypothecate the Unit unless and until the Unit Owner shall have paid in full to the Condominium Board all unpaid Common Charges and Special Assessments theretofore assessed against such Unit and shall have satisfied all unpaid liens, except the liens of Permitted Mortgages levied against such Unit.

(B) No Unit Owner shall execute any mortgage or other document mortgaging, pledging, or hypothecating title to the Unit without including therein its Appurtenant Interests, it being the intention to prevent any severance of such combined ownership. Any mortgage or other instrument purporting to affect one or more of such interests without including all such interests shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein.

(C) Any mortgage covering a Unit shall be substantially in the form used by any Institutional Lender.

(D) Any mortgage covering a Unit shall be made by an Institutional Lender, Sponsor, or by a Unit Owner providing purchase money financing in connection with the sale of the Unit.

Section 8.3 *Notice of Unpaid Common Charges and Default.* The Condominium Board shall promptly report to Permitted Mortgagee any default by the Permitted Mortgagee's mortgagor in the payment of Common Charges or Special Assessments for more than 60 days or whenever requested in writing by a Permitted Mortgagee any default by the Permitted Mortgagee's mortgagor in the observance or performance of any of the provisions of the Condominium Documents as to which the Condominium Board has knowledge then exists. The Condominium Board shall, when giving notice to a Unit Owner of any such default, also send a copy of such notice to the Permitted Mortgagee, if so requested. However, the Condominium Board shall have no liability for any failure, through oversight or negligence, in notifying a Permitted Mortgagee of any default by the mortgagor under the Condominium Documents, provided that (i) the Condominium Board shall advise such Permitted Mortgagee of the default promptly after discovering such failure and (ii) if the Condominium Board shall foreclose a lien on such mortgagor's Unit Pursuant to the terms

of Section 6.5 hereof by reason of such default, the Condominium Board shall pay to such Permitted Mortgagee any net proceeds of any foreclosure sale of such Unit (after retaining all sums due and owing to the Condominium Board pursuant to the Condominium Documents) or such lesser sum as shall be due and owing to such Permitted Mortgagee.

Section 8.4 *Performance by Permitted Mortgagees.* Any sum of money to be paid or any act to be performed by a Unit Owner pursuant to the terms of the Condominium Documents may be paid or performed by the Permitted Mortgagee, and the Condominium Board shall accept such Permitted Mortgagee's payment or performance with the same force and effect as if the same were paid or performed by such Unit Owner.

Section 8.5 *Examination of Books.* Each Permitted Mortgagee shall be permitted to examine the books of account of the Condominium at reasonable times on Business Days, but not more frequently than once a month.

Section 8.6 *Consent of Mortgagees; Designation of Mortgage Representatives.*

(A) Except as otherwise expressly provided for herein or in the Declaration, no consent or approval by any mortgagee shall be required with respect to any determination or act of the Condominium Board or any Unit Owner, provided, however, that nothing contained herein shall be deemed to limit or affect the rights of any mortgagee against Unit Owner's mortgagor. In the event that any such consent or approval shall be expressly required pursuant to the terms of the Declaration or these By-Laws, the decision of a majority of the Mortgage Representatives, if any are designated pursuant to the terms of paragraph (B) of this Section 8.6, shall be deemed binding upon the holders of all mortgages encumbering Units.

(B) The holders of Institutional Mortgages constituting a majority in principal amount of all Institutional Mortgages may, if they so elect, designate not more than 3 Mortgage Representatives by giving written notice thereof to the Condominium Board, which Mortgage Representatives shall thereby be empowered to act as the representatives of the holders of all mortgages encumbering Units with respect to any matter requiring the consent or approval of mortgagees under the Declaration or these By-Laws. Any designation of a Mortgage Representative pursuant to the terms of this paragraph (B) shall be effective until any successor Mortgage Representative is designated pursuant to the terms hereof and written notice thereof is given to the Condominium Board. Unless otherwise required by Law, no holders of mortgages (which are not Institutional Mortgages) shall be entitled to participate in the designation of Mortgage Representatives, but all holders of mortgages encumbering Units shall be subject to all determinations made by the Mortgage Representatives pursuant to the terms of the Declaration or these By-Laws.

Section 8.7 *Notice to Permitted Mortgagees.*

(A) Whenever requested by a Permitted Mortgagee, the Condominium Board shall provide timely written notice to such Permitted Mortgagee of (i) any condemnation or casualty loss that affects either (x) a material portion of the Condominium or (y) a material portion of a Unit, (ii) a lapse, cancellation or material modification of any insurance policy maintained by the Condominium, and (iii) any proposed action by the Condominium Board that requires the consent of a specified percentage of Permitted Mortgagees or the approval of the majority of the Mortgage Representatives.

(B) In no event, however, shall the Condominium Board (including its members, officers, agents, attorneys and employees) and Unit Owners be liable for any claims or liabilities and expenses for any failure, through oversight or negligence, in giving a Permitted Mortgagee any notice required under (A) above. Nonetheless, the Condominium Board shall give such missed notice with reasonable promptness after discovering such failure.

(C) Where the consent of the Permitted Mortgagees or Mortgage Representatives is required pursuant to the terms of the Declaration or By-Laws, if the Permitted Mortgagees or Mortgage

Representatives fail to respond within 60 days after written receipt of the required consent, delivered by either certified or registered mail, "return receipt" requested, the implied approval of such Permitted Mortgagees or Mortgage Representative shall be assumed.

ARTICLE 9 CERTAIN REMEDIES

Section 9.1 *Self Help.* If any Unit Owner shall violate or breach any of the provisions of the Condominium Documents on Unit Owner's part to be observed or performed, including, without limitation, any breach of Unit Owner's obligation to paint, decorate, maintain, repair, or replace the Unit or its appurtenant Tower Limited Common Elements, if any, pursuant to the terms of Article 5 hereof, and shall fail to cure such violation or breach within 5 days after receipt of written notice of the same from the Condominium Board, the Managing Agent, or any manager (or, with respect to any violation or breach of the same not reasonably susceptible to cure within such period, to commence such cure within such 5 day period and, thereafter, to prosecute such cure with due diligence to completion), the Condominium Board shall have the right to enter such Unit Owner's Unit and/or its appurtenant Tower Limited Common Elements, if any, and summarily to abate, remove, or cure such violation or breach without thereby being deemed guilty or liable in any manner of trespass. In addition, in the event that the Condominium Board shall determine that the abatement, removal, or cure of any such violation or breach is immediately necessary for the preservation or safety of the Building or for the safety of the occupants of the Building or other individuals or is required to avoid the suspension of any necessary service in the Building, the Condominium Board may take such action immediately, without prior notice and without allowing the said Unit Owner any period of time within which to cure or to commence to cure such violation or breach.

Section 9.2 *Abatement and Enjoyment.*

(A) In the event that any Unit Owner shall violate or breach any of the provisions of the Condominium Documents on Unit Owner's part to be observed or performed, the Condominium Board shall have the right (i) to enter any Unit or Common Elements in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition resulting in such violation or breach and the Condominium Board shall not thereby be deemed guilty or liable in any matter of trespass, and/or (ii) to enjoin, abate, or remedy the continuance or repetition of any such violation or breach by appropriate proceedings brought either at law or in equity, provided that the Condominium Board gives the Unit Owner notice (which may be by telephone or in writing) that such violation exists, that repairs or replacements are necessary and that the Condominium Board will complete such repairs or replacements in the event the Unit Owner does not promptly act or complete the repairs or replacements, and/or (iii) to levy such fines and penalties as the Condominium Board may deem appropriate, and the Condominium Board shall have the same remedies for non-payment of such fines and penalties as for non-payment of Common Charges.

(B) The violation or breach of any of the terms of the Condominium Documents with respect to any rights, easements, privileges, or licenses granted to Sponsor or a Retail Unit Owner or the Tower DR Unit Owner shall give to Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, as applicable the right to enjoin, abate, or remedy the continuation or repetition of any such violation or breach by appropriate proceedings brought either at law or in equity.

Section 9.3 *Remedies Cumulative.* The remedies specifically granted to the Condominium Board or to Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, as applicable in this Article 9 or elsewhere in the Condominium Documents shall be cumulative, shall be in addition to all other remedies obtainable at law or in equity and may be exercised at one time or at different times, concurrently or in any order, in the sole discretion of the Condominium Board or Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, as the

case may be. Further, the exercise of any remedy shall not operate as a waiver, or preclude the exercise, of any other remedy.

Section 9.4 *Costs and Expenses.* All sums of money expended, and all costs and expenses incurred, by (i) the Condominium Board in connection with the abatement, enjoinder, removal, or cure of any violation, breach, or default committed by a Unit Owner pursuant to the terms of Section 9.1 or paragraph (A) of Section 9.2 hereof or (ii) Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, as applicable, in connection with any abatement, enjoinder, or remedy of any violation or breach of the Condominium Documents pursuant to the terms of paragraph (B) of Section 12.2 hereof, shall be immediately payable by (a) in the event set forth in subparagraph (i) hereof, such Unit Owner to the Condominium Board or (b) in the event set forth in subparagraph (ii) hereof, the offending party (i.e., the Condominium Board or the Unit Owner) to Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, as the case may be, which amount shall, in either event, bear interest (to be computed from the date expended) at the rate of 2% per month (but in no event in excess of the maximum rate chargeable to such Unit Owner pursuant to Law). All sums payable by a Unit Owner to the Condominium Board pursuant to the terms of this Section 9.4 shall, for all purposes hereunder, constitute Common Charges payable by such Unit Owner.

ARTICLE 10 ARBITRATION

Section 10.1 *Procedure.* Any dispute arising out of or relating to the Declaration or these By-Laws shall be submitted to "Expedited Arbitration." Expedited Arbitration means a binding arbitration proceeding (i) held in New York County before a retired judge or justice of a court of the State of New York, or a neutral attorney licensed to practice and practicing in the State of New York or other person not employed by or affiliated with Sponsor or a Member or officer of the Condominium Board and reasonably acceptable to the Condominium Board (the "Arbitrator"), (ii) administered by JAMS, NAMS or other private alternative dispute resolution provider selected by the Condominium Board which is not affiliated with Sponsor or a Member or officer of the Condominium Board (the "ADR Provider") and (iii) conducted, to the extent consistent with the Declaration and these By-Laws, in accordance with the then prevailing rules and expedited procedures of the ADR Provider (the "ADR Rules"). Accordingly, by submitting to Expedited Arbitration the parties to the dispute shall be deemed to have waived the right to bring suit in court concerning disputes under the Declaration or these By-Laws and agree to accept the Arbitrator's decision as final, and since there is generally no right to appeal and the right of the parties to the dispute to be represented by counsel and to submit data, memoranda and similar material in support of their respective positions, and the ability of the parties to obtain documents, witness statements and other discovery may be more limited in Expedited Arbitration than in court proceedings. After hearing the dispute, the Arbitrator shall be obligated to render a determination (the "Award") within the applicable time period under the ADR Rules for the rendering thereof.

Section 10.2 *Binding Effect.* The decision in any arbitration conducted pursuant to the terms of Section 10.1 and 10.2 hereof shall be binding upon all of the parties thereto and may be entered in any court of appropriate jurisdiction.

Section 10.3 *Costs and Expenses.*

(A) The fees, costs and expenses of the Arbitrator shall be borne by the losing party in the Arbitration or, if the position of neither party to the dispute shall be substantially upheld by the Arbitrator, such fees, costs and expenses shall be borne equally by the disputants. Each disputant shall also bear the fees and expenses of disputant's counsel and expert witnesses.

(B) All costs and expenses paid or incurred by the Condominium Board in connection with any Arbitration held hereunder, including, without limitation, the fees and expenses of counsel and expert witnesses, shall constitute General Common Expenses, to be borne by all Unit Owners, if such Arbitration

relates to the Units, generally, or to the General Common Elements, and shall constitute Residential Common Expenses, to be borne by all Residential Unit Owners if such Arbitration relates solely to the Residential Units or the Residential Common Elements or the Tower Limited Common Elements.

ARTICLE 11 NOTICES

Section 11.1 *General.* All notices required or desired to be given hereunder (except for notices of regular annual or special meetings of the Residential Unit Owners and except all meetings of the Condominium Board) shall be sent by registered or certified mail, return receipt requested, postage prepaid addressed:

- (i) if to the Condominium Board, to the Condominium Board at its principal office as set forth in Section 1.5 hereof, with a copy sent by regular first class mail to the Managing Agent (if any) at its principal office address as aforesaid;
- (ii) if to a Unit Owner other than Sponsor, to such Unit Owner at Unit Owner's address at the Property;
- (iii) if to Sponsor, to Sponsor at its principal office as set forth in the Plan;
- (iv) if to a Permitted Mortgagee, to such Permitted Mortgagee at its latest address designated in writing to the Condominium Board.

Any of the foregoing parties may change the address to which notices are to be sent, or may designate additional addresses for the giving of notice, by sending written notice to the other parties as aforesaid. All notices sent pursuant to the terms of this Section 11.1 shall be deemed given when mailed in the State of New York, provided, however, that notices of change of address, notices designating additional addresses and notices deposited in a United States Postal Service depository located outside of the State of New York shall be deemed to have been given when received.

Section 11.2 *Waiver of Service of Notice.* Whenever any notice is required to be given by Law or pursuant to the terms of the Condominium Documents, a waiver thereof in writing, signed by the Persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

ARTICLE 12 AMENDMENTS TO BY-LAWS

Section 12.1 *General.*

(A) Subject to the terms of paragraph (B) hereof and subject, further, to any provisions contained in the Declaration or these By-Laws with respect to any amendments ("Special Amendments") affecting or in favor of Sponsor, a Retail Unit Owner, a Retail Unit, the Tower DR Unit Owner, the Tower DR Unit and/or any Permitted Mortgagee, any provision of these By-Laws affecting the (i) General Common Elements or all Unit Owners may be added to, amended, modified or deleted by the affirmative vote of at least 66 2/3% in number and Common Interest of all Unit Owners; and (ii) Residential Common Elements or all Residential Unit Owners may be added to, amended, modified or deleted by affirmative vote of at least 66 2/3% in number and Residential Common Interest of all Residential Unit Owners, either taken at a duly constituted meeting thereof or given in writing without a meeting as provided in Section 4.10 hereof. Each duly adopted amendment, modification, addition, or deletion hereof or hereto shall be effectuated in an instrument executed and recorded in the Register's Office by or on behalf of the Condominium Board as attorney-in-fact of all Unit Owners, which power-of-attorney shall be deemed irrevocable and coupled with an interest. Attached to each such instrument shall be an original, executed Secretary's Certification, certifying that the requisite number and percentage (where applicable) of all Unit Owners or of all Residential Unit Owner, as applicable, approved the amendment, modification, addition, or deletion set forth therein either at a duly constituted meeting of Unit

Owners or Residential Unit Owners, as applicable or in writing without a meeting pursuant to the terms of Section 4.10 hereof, in which Secretary's Certification there shall be described the number and percentage (where applicable) of all Unit Owners or of all Residential Unit Owners, as applicable, approving the same and, if voted at a meeting, the date, time and place of such meeting. No such amendment, modification, addition, or deletion shall be effective unless and until such an instrument shall be duly recorded in the Register's Office.

(B) Notwithstanding anything to the contrary contained in paragraph (A) hereof, but still subject to any provision contained in the Declaration or these By-Laws with respect to Special Amendments:

(i) the Common Interest and Residential Common Interest, if any, appurtenant to any Unit, as set forth in the Declaration, shall not be altered without the consent of the Unit Owner thereof, except as otherwise provided in paragraph (F) of Section 5.5 hereof; and

(ii) the terms of Section 5.7 hereof may not be amended, modified, added to, or deleted without the consent of (x) at least 66 2/3% in number and Residential Common Interest of all Residential Unit Owners, (y) Sponsor, and (z) a Retail Unit Owner if such amendment affects such Retail Unit or the Tower DR Unit Owner if such amendment affects the Tower DR Unit.

Section 12.2 *Special Amendments.*

(A) Any amendment, modification, addition, or deletion of or to any of the provisions of these By-Laws that, pursuant to the terms of the Declaration or these By-Laws, may be effected by Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, without the consent of the Condominium Board or the Unit Owners, shall be embodied in an instrument executed and recorded in the Register's Office by Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, as the case may be, as attorney-in-fact of both the Condominium Board and all Unit Owners, which power-of-attorney shall be deemed to be irrevocable and coupled with an interest. Attached to each such instrument shall be an original, executed Certification by Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, as applicable, certifying that the amendment, modification, addition, or deletion set forth therein was effectuated by Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, as applicable pursuant to the terms of the Declaration and/or these By-Laws, in which Certification there shall be set forth the Article and/or Section of the Declaration or these By-Laws pursuant to which the same was effectuated. No such amendment, modification, addition, or deletion shall be effective unless and until such an instrument shall be duly recorded in the Register's Office.

(B) Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition, or deletion of or to these By-Laws shall be effective in any respect against Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, as applicable, unless and until Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, as the case may be, shall consent to the same in writing.

(C) Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition, or deletion of or to Section 5.4 or 5.5, paragraph (B) or paragraph (C) of Section 6.2, subparagraph (iv) or (v) of paragraph (B) of Section 7.5 or Article 8 hereof shall be effective with respect to the holder of any Permitted Mortgage theretofore made unless and until such Permitted Mortgagee shall have given its written consent thereto. In addition, no amendment to the Condominium Documents which would materially and adversely affect the holder of any Permitted Mortgage shall be effective without the prior written consent of 51% of the Permitted Mortgagees or a majority of the Mortgage Representatives, if any. If the Permitted Mortgagees or Mortgage Representatives fail to respond within 60 days after written receipt of the proposed amendment, delivered by either certified or registered mail, "return receipt" requested, the implied approval of such Permitted Mortgagees or Mortgage Representative shall be assumed.

(D) Amendments, modifications, additions or deletions of or to the Declaration and these By-Laws may be necessary, appropriate or desirable in connection with the operation of a Retail Unit or the subdivision of or combination of, or altering of, or improvement to a Retail Unit and it is contemplated that in

connection therewith a Retail Unit Owner will cause the Declaration and these By-Laws to be so amended, modified, added to or deleted from and that the resulting provisions thereof may be similar or dissimilar to those affecting the Residential Units and the Residential Unit Owners. In the case of any such amendment, modification, addition or deletion which does not materially and adversely affect the Residential Units or the Residential Unit Owners, a Retail Unit Owner shall be the attorney-in-fact for the Residential Unit Owners (including Sponsor so long as Sponsor owns any Unsold Residential Units), coupled with an interest, for the purpose of approving, executing and recording any instrument effecting such amendment, modification, addition or deletion.

(E) Amendments, modifications, additions or deletions of or to the Declaration, these By-Laws may be necessary, appropriate or desirable in connection with the operation of the Tower DR Unit and the disposition or utilization of Development Rights by the Tower DR Unit Owner and/or its successors and/or assigns and/or transferees, and it is contemplated that in connection therewith the Tower DR Unit Owner will cause the Declaration and/or these By-Laws to be so amended, modified, added to or deleted from and that the resulting provisions thereof may be similar or dissimilar to those affecting the Residential Units and the Residential Unit Owners, and a Retail Unit and a Retail Unit Owner. In the case of any such amendment, modification, addition or deletion which does not materially and adversely affect the Residential Units or the Residential Unit Owners or a Retail Unit or a Retail Unit Owner, the Tower DR Unit Owner shall be the attorney-in-fact for the Residential Unit Owners and a Retail Unit Owner (including Sponsor so long as Sponsor owns any Unsold Residential Units or a Retail Unit, as applicable), coupled with an interest, for the purpose of approving, executing and recording any instrument effecting such amendment, modification, addition or deletion.

ARTICLE 13 FURTHER ASSURANCES

Section 13.1 *General.* Any Person that is subject to the terms of these By-Laws, whether such Person is a Unit Owner, a lessee or sublessee 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 requesting the same, execute, acknowledge and deliver to such other Person such instruments, in addition to those specifically provided for herein, and take such other action as such other Person may reasonably request in order either to effectuate the provisions of these By-Laws or any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

Section 13.2 *Failure to Deliver or Act.*

(A) If any Unit Owner or other Person that is subject to the terms of these By-Laws fails to execute, acknowledge, or deliver any instrument, or fails or refuses, within 10 days (or 60 days, with respect to a Permitted Mortgage) 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 these By-Laws, 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 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.

(B) If any Unit Owner, the Condominium Board or other Person that is subject to the terms of these By-Laws fails to execute, acknowledge, or deliver any instrument, or fails or refuses, within 10 days (or 60 days, with respect to a Permitted Mortgage) after request therefor, to execute, acknowledge or deliver any instrument which such Unit Owner, Condominium Board or other Person is required to execute, acknowledge or deliver pursuant to these By-Laws at the request of Sponsor or a Retail Unit Owner or the Tower DR Unit Owner, as the case may be, then Sponsor, or a Retail Unit Owner or the Tower DR Unit Owner, as the case may be, is hereby authorized, as attorney-in-fact for the Unit Owner, Condominium Board or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, in

the name of the Unit Owner, Condominium Board or other Person, and such instrument shall be binding on the Unit Owner, Condominium Board or other Person. The Condominium Board shall not unreasonably withhold or delay its consent or approval with respect to any matter contained in these By-Laws which requires the consent or approval of the Condominium Board.

ARTICLE 14 MISCELLANEOUS

Section 14.1 *Inspection of Documents.* Copies of the Declaration, these By-Laws, the Residential Rules and Regulations and the Floor Plans, as the same may be amended from time to time, shall be maintained at the office of the Condominium Board and shall be available for inspection by Unit Owners and their authorized agents during reasonable business hours. Each Unit Owner shall be permitted to examine the books of account of the Condominium during reasonable business hours, but not more frequently than once a month.

Section 14.2 *Waiver.* No provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches that may occur.

Section 14.3 *Conflict.* In the event that any provision of these By-Laws or of the Residential Rules and Regulations shall be construed to be inconsistent with any provision of the Declaration or of the Condominium Act, the provision contained in the Declaration or in the Condominium Act shall control.

Section 14.4 *Severability.* If any provision of these By-Laws is invalid or unenforceable as against any Person or under certain circumstances, the remainder of these By-Laws and the applicability of such provision to other Persons or circumstances shall not be affected thereby. Each provision of these By-Laws shall, except as otherwise provided herein, be valid and enforced to the fullest extent provided by Law.

Section 14.5 *Successors and Assigns.* The rights and/or obligations of Sponsor as set forth herein shall inure to the benefit of, and shall be binding upon, any successor or assignee of Sponsor. The rights and/or obligations of the Retail Unit Owners and the Tower DR Unit Owner as set forth herein shall inure to the benefit of, and shall be binding upon, any successor or assignee of the Retail Unit Owners or the Tower DR Unit Owner, as the case may be.

Section 14.6 *Gender.* A reference in these By-Laws to any one gender, masculine or feminine, includes the other one, and the singular includes the plural, and vice-versa, unless the context otherwise requires.

Section 14.7 *Captions.* The index hereof and the captions herein inserted are included only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision hereof.

* * * * *

ADDENDUM TO THE BY-LAWS

RESIDENTIAL RULES AND REGULATIONS

1. The sidewalks, entrance passages, public halls, elevators, vestibules, corridors and stairways of or appurtenant to the Building shall not be obstructed or used for any purpose other than ingress to and egress from the Residential Units.

2. No bicycles, rollerblades, scooters, skateboards or similar vehicle shall be taken into or from the Building through the main entrance or shall be allowed in any of the elevators of the Building other than the elevator designated by the Condominium Board or the Managing Agent for such purpose or ridden in the Building or the courtyard. No baby carriages or any of the above-mentioned vehicles shall be allowed to stand in the public halls, passageways, or other public areas of the Building.

3. All service and delivery persons will be required to use the service entrances or such other entrances of the Building designated by the Condominium Board or the Managing Agent. In addition, all domestic employees, messengers and tradespeople visiting the Building shall use the elevator designated by the Condominium Board or the Managing Agent for the purposes of ingress and egress, and shall not use any of the other elevators for any purpose, provided, however, that care-givers in the employ of Residential Unit Owners or their Family Members, guests, tenants, subtenants, licensees, or invitees may use any of the other elevators when accompanying said Unit Owners, Family Members, guests, subtenants, licensees, or invitees.

4. Trunks and heavy baggage shall be taken in or out of the Building only by the elevator designated by the Condominium Board or the Managing Agent for the purpose and only through the service entrances.

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

6. No Residential Unit may be used for the storage of any flammable materials or any other materials the storage of which may constitute a Building code violation or which will increase the insurance requirements for the Building.

7. No refuse from the Residential Units shall be sent to the service area of the Building, except at such times and in such manner as the Condominium Board or the Managing Agent may direct. Nothing shall be hung or shaken from any doors, windows, or placed upon the window sills, of the Building, and no Residential Unit Owner shall sweep or throw, or permit to be swept or thrown, any dirt, debris or other substance therefrom.

8. There shall be no playing or lounging in the entrances, passages, public halls, elevators, vestibules, corridors, stairways, or fire towers of the Building.

9. All Unit Owners are prohibited from smoking in or around any of the General Common Elements, Residential Common Elements, Tower Limited Common Elements, and within all Units.

10. The Condominium Board or the Managing Agent may, from time to time, curtail or relocate any portion of the Common Elements devoted to storage or service purposes in the Building.

11. Nothing shall be done or kept in any Residential Unit or in the Common Elements that will increase the rate of insurance of the Building, or the contents thereof. No Residential Unit Owner shall permit anything to be done or kept in the Residential Unit or in the Common Elements that will result in

the cancellation of insurance on the Building, or the contents thereof, or that would be in violation of any Law. No Residential Unit Owner or any Family Members, agents, servants, employees, licensees, or visitors shall, at any time, bring into or keep in the Residential Unit any inflammable, combustible, or explosive fluid, material, chemical, or substance, except as shall be necessary and appropriate for the permitted uses of the Residential Unit.

12. There shall be no barbecuing in the Residential Units, in their appurtenant Tower Limited Common Elements, if any, or in the Common Elements.

13. No Residential Unit Owner shall make, cause, or permit any unusual, disturbing, or objectionable noises or odors to be produced upon or to emanate from the Residential Unit or its appurtenant Tower Limited Common Elements, if any, or permit anything to be done therein that will interfere with the rights, comforts, or conveniences of the other Residential Unit Owners. No Residential Unit Owner shall play upon or suffer to be played upon any musical instrument, or shall operate or permit to be operated a phonograph, radio, television set, or other loudspeaker in such Unit Owner's Unit or its appurtenant Tower Limited Common Elements, if any, between 11:00 P.M. and the following 9:00 A.M., if the same shall disturb or annoy other occupants of the Building, and in no event shall any Residential Unit Owner practice of suffer to be practiced either vocal or instrumental music between the hours of 10:00 P.M. and the following 9:00 A.M. No construction, repair work, or other installation involving noise shall be conducted in any Residential Unit except on weekdays (not including legal holidays) and only between the hours of 9:00 A.M. and 5:00 P.M., unless such construction or repair work is necessitated by an emergency.

14. No pets other than dogs (maximum 2 per Unit), caged birds (maximum 2 per Unit), cats (maximum 2 per Unit) and fish (which do not cause a nuisance, health hazard or unsanitary condition) may be kept in a Residential Unit without the consent of the Condominium Board. Each Residential Unit Owner who keeps any type of pet will be required to: (a) indemnify and hold harmless the Condominium, the Condominium Board, all Unit Owners and the Managing Agent from all claims and expenses resulting from acts of such pet; and (b) abide by any and all Residential Rules and Regulations adopted by the Condominium Board with respect thereto, including without limitation, the number of such pets. Notwithstanding the foregoing, the Condominium Board shall have the right to adopt a no-pet policy for the Building or revised or new policies with respect to size or number of pets per Unit. In no event shall any pet permitted in any public elevator of the Building, other than the elevator designated by the Condominium Board or the Managing Agent for that purpose, or in any of the public portions of the Building, unless carried or on leash. No pigeons or other birds or animals shall be fed from the window sills, or other public portions of the Building, or on the sidewalk or street adjacent to the Building.

15. No group tour, open house or exhibition of any Residential Unit or its contents shall be conducted, nor shall any auction sale be held in any Residential Unit, without the consent of the Condominium Board or the Managing Agent in each instance. In the event that any Residential Unit shall be used for home occupation purposes in conformance with the Declaration and the By-Laws, no patients, clients, or other invitees shall be permitted to wait in any lobby, public hallway, or vestibule. The foregoing shall not apply to Sponsor.

16. Unless expressly authorized by the Condominium Board in each instance, not less than 80% of the total floor area of each room of each Residential Unit (excepting only kitchens, pantries, bathrooms, closets and foyers) must be covered with rugs, carpeting, or equally effective noise reducing material.

17. No window guards, legally compliant window stops and/or other window decorations shall be used in or about any Residential Unit, except such as shall have been approved in writing by the Condominium Board or the Managing Agent, which approval shall not be unreasonably withheld or delayed. In no event, however, shall any windows of any Residential Unit be colored or painted.

18. No ventilator or air conditioning device shall be installed in any Residential Unit or its appurtenant Tower Limited Common Elements, if any, without the prior written approval of the Condominium Board, which approval may be granted or refused in the sole discretion of the Condominium Board.

19. No radio or television aerial shall be attached to or hung from the exterior of the Building, and no sign, notice, advertisement, or illumination (including, without limitation, "For Sale," "For Lease," or "For Rent" signs) shall be inscribed or exposed on or at any window or other part of the Building, except such as are permitted pursuant to the terms of Declaration and/or the By-Laws or shall have been approved in writing by the Condominium Board or the Managing Agent. Nothing shall be projected from any window of a Residential Unit without similar approval.

20. 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.

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

22. Each Residential Unit Owner shall keep the Residential Unit and its appurtenant Tower Limited Common Elements, if any, in a good state of preservation, condition, repair and cleanliness in accordance with the terms of the By-Laws.

23. The agents of the Condominium Board or the Managing Agent, and any contractor or work person authorized by the Condominium Board or the Managing Agent, may enter any room or Unit at any reasonable hour of the day, on at least 1 day's prior notice to the Residential Unit Owner, for the purpose of inspecting such Residential Unit for the presence of any vermin, insects, or other pests and for the purpose of taking such measures as may be necessary to control or exterminate any such vermin, insects, or other pests; however, such entry, inspection and extermination shall be done in a reasonable manner so as not to unreasonably interfere with the use of such Residential Unit for its permitted purposes.

24. The Condominium Board or the Managing Agent may retain a pass-key to each Residential Unit. If any lock is altered or a new lock is installed, the Condominium Board or the Managing Agent shall be provided with a key thereto immediately upon such alteration or installation. If the Residential Unit Owner is not personally present to open and permit an entry to the Residential Unit at any time when an entry therein is necessary or permissible under these Residential Rules and Regulations or under the By-Laws, and has not furnished a key to the Condominium Board or the Managing Agent, then the Condominium Board or Managing Agent or their agents (but, except in an emergency, only when specifically authorized by an officer of the Condominium or an officer of the Managing Agent) may forcibly enter such Unit without liability for damages or trespass by reason thereof (if, during such entry, reasonable care is given to such Residential Unit Owner's property).

25. If any key or keys are entrusted by a Unit Owner, by any Family Member thereof, or by an agent, servant, employee, licensee, or visitor to an employee of the Condominium or of the Managing Agent, whether for the Residential Unit or an automobile, trunk, or other item of personal property, the acceptance of the key shall be at the sole risk of such Residential Unit Owner, and neither the Condominium Board nor the Managing Agent shall (except as provided in Rule 22 above) be liable for injury, loss, or damage of any nature whatsoever, directly or indirectly resulting therefrom or connected therewith.

26. Residential Unit Owners and their respective Family Members, guests, servants, employees, agents, visitors, or licensees shall not at any time or for any reason whatsoever, enter upon, or attempt to enter upon, the roof of the Building unless such roof is part of a lawful terrace.

27. No occupant of the Building shall send any employee of the Condominium or of the Managing Agent out of the Building on any private business.

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

29. No Residential Unit Owner shall install any plantings on any Terrace or roof without the prior written approval of the Condominium Board. Plantings shall be placed in containers impervious to dampness and standing on supports at least two inches from the Terrace or roof surface, and if adjoining a wall, at least three inches from such wall. Suitable weep holes shall be provided in the containers to draw off water. In special locations, such as a corner abutting a parapet wall, plantings may be contained in containers which shall be at least three inches from the parapet and flashing, with the floor of drainage tiles and suitable weep holes at the sides to draw off water. Such masonry planting beds shall not, however, rest directly upon the surface of such Terrace or roof but shall stand on supports at least two inches above such surface. No planting shall be permanently affixed to a Terrace or roof surface but shall be able to be easily moved. It shall be the responsibility of the Residential Unit Owner to maintain the containers in good condition, and the drainage tiles and weep holes in operating condition. Such Residential Unit Owner shall pay the cost of any repairs rendered necessary by or damage caused by such plantings. The Condominium Board shall have an easement and a right of access to the Terrace appurtenant to the a Unit to inspect the same and to remove violations therefrom and to install, operate, maintain, repair, alter, build, restore, and replace any of the Common Elements located in, over, under through, adjacent to, or upon the same.

30. No Residential Unit Owner shall enclose, erect a greenhouse and/or alter the Terrace appurtenant to a Residential Unit in any way, without the prior written consent of the Condominium Board.

31. No Residential Unit Owner may install or place speakers on a Terrace appurtenant to a Residential Unit.

32. Complaints regarding the service of the Condominium shall be made in writing to the Condominium Board and the Managing Agent.

33. When leaving the Residential Unit for extended periods of time, Residential Unit Owners and their respective Family Members, guests, domestic employees, agents, visitors, or licensees shall keep the Residential Unit at a maximum of 80 degrees Fahrenheit from May 15 to October 15 and shall keep the Residential Unit at a minimum of 60 degrees Fahrenheit from October 15 to May 15. Any damage resulting from a Residential Unit Owner's or their respective Family Member, guests, domestic employees, agents, visitors or licensees failure to abide by the provisions of this paragraph shall be borne solely by the owner of such Residential Unit causing the damage.

34. No nuisance shall be allowed on the Property, nor shall any use or practice be allowed that either is a source of annoyance to its residents or interferes with the peaceful possession or proper use of the Property by its residents or occupants. No immoral, improper, offensive, or unlawful use shall be made of the Property or any portion thereof, and all valid Laws relating to any portion of the Property shall be complied with at the sole cost and expense of the respective Unit Owners or the Condominium, whoever shall have the obligation to maintain or repair such part of the Property

35. Any installations, replacements, and/or repairs in connection with legally-compliant window guards and/or window stops in any Residential Unit shall be performed at the direction of the Managing Agent and all costs associated therewith shall be charged to and borne solely by the Residential Unit Owner. It is the responsibility of each Residential Unit Owner to (i) notify the Managing Agent in writing if any child under the age of 11 years resides (even temporarily) in the Residential Unit, (ii) to make the necessary arrangements with respect to the installation, repair, replacement, operation, and/or maintenance of legally-compliant window guards and/or window stops in the Residential Unit and/or any additional equipment as required by Law, and (iii) to otherwise ensure that all operable windows located in the Residential Unit comply with Law.

36. Residential Unit Owners and their respective Family Members, guests, domestic employees, employees, agents, visitors, or licensees shall abide by any additional rules and regulations adopted by the Condominium Board.

EXHIBIT F
UNIT POWER OF ATTORNEY

POWER OF ATTORNEY

**THE CONDOMINIUM BOARD OF
THE KENT CONDOMINIUM**

and

95TH AND THIRD LLC

THE KENT CONDOMINIUM
200 East 95th Street
New York, New York 10128
Unit No. _____

County: New York
Block: _____
Lot: _____

Record and Return to:

UNIT POWER OF ATTORNEY

All terms used in this Unit Owner Power of Attorney that are used in that certain Declaration dated as of _____, 201__ made by 95th and Third LLC ("**Declarant**"), pursuant to Article 9-B of the Real Property Law of the State of New York, establishing condominium ownership of the premises known as The Kent Condominium, 200 East 95th Street, New York, New York 10128 (the "**Condominium**"), which Declaration was recorded in the New York County office of the Register of the City of New York (the "**Register's Office**") on _____, 20__, as CRFN # _____ (as the same may have been or may hereafter be amended, the "**Declaration**") or in the By-Laws of the Condominium (as the same may have been or may hereafter be amended, the "**By-Laws**") annexed to, and recorded together with, the Declaration, shall have the same meanings in this Power of Attorney as in the Declaration or the By-Laws (the Declaration and the By-Laws referred to herein as the "**Condominium Documents**").

[Applicable to Unit Owners of Residential Units only]: The undersigned, _____, (having an office) (residing at) _____, the owner of a Unit _____ ("**Unit**") in the Condominium which is designated and described as the Unit in the Declaration and also designated as Tax Lot _____ in Block _____ of the Borough of Manhattan on the Tax Map of the Department of Finance of The City of New York and on the Floor Plans, do(es) hereby nominate, constitute and appoint the persons who may from time to time constitute the Condominium Board, true and lawful attorneys-in-fact for the undersigned, coupled with an interest, with power of substitution, in their own names, as Members of the Condominium Board or in the name of their designee (corporate or otherwise), on behalf of all Unit Owners, in accordance with such Unit Owners' respective interests in the Common Elements, subject to the provisions of the By-laws then in effect, to:

(a) employ counsel for purposes of protesting the New York City real property tax assessments with the Tax Commission and commencing, pursuing, appealing, settling and/or terminating administration and tax certiorari proceedings on behalf of the Residential Unit Owners for the reduction of the assessed valuation of their Residential Units, such Residential Unit Owners agreeing not to protest said assessments and bring such tax certiorari proceedings at their own initiative and on their own behalf;

(b) acquire, lease or license any Residential Unit, together with its Appurtenant Interests whose owner desires to sell, convey, transfer, assign, lease, sublease or surrender the same or acquire any Residential Unit, together with its Appurtenant Interest, that becomes the subject of a foreclosure or other similar sale, in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Residential Unit Owners; and acquire, lease, mortgage, encumber, license, manage and/or operate a Residential Unit, together with its Appurtenant Interest, for the residence of the Resident Manager of the Condominium;

(c) acquire, mortgage, lease, sublease, license, convey or otherwise deal with (but not to vote the Common Interest, appurtenant to) any Residential Unit so acquired or to sublease any Residential Unit so leased;

(d) execute, acknowledge and deliver (1) any declaration or other instrument affecting the Property which the Condominium Board deems necessary or appropriate to comply with any Law applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Property or (2) any consent, covenant, restriction, easement, or declaration, or any amendment thereto, affecting the Property which the Condominium Board deems necessary or appropriate or (3) any protest and tax certiorari proceeding documentation affecting Residential Units.

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

[Applicable to Unit Owners of Residential Units, the Retail Units and the Tower DR Unit]: The undersigned, _____, (having an office) (residing at) _____, the owner of a Unit _____ (“Unit”) in the Condominium which is designated and described as the Unit in the Declaration and also designated as Tax Lot _____ in Block _____ of the Borough of Manhattan on the Tax Map of the Department of Finance of The City of New York and on the Floor Plans, do(es) hereby nominate, constitute and appoint Declarant (in its capacity as Declarant and in its capacity as sponsor (“Sponsor”) of the offering plan for the Condominium (“Plan”) as attorney-in-fact for the undersigned, coupled with an interest, with power of substitution, to:

(a) amend the Condominium Documents pursuant to the terms thereof, and to effectuate the rights of Declarant under the Condominium Documents, including without limitation, when such amendment (1) shall be required to reflect any changes in Unsold Residential Units and/or the reapportionment of the Common Interests of the affected Unsold Residential Units resulting therefrom made by Declarant in accordance with the Declaration, or (2) shall be required by (a) an Institutional Lender designated by Declarant to make a mortgage loan secured by a mortgage on any Residential Unit, (b) any governmental agency having regulatory jurisdiction over the Condominium, or (c) any title insurance company selected by Declarant to insure title to any Residential Unit; or (3) shall be required to correct any inconsistencies or scriveners’ errors in the Declaration, the By-Laws and/or the Floor Plans; or (4) relinquish Declarant’s rights under the Condominium Documents, provided, however, that any amendment made pursuant to the terms of subdivision (1) or (2) of this paragraph shall not (i) change the Common Interest of the Undersigned’s Unit, (ii) require a material, physical modification to the Undersigned’s Unit, or (iii) adversely affect the priority or validity of the lien of any mortgage held by an Institutional Lender covering the Undersigned’s Unit unless the undersigned (in the event described in subdivision (i) or (ii) of this paragraph) or the holder of such mortgage (in the event described in subdivision (iii) of this paragraph) shall consent thereto by joining in the execution of such amendment. The terms, covenants and conditions contained in, and the powers granted pursuant to, this paragraph shall remain in full force and effect until such time as (i) Declarant shall cease to own any Unit in the Condominium; (ii) Declarant has completed all of its obligations under the terms of the Offering Plan; and (iii) a Permanent Certificate of Occupancy has been issued for the Property; and

(b) to effectuate Declarant’s and/or the Tower DR Unit Owner’s or other Development Rights Owner’s utilization, sale or transfer of all or any portion of the Development Rights, as set forth in the Declaration.

This Power of Attorney shall be irrevocable.

IN WITNESS WHEREOF, the undersigned has/have executed this Power of Attorney as of the ____
day of _____, _____.

STATE OF _____)

) ss.:

COUNTY OF _____)

On the __ day of _____ in the year _____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the City of _____, County of _____ and State of _____.

Notary Public

STATE OF _____)

) ss.:

COUNTY OF _____)

On the __ day of _____ in the year _____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the City of _____, County of _____ and State of _____.

Notary Public