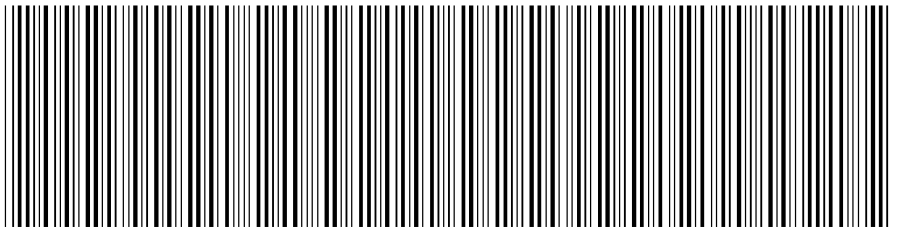


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RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 116

Document ID: 2014050600950001

Document Date: 03-24-2014

Preparation Date: 05-12-2014

Document Type: CONDO DECLARATION

Document Page Count: 114

PRESENTER:

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RETURN TO:

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PROPERTY DATA

Borough	Block	Lot	Unit	Address
MANHATTAN	412	1001	Entire Lot	GAR 180 ORCHARD STREET

Property Type: PARKING SPACE

Borough	Block	Lot	Unit	Address
MANHATTAN	412	1002	Entire Lot	RT 180 ORCHARD STREET

Property Type: RETAIL BUILDING

☒ Additional Properties on Continuation Page

CROSS REFERENCE DATA

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

PARTIES

PARTY 1:

180 ORCHARD STREET CONDOMINIUM
885 THIRD AVE
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: \$ 616.00

Affidavit Fee: \$ 0.00

Filing Fee:

\$ 0.00

NYC Real Property Transfer Tax:

\$ 0.00

NYS Real Estate Transfer Tax:

\$ 0.00

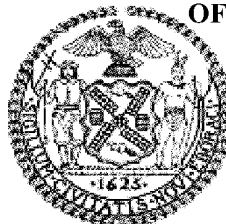
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OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 05-12-2014 12:37

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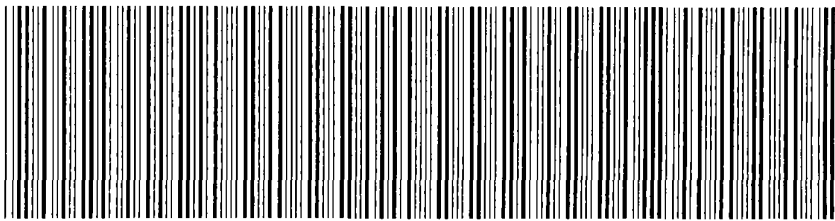
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Annette McMill

City Register Official Signature

NYC DEPARTMENT OF FINANCE
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2014050600950001002C56F6

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION)

PAGE 2 OF 116

Document ID: 2014050600950001

Document Date: 03-24-2014

Preparation Date: 05-12-2014

Document Type: CONDO DECLARATION

PROPERTY DATA

Borough	Block Lot	Unit	Address
MANHATTAN	412 1003 Entire Lot	HOTEL	180 ORCHARD STREET
Property Type: COMMERCIAL CONDO UNIT(S)			
Borough	Block Lot	Unit	Address
MANHATTAN	412 5 Entire Lot		180 ORCHARD STREET
Property Type: OTHER			

R

CONDOMINIUM NO. 248



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF ECONOMIC JUSTICE
REAL ESTATE FINANCE BUREAU

March 27, 2014

Jane Rosenberg, Esq.
Starr Associates LLP
245 Fifth Avenue; Suite 1102
New York NY 10016

Re: 180 Orchard Street Condominium.
Index No. NA14-0041

Dear Ms. Rosenberg:

The Department of Law has reviewed your application for a no-action letter concerning a transaction involving the above premises, submitted on March 13, 2014. The application proposes the creation of a three unit condominium consisting of one garage unit, one retail unit, and one hotel unit. The sponsor will retain the hotel unit.

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

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

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

Very truly yours,

A handwritten signature in dark ink, appearing to read "Marissa Piesman".

Marissa Piesman
Special Counsel
Real Estate Finance Bureau

R

CONDOMINIUM NO. 2480

CONDOMINIUM NO. 2480

DECLARATION

**Establishing a Plan for Condominium Ownership
of the Premises known as**

**180 Orchard Street
New York, New York 10002**

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

Name of Condominium:

180 ORCHARD STREET CONDOMINIUM

Declarant:

**180 ORCHARD OWNER LLC
885 Third Avenue, New York, New York 10022**

Date of Declaration:

March 24, 2014

**The land affected by the within instrument lies in
Block 412 formerly known as Lot 5,
now known as Lots 1001, 1002 and 1003
on the Tax Map of the Borough of Manhattan, City of New York**

**Prepared by:
Starr Associates LLP
245 Fifth Avenue
Suite 1102
New York, New York 10016**

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EXHIBITS

- A – DESCRIPTION OF THE LAND
- B – DESCRIPTION OF THE UNITS
- C – DEFINITIONS

-
- D - BY-LAWS
 - E - BUDGET ALLOCATIONS
 - F - SIGNAGE CRITERIA
 - F-1 RENDERING OF SAMPLE GARAGE UNIT SIGNAGE

**DECLARATION
OF
180 ORCHARD STREET CONDOMINIUM**

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

180 Orchard Owner LLC, a Delaware limited liability company, having an office at 885 Third Avenue, New York, New York 10022 ("Declarant") does hereby declare as follows:

ARTICLE 1

DEFINITIONS

All capitalized terms used in this declaration (the "Declaration") that are not otherwise defined in the Articles hereof will have the meanings set forth in Exhibit C (Definitions) or Exhibit D (By-Laws) annexed hereto, unless the context in which they are used will otherwise require.

ARTICLE 2

SUBMISSION OF THE PROPERTY

2.1 Declarant hereby submits the Land and Building (each as hereinafter defined), all other improvements erected and to be erected thereon, all easements, rights and appurtenances belonging thereto and all other property, real, personal or mixed, intended for use in connection therewith (collectively, the "Property") to the provisions of Article 9-B of the Real Property Law of the State of New York (the "Condominium Act") and pursuant thereto does hereby establish a condominium to be known as "180 Orchard Street Condominium" (the "Condominium").

2.2 Development Rights.

2.2.1 Excluded from the Property are that portion of the unused floor area development rights that are now owned, are subsequently acquired or that may become available under the Zoning Resolution of the City of New York (the "Development Rights") which shall be initially retained by the Condominium Board for the benefit of the Hotel Unit Owner, the Retail Unit Owner and the Garage Unit Owner in proportion to their respective percentages of Common Interest, which Development Rights may be utilized or encumbered by the Condominium Board (subject to the limitations set forth in this Section 2.2) on behalf of and for the benefit of the Unit Owners or any bona fide third party acquiring same (the "Development Rights Purchaser") and merged into a zoning lot pursuant to the terms of a zoning lot development agreement ("ZLDA"). Notwithstanding the foregoing, the Condominium Board shall not effectuate any of the actions set forth in items (i) through (iv) of this Section 2.2.1 unless and until the Condominium Board has obtained an appraisal of the value of the Development Rights as it relates to each Unit from a reputable appraiser having at least 10 years' experience in the appraisal of similar properties in Manhattan, no earlier than 120 days prior to

effectuating any of such actions, which appraisal shall be promptly provided to the Unit Owners and shall be reasonably acceptable to the Unit Owners. In the event the Hotel Unit Owner, the Retail Unit Owner or the Garage Unit Owner disputes the valuation of the Development Rights as set forth in the appraisal, such Unit Owner must notify the other Unit Owners and the Condominium Board of such dispute within thirty (30) days of such Unit Owner's receipt of the appraisal and shall submit such issue to Arbitration in accordance with the provisions of Article 10 and Exhibit E of the By-Laws.

2.2.2 Subject to the limitations set forth in Section 2.2.1, each of the Unit Owners is hereby irrevocably deemed to nominate, constitute and appoint the Condominium Board as such Unit Owner's attorney-in-fact, coupled with an interest and with power of substitution, to (i) effectuate the acquisition, sale, lease, transfer, assignment, sublease, pledge, hypothecation or encumbrance of, or other action by the Condominium Board, with respect to the Development Rights; (ii) effectuate the use of the Development Rights for any purpose except to effect an increase in the size of any of the Units; (iii) effectuate a merger or division of the zoning lot in which the Property is located, with any other zoning lots to form a single zoning lot (the "Merger") for the purpose of transferring all or any portion of the Development Rights, or (iv) permit the Development Rights Purchaser, once the Merger of the zoning lots has occurred, to acquire and utilize development rights from other zoning lots, including, without limitation, development rights attributable to landmark parcels (as that term is used in the Zoning Resolution), if any, located in blocks neighboring the block in which the Property is located, all in accordance with applicable provisions of the Zoning Resolution. All of the actions effectuated by the Condominium Board set forth in items (i) through (iv) of Section 2.2.1 with respect to Development Rights retained by the Condominium Board shall be effectuated for the benefit of the Hotel Unit Owner, the Retail Unit Owner and the Garage Unit Owner in accordance with the relative appraised values of the Development Rights allocable to each Unit in accordance with the appraisal performed pursuant to Section 2.2.2 above. Any mortgagee holding a mortgage secured by a Unit, upon the making of said mortgage is deemed to have consented to the foregoing rights of the other Unit Owners with respect to the Development Rights retained by the Condominium Board for the benefit of such other Unit Owners.

2.2.3 If the Developments Rights are utilized or encumbered by the Condominium Board as set forth in Section 2.2.1 hereof, any proceeds realized by the Condominium Board with respect to such utilization or encumbrance, after deduction of the costs and expenses incurred by the Condominium Board in connection therewith, shall be distributed to each of the Unit Owners in proportion to the relative appraised values of the Development Rights allocable to each Unit in accordance with the appraisal performed pursuant to Section 2.2.2 above.

2.2.4 No Alterations to a Unit shall be made that would create or increase the degree of non-compliance by the Building with any requirement of the Zoning Resolution at the time of such construction, if such non-compliance would affect any other Unit Owner's right to obtain or maintain a building permit or a temporary or permanent certificate of occupancy for its Unit or would affect any other Unit Owner's right to construct, maintain, alter or occupy its unit in accordance with this Declaration. In addition, the Hotel Unit Owner and/or the Retail Unit Owner and/or the Garage Unit Owner shall not make any Alterations to its respective Unit or Common Elements so as to utilize any Development Rights without the prior written consent of the Condominium Board, and subject to the provisions of Section 2.1 and 2.2 of this Declaration

and such additional commercially reasonable restrictions and requirements as the Condominium Board, acting in good faith, shall impose in connection with such utilization.

2.3 Attached to this Declaration 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, 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 City, County and State of New York, and more particularly described in Exhibit A annexed hereto and made a part hereof. The Land is owned by Declarant in fee simple absolute.

ARTICLE 4

THE PROPERTY

Included in the Property described in Article 2 is one building (the "Building") consisting of various Common Elements and three (3) units (each a "Unit" and collectively, the "Units"): one (1) Unit located on the subcellar and cellar levels and first floor (the "Garage Unit" or "GAR"); one (1) Unit located on the first and mezzanine floors (the "Retail Unit" or "RT") and one (1) Unit located on the subcellar and cellar levels and the first through 24th construction floors plus 3 levels above the 24th construction floor consisting of the roof level, the elevator machine room floor and the bulkhead level (the "Hotel Unit" or "HOTEL"). The owner of the Garage Unit is herein called the "Garage Unit Owner," the owner of the Retail Unit is herein called the "Retail Unit Owner" and the owner of the Hotel Unit is herein called the "Hotel Unit Owner". To the extent (i) the Garage Unit is subdivided, each of the owners of a subdivided Garage Unit shall collectively be called the "Garage Unit Owner"; (ii) the Retail Unit is subdivided, each of the owners of a subdivided Retail Unit shall collectively be called the "Retail Unit Owner" and (iii) the Hotel Unit is subdivided, each of the owners of a subdivided Hotel Unit shall collectively be called the "Hotel Unit Owner." The Garage Unit Owner, the Retail Unit Owner and the Hotel Unit Owner are collectively referred to herein as the "Unit Owners" and individually as a "Unit Owner." In the event that any Unit is further subdivided as provided in this Declaration and the By-Laws, any reference herein or in the By-Laws to such Unit shall be deemed a reference to all Units created as a result of such subdivision.

ARTICLE 5

THE BUILDING

The Building consists of a concrete frame with concrete structural walls and concrete

floor slabs. The floors in the Building are named for construction purposes (from bottom to top): subcellar, cellar, first floor (or ground floor), floors 2 through 24, and 3 levels above the 24th floor consisting of the roof level, the elevator machine room floor and the bulkhead level. As shown on Exhibit B to this Declaration and on the Floor Plans, the designation of certain floors for marketing purposes differs from the designations of such floors for construction purposes.

ARTICLE 6

THE UNITS

6.1 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) approximate location in the Building; (iv) approximate square foot area and (v) the percentage interest in the 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 Isaac & Stern Architects, P.C., registered architect and approved by the Tax Map Unit of the Division of Land Records of the City of New York and filed in the New York County office of the Register of the City of New York (the "City Register's Office") immediately following the recording of this Declaration.

6.2 Each Unit includes and each Unit Owner shall be responsible for the space designated on the Floor Plans as part of such Unit together with those Facilities located within the Unit which exclusively serve or benefit such Unit or the Unit Owner thereof, including, without limitation:

6.2.1 Central and appurtenant Facilities and machinery for services such as heating, cooling, venting, exhaust, air-conditioning, communications, security, lighting, plumbing, gas, electrical service and fire safety whether located within the Unit or elsewhere in the Building and which exclusively serve the Unit (without being exhaustive and by way of example only, heating, ventilating, air conditioning ("HVAC") units (including their fans and coils), heating equipment, plumbing fixtures, sinks, bathtubs, showers, shower pans, water closets and appliances and Facilities, as may be affixed, attached or appurtenant to such Unit and which serve such Unit exclusively. Plumbing, gas, heating fixtures and equipment as used in the preceding sentence shall include gas and water pipes from branch or fixture shut off valves attached to fixtures, appliances and equipment which are part of the Unit and exclusively service a Unit. Plumbing, gas, heating fixtures and equipment shall include submeters for utilities (whether such submeters are located within the Unit or within a Common Element) but shall not include gas, water or other pipes, conduits, wiring or ductwork from the point at which such pipes, wiring, ductwork or conduits service other Units or the Common Elements.

6.2.2 Passages, hallways, corridors and interior walls including sheetrock, plaster and studs (other than the structural components thereof, except as set forth in Paragraphs 6.4, 6.5 or 6.6 below), exclusively serving the Unit and not designated as a General Common Element or Limited Common Elements in this Declaration or on the Floor Plans).

6.2.3 All escalators, elevators (and their respective shafts and pits to the extent not designated as General Common Elements or Limited Common Elements in this Declaration

or on the Floor Plans), stairs and stair landings (to the extent not designated as a General Common Elements or Limited Common Elements in this Declaration or on the Floor Plans), if any, and all related Facilities exclusively serving the Unit not specifically designated as a General Common Elements or Limited Common Elements in this Declaration or on the Floor Plans.

6.2.4 The flooring, wall coverings, moldings, smoke detectors and carbon monoxide detectors, non-load bearing interior walls and partitions, sheetrock and plaster wall coverings, all lighting and electrical fixtures, cabinets, including without limitation, kitchen and bathroom cabinetry, countertops and any special equipment, fixtures or Facilities affixed, attached or appurtenant to the Unit, to the extent located wholly within a Unit and exclusively serving or benefiting that Unit.

6.2.5 All Signage affixed to the Building by the Unit Owner or its Permitted Users in accordance with the provisions of this Declaration, the By-Laws and the Signage Criteria set forth on Exhibit F (and Exhibit F-1, if applicable) to the Declaration and exclusively serving the Unit or the Unit Owner or its Permitted Users;

6.2.6 All easements, rights-of-way and privileges appurtenant to or pertaining solely to the Unit or to the Unit's Limited Common Elements, if any.

6.3 A Unit shall not include any of the General Common Elements located therein or any Facilities or Limited Common Elements (including submeters) and machinery for heating, cooling, venting, exhaust, air-conditioning, communications, security, lighting, plumbing, electrical work, fire safety, or other materials and equipment that are appurtenant to or used exclusively by and for the other Units or the other Unit Owners.

6.4 The Garage Unit also includes the ramp leading from Ludlow Street into the Garage Unit, and any entrances, gates, access doors and related and similar installations exclusively opening into the Garage Unit as more particularly delineated on the Floor Plans, the portions of the Exterior Façade that comprise the exterior walls of the Garage Unit and the portions of the foundations, footings, columns, girders, beams, joists, supports, piles, pillars, floor slabs, floors, interior walls, partitions and ceilings located wholly within the Garage Unit or separating the Garage Unit from a Garage Limited Common Element, if any. As of the date of this Declaration, the Garage Unit is anticipated to contain approximately 46 parking spaces. Declarant (and the Garage Unit Owner, if Declarant no longer owns the Garage Unit or if Declarant is not acting as agent for the Garage Unit Owner) reserves the right to apply for governmental approvals to increase the allowable number of parking spaces in the Garage Unit.

6.5 The Retail Unit also includes all storefronts, entranceways, windows and window framing, door assemblies and related and similar installations in the Exterior Facade exclusively opening into the Retail Unit as more particularly delineated on the Floor Plans, the portions of the Exterior Façade that comprise the exterior walls of the Retail Unit and the portions of the foundations, footings, columns, girders, beams, joists, supports, piles, pillars, floor slabs, floors, interior walls, partitions and ceilings located wholly within the Retail Unit or separating the Retail Unit from a Retail Limited Common Element, if any. As of the date of this Declaration, the Retail Unit is anticipated to contain approximately 3 – 4 retail establishments, although Declarant makes no representations with respect to the number of retail establishments that will

be contained in the Retail Unit at any point in time.

6.6 The Hotel Unit also includes all storefronts, entranceways, loading dock, windows and window framing (including the skylights on the second floor level), door assemblies and related and similar installations in the Exterior Façade exclusively opening into the Hotel Unit as more particularly delineated on the Floor Plans, the portions of the Exterior Façade that comprise the exterior walls of the Hotel and the portions of the foundations, footings, columns, girders, beams, joists, supports, piles, pillars, floor slabs, floors, interior walls, partitions and ceilings located wholly within the Hotel Unit or separating the Hotel Unit from a Hotel Limited Common Element. As of the date of this Declaration, the Hotel Unit is anticipated to contain approximately 295 guest rooms, although Declarant makes no representations with respect to the number of guest rooms that will be contained in the Hotel Unit at any point in time.

6.7 As of the date of the recording of this Declaration with the City Register's Office, beneficial title in all Units will automatically vest in Declarant without the need to execute specific and particular deeds or indentures for each and every Unit.

ARTICLE 7

DIMENSIONS OF UNITS

Each Unit is measured horizontally from the outside face of the exterior wall (columns, mechanical pipes, shafts, shaftways, chases, chaseways and conduits are not deducted from the measurement of each Unit) to the center line of the demising wall or the concealed structural member or the concealed blockwork of the interior walls and partitions separating one Unit from another Unit, or separating one Unit from corridors, stairs, elevators and other mechanical equipment space or any Common Elements; or to the Unit side of the opposite exterior walls. Measured vertically, each Unit consists of the volume from the top of the lowest floor slab of the Unit (located under the finished flooring and sub-floor materials) to the underside of the floor slab of the highest ceiling of the Unit, including any beams or projections.

ARTICLE 8

COMMON ELEMENTS

8.1 The common elements of the Condominium (the "Common Elements") consist of the General Common Elements and the Hotel Limited Common Elements. The Common Elements do not include any Development Rights, the rights to which shall be retained by the Condominium Board for the benefit of the Unit Owners as set forth in Section 2.2 of Article 2 of this Declaration.

8.2 Although the sidewalks surrounding the Building are not part of the Property, the Maintenance thereof shall be performed as follows: any portion of the sidewalks (including curbs) located directly outside of a Unit shall be Maintained by the Unit Owner of such Unit as if such sidewalks (including curbs) were part of such Unit, subject to any additional requirements with respect to such Maintenance set forth in the By-Laws. All costs and expenses relating to the

Maintenance of such portion of the sidewalks (including curbs) and all obligations imposed by applicable Legal Requirements with respect to the Maintenance of such portion of the sidewalks (including curbs), including without limitation, prompt removal of any violations imposed thereon, shall be the exclusive responsibility of the applicable Unit Owner.

8.3 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.

8.4 The General Common Elements consist of the following:

8.4.1 The Land (as more particularly described in Exhibit A attached to this Declaration), together with all easements, rights and privileges appurtenant thereto, except for the Development Rights.

8.4.2 Any land lying in the bed of any street, road or avenue open or proposed, public or private, in front of or adjoining the Land, (a) any award made or to be made in lieu thereof, (b) any unpaid award for damage to the Land or the Building by reason of change of grade of any street, and (c) any strips and gores bisecting, adjoining or adjacent to the Land.

8.4.3 All easements, rights of way, privileges, appurtenances and other rights appurtenant to or pertaining to the Property, excepting the Development Rights and excepting those which by their terms or by the terms of this Declaration are appurtenant or pertain only to less than all the Units.

8.4.4 Those portions of the foundations, footings, columns, girders, beams, joists, supports, piles, pillars, floor slabs, interior walls, partitions and ceilings separating a Unit from another Unit, or separating a Unit from a Limited Common Element that is not appurtenant to such Unit, or separating a Unit from a General Common Element, or separating a General Common Element from another General Common Element.

8.4.5 Telephone lines and cables leading from the entry point into the Building.

8.4.6 Emergency generator and the fuel oil tank, fuel pumps and associated pipes for the emergency generator.

8.4.7 Incoming water service lines.

8.4.8 The boilers, cooling towers, heat exchangers, pumps and associated HVAC equipment which service all of the Units, located on portions of the Roofs.

8.4.9 Meters for electrical, gas and water service, to the extent such meters serve to gauge the level of usage of such utilities among the Units.

8.4.10 Those portions of the fire alarm system and sprinkler system, including the booster fire pumps, servicing the Building, that are not included within the Units and do not serve exclusively a single Unit.

8.4.11 The Roofs (including setbacks and Roof Structures) on the roof level (i.e., the roof over the 24th floor), the elevator machine room level and the bulkhead level, as shown on the Floor Plans.

8.4.12 All other parts of the Building or Facilities serving all of the Units and which serve or benefit or are necessary or convenient for the existence, Maintenance, operation or safety of the Building except to the extent specifically included in a Unit pursuant to Article 6 or part of the Hotel Limited Common Elements.

8.5 The Hotel Limited Common Elements consist of the following:

8.5.1 The portion of the Roofs designated on the Floor Plans as Hotel Limited Common Elements.

ARTICLE 9

USE OF BUILDING AND UNITS

9.1 Except as otherwise limited in the By-Laws:

9.1.1 The Garage Unit may be used for garage or parking purposes and shall be operated and open on a continuous basis 24 hours per day, seven days per week except in an Emergency. For so long as a hotel is operated in the Hotel Unit, the Garage Unit Owner shall provide at no cost to the Hotel Unit Owner or any of the Hotel Unit Owner's Permitted Users, two (2) parking spaces for the exclusive use of the Hotel Unit Owner or the Hotel Unit Owner's Permitted Users on a continuous and perpetual basis. In addition, for so long as a hotel is operated in the Hotel Unit, the Garage Unit Owner shall endeavor, but shall not be obligated to, make available to the Hotel Unit Owner on a continuous and perpetual basis not fewer than two (2) additional parking spaces for the use of the Hotel Unit Owner or the Hotel Unit Owner's Permitted Users, as to which the Hotel Unit Owner shall pay to the Garage Unit Owner during the time that the Hotel Unit Owner rents such parking spaces, a rental rate equal to the market rate rental then being charged by the Garage Unit Owner (or the operator of the Garage Unit) to the general public for the rental of similar parking spaces in the Garage Unit. The provisions of this Section 9.1.1 may not be amended without the prior written consent of the Hotel Unit Owner.

9.1.2 The Hotel Unit may be used for transient hotel purposes and related uses including, without limitation, the operation of a spa, fitness center, restaurant, food and beverage facilities, hotel laundry facilities, banquet and meeting facilities, gift shops and related retail outlets, ancillary office and other typical and customary hotel uses.

9.1.3 The Retail Unit may be used for any lawful retail purpose consistent with retail spaces in hotel buildings in Manhattan, including without limitation, restaurant or food and beverage facilities. The Retail Unit Owner shall use commercially reasonable efforts to open and operate within the Retail Unit a sit-down restaurant establishment serving at least lunch and dinner on a daily basis. To the extent that a restaurant is operated within the Retail Unit: (a) the food it serves shall be of a quality consistent with the quality of the hotel being operated in the Hotel Unit; (b) such restaurant shall not be a "fast food" establishment and (c) the Hotel Unit

Owner and the Retail Unit Owner shall cooperate in good faith to coordinate food and beverage service between the Hotel Unit and such restaurant.

9.2 No Unit may be used for any of the following ("Prohibited Uses"): a check cashing establishment; the sale of drug paraphernalia or so-called "head shop;" a clinic for the treatment of alcoholism or drug addiction; a store which sells, rents or displays for sale or rent any pornographic, x-rated or obscene material; an "adult book store" or adult video store; a so-called "sex shop", or an establishment which permits or presents obscene, nude or semi-nude performances or modeling (it being agreed that (i) the sale of "adult" books and magazines in connection with the operation of an otherwise permitted retail operation (provided the sale of such "adult" books and magazines is less than one percent (1%) of the retailer's selling area), (ii) an "art gallery" and (iii) the provision by the Hotel Unit Owner or hotel operator of in-room "pay-per-view" video services to hotel guests are not prohibited under this clause); a gambling or gaming establishment (such as, without limitation, a sport gambling, casino gambling or similar establishment), or otherwise for gambling or the sale of gambling-related items; a so-called "flea market", dollar store or thrift store; a billiards or pool hall (it being agreed that the hotel operating within the Hotel Unit or a restaurant or sports bar or similar food and beverage facility which contains a billiards or pool table or similar recreational games shall not be prohibited under this clause); an office, store, reading room, headquarters, center or other facility principally devoted or opposed to the promotion, advancement, representation, purpose or benefit of: (a) any political party, political movement or political candidate or (b) any religion, religious group or religious denomination; a funeral parlor; an arcade; or a pawn shop.

9.3 Notwithstanding the foregoing, a designated portion of the Building ("Community Facility Space") must be utilized in perpetuity for community facility purposes within use groups 3 or 4 as defined in the Zoning Resolution as of the date of the Declaration. In the event the Community Facility Space is relocated from the floor of the Building on which the Community Facility Space is located as of the date of this Declaration to a different floor of the Building, which relocation may be effected (x) only by the Hotel Unit Owner in compliance with Law, and (y) within the Hotel Unit, the square footage area of the Community Facility Space may not be decreased. The provisions of this Section 9.3 may not be amended or repealed without the consent of all Unit Owners.

ARTICLE 10

ALTERATIONS, ADDITIONS, IMPROVEMENTS AND CHANGES TO THE UNITS AND COMMON ELEMENTS

10.1 Except to the extent prohibited by Law or as otherwise provided herein or in Section 5.17 of the By-Laws, and provided such Unit Owner complies with the requirements of the By-Laws, including but not limited to, Section 5.17 thereof, and except with respect to alterations to the Exterior Façade of a Unit, with respect to which the Unit Owner shall comply with the provisions of Section 10.5 of this Article 10, each Unit Owner shall have the right, at such Unit Owner's sole cost and expense, upon prior notice to, but without the consent or approval of the Condominium Board, the other Unit Owners or the Condominium Managing Agent, to: (i) make non-structural alterations, additions, or improvements in, to and upon the

interior of its Unit and (ii) change the layout of, or number of rooms in, its Unit, provided that such alterations, additions or improvements do not have an Adverse Effect on any other Unit Owner or the Common Elements or the aesthetic appearance of the Building as viewed from outside the Building. Notwithstanding any provision of the foregoing, customary noise and vibrations caused as a result of any such work shall not be deemed to have an Adverse Effect on another Unit Owner or the Common Elements.

10.2 Except to the extent prohibited by Law or as otherwise provided herein or in Section 5.17 of the By-Laws, and provided such Unit Owner complies with the requirements of the By-Laws, including but not limited to, Section 5.17 thereof, each Unit Owner shall have the right, upon prior notice to the Condominium Board, the other Unit Owners and the Condominium Managing Agent, and either (i) upon the prior written consent of the Condominium Board, such consent not to be unreasonably withheld or delayed or (ii) upon the delivery by such Unit Owner to the other Unit Owners, the Condominium Board and the Condominium Managing Agent of a letter from an architect reasonably acceptable to the Condominium Board stating that such work will not adversely affect the structural integrity of the Building, any Building systems or any other Unit, to: make structural alterations, additions, or improvements in, to and upon its respective Unit, except that the Unit Owner shall comply with the provisions of Section 10.5 of this Article 10 with respect to alterations to the Exterior Façade of a Unit. Customary noise and vibrations caused as a result of any such work shall not be deemed to have an Adverse Effect on another Unit Owner or the Common Elements.

10.3 A Unit Owner, at such Unit Owner's sole cost and expense, may, to the extent permitted under the By-Laws, subdivide such Unit Owner's Unit without the approval of (but on no less than thirty (30) days' notice to) the other Unit Owners or the Condominium Board. In the event of such subdivision, a Unit Owner may redesignate any portion of said Unit as a Limited Common Element appurtenant to any portion of such subdivided Unit. Notwithstanding anything to the contrary set forth above, no subdivision of any Unit shall cause a change in the aggregate Common Interests appurtenant to any other Unit.

10.4 Notwithstanding anything contained in this Declaration or the By-laws to the contrary, any Facilities that are not currently for the common use of all the Units or all of the Unit Owners or necessary for, or convenient to, the existence, Maintenance, management, operation or safety of the Property as a whole that exist on the date of this Declaration whether located in a Common Element or a Unit, may remain at its present location and may be Maintained, repaired or replaced by the Unit Owner and/or the Condominium Board, as the case may be, who is responsible for such Facilities. In the event that any such Facilities need to be replaced, such replacement shall be approximately the same size, proportion and character as the existing Facilities. The installation of such replacement Facilities shall not impair the visual or structural integrity and/or mechanical and/or electrical systems of the Common Elements or the Units or of the Building or violate Law or otherwise have an Adverse Effect and the party performing such replacement shall comply with the following requirements: (a) such party procures and maintains during the course of the work the insurance required in the By-laws and ; (b) such party complies with Law (including without limitation, obtaining all necessary licenses and permits); (c) such party, if a Unit Owner, holds the Condominium Board and the other Unit Owners harmless from any liability arising therefrom; and (d) such work does not jeopardize the soundness or structural integrity of any part of the Building.

10.5 Changes to Exterior Façade: Except to the extent prohibited by Law or as otherwise provided herein or in Section 5.17 of the By-Laws, and provided such Unit Owner complies with the requirements of the By-Laws, including but not limited to, Section 5.17 thereof

10.5.1 The Hotel Unit Owner shall have the right, upon prior notice to the Condominium Board, the other Unit Owners and the Condominium Managing Agent, and upon the prior written consent of the Retail Unit Owner (with respect to the Exterior Façade of the Hotel Unit facing Orchard Street), such consent not to be unreasonably withheld or delayed and subject to Section 10.6 below, to make alterations, additions or improvements to the portion of the Exterior Façade comprising part of the Hotel Unit.

10.5.2 The Retail Unit Owner shall have the right, upon prior notice to the Condominium Board, the other Unit Owners and the Condominium Managing Agent, and upon the prior written consent of the Hotel Unit Owner, such consent not to be unreasonably withheld or delayed and subject to Section 10.6 below, to make alterations, additions or improvements to the portion of the Exterior Façade comprising part of the Retail Unit.

10.5.3 The Garage Unit Owner shall have the right, upon prior notice to the Condominium Board, the other Unit Owners and the Condominium Managing Agent, and upon the prior written consent of the Hotel Unit Owner, such consent not to be unreasonably withheld or delayed and subject to Section 10.6 below, to make alterations, additions or improvements to the portion of the Exterior Façade comprising part of the Garage Unit.

10.6 In the event (i) the Retail Unit Owner and/or the Garage Unit Owner wish to make alterations, additions or improvements to such Unit Owner's respective portion of the Exterior Façade, or (ii) the Hotel Unit Owner wishes to make alterations, additions or improvements to the Hotel Unit Owner's portion of the Exterior Façade facing Orchard Street, (such Unit Owner being referred to herein as the "Requesting Unit Owner") the Requesting Unit Owner shall provide the Consenting Unit Owner (as defined below) with a detailed description of such alteration, addition or improvement at least thirty (30) days prior to the Requesting Unit Owner's commencement of work. The consent of the Hotel Unit Owner (in the case of clause (i)) or the Retail Unit Owner (in the case of clause (ii)) (such Unit Owner being referred to herein as the "Consenting Unit Owner") shall be limited to confirming (in the commercially reasonable opinion of the Consenting Unit Owner, taking into consideration the location of the Building and similar mixed-use hotel/retail/garage buildings in the general vicinity of the Building) that such alteration, addition or improvement will not have an Adverse Effect on the Consenting Unit Owner or its Tenant(s) and that such alteration, addition or improvement is not materially different in terms of architectural style, color or appearance from the rest of the Building. In the event the Consenting Unit Owner does not provide the Requesting Unit Owner with detailed written objections to such request within thirty (30) days from the Consenting Unit Owner's receipt of such request, the consent of the Consenting Unit Owner shall be deemed granted and the Requesting Unit Owner may commence such work. In the event the Consenting Unit Owner provides the Requesting Unit Owner with detailed written objections to such request within such thirty (30) day period, and the Requesting Party disputes such objections, if the Requesting Unit Owner and the Consenting Unit Owner are unable to resolve such objections within thirty (30) days (both such parties being obligated to use commercially reasonable good faith efforts to resolve such dispute), such dispute shall be resolved by Arbitration.

ARTICLE 11

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. In the event the Condominium Board receives service of process, the Condominium Board shall promptly notify each of the Unit Owners in accordance with the provisions of the By-Laws.

ARTICLE 12

DETERMINATION OF PERCENTAGE INTERESTS IN COMMON ELEMENTS

The Common Interest of each Unit has been based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use and the overall dimensions of the particular Unit, in accordance with Real Property Law Section 339-i(iv). The Common Interest of each Unit is set forth on Exhibit B annexed hereto.

ARTICLE 13

ENCROACHMENTS

If (a) any portion of the Common Elements encroaches upon any Unit or upon any other Common Element as of the date of the Declaration, (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements as of the date of the Declaration or (c) any such encroachments shall hereafter occur as a result of (i) 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 a Unit Owner or as otherwise required by applicable Law, 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 or any portion of any Unit or the Common Elements made by or with the consent (when required by the By-Laws) of the Condominium Board or a Unit Owner or as otherwise required by applicable Law, in accordance with this Declaration or the By-Laws; then, in any such event and provided such encroachment does not materially and adversely affect the use or utility of the Common Elements or the Unit so affected, a valid easement shall exist for such encroachment and for the Maintenance of the same as long as the Building shall stand. In connection with (c) (ii) and (iii) above, the Condominium Board and the Unit Owners shall be obligated to use commercially reasonable efforts to avoid the creation of encroachments on other Units or the Common Elements.

ARTICLE 14

NAME OF CONDOMINIUM AND BUILDING

The Condominium and the Building shall be designated and known as "180 Orchard Street Condominium." The Hotel Unit Owner shall own and control all rights and interests, including the right to apply for any state trademark and prosecute to registration any federal trademark applications, and shall be responsible for all obligations and liabilities, including those in furtherance of protecting, policing and maintaining any applicable trademark rights, which may include litigating against those whom the Hotel Unit Owner believes may be infringing upon the rights in and to the name of the Condominium and Building. Only the Hotel Unit Owner shall have the right to change or assign the name of the Condominium and/or the Building, and the Hotel Unit Owner shall have the right to utilize other names for the Building in connection with the operation and management of the Hotel Unit. Subject to and in accordance with the provisions of Exhibit F (and Exhibit F-1, as applicable) to the Declaration (and without limiting the provisions thereof), the Garage Unit Owner, the Hotel Unit Owner and the Retail Unit Owner shall each have the right and an easement to install and Maintain Signage on such portions of the Exterior Façade as specified in Exhibit F (and Exhibit F-1, as applicable), which Signage may (among other permitted statements) utilize the name and address of the Condominium and the Building.

ARTICLE 15

EASEMENTS AND RIGHTS OF ACCESS

15.1 Except as set forth in this Declaration, each Unit Owner shall have in common with all other Unit Owners, a reciprocal easement for the use of such Unit Owner's Facilities, any Limited Common Elements appurtenant to such Unit and the General Common Elements located in any of the other Units or in General Common Elements or elsewhere on the Property which serve such Unit Owner's Unit, including an easement to connect to existing utilities including, but not limited to, utilities for gas, electricity, water, telecommunication and ventilation. Each Unit shall be subject to an easement in favor of all Unit Owners to use all General Common Elements located within the boundaries of such Unit or elsewhere on the Property. In addition, the Condominium Board shall have an easement and a right of access to the General Common Elements, each Unit and its appurtenant Limited Common Elements to inspect the same, to remove violations therefrom and to use and Maintain the General Common Elements contained therein or elsewhere in the Property. Notwithstanding the foregoing, any right of access within a Unit or its appurtenant Limited Common Elements is subject to five (5) business days' notice to the Unit Owner, except in cases of an Emergency.

15.2 All easements and rights of access described in this Article shall be exercised by the party or parties entitled to exercise such easements or rights of access (the "Exercising Party") in such a manner as will not unreasonably interfere with the normal conduct of business of the Tenants and occupants of the Units or with the use of the Units for their permitted purposes, and each Unit Owner whose Unit is subject to the easements and rights of access described in this Article shall be reimbursed for reasonable actual out-of-pocket costs (but not

consequential damages) incurred by said Unit Owner (the "Impacted Owner") as a result of the exercise of the easements and rights of access hereunder, including, but not limited to, the cost of repairs to the Impacted Owner's Unit and security measures incurred by the Impacted Owner as a result of the exercise of the easement and right of access hereunder (the "Access Costs"). In addition, if and to the extent that a Unit Owner or tenant, occupant or permittee of such Unit Owner regularly accesses or utilizes a component of another Unit Owner's Unit such that the Impacted Owner's Unit incurs additional wear and tear or additional operational costs over a period of time (such as regular use of an elevator, regular access to an area in another Unit Owner's Unit impacting HVAC usage, regular access to a Roof area whereby such Roof area incurs additional wear and tear, etc.), the Impacted Owner shall have the right to charge a reasonable Access Cost to such Unit Owner requiring such access, provided such Access Cost is attributable to actual out-of-pocket costs incurred by the Impacted Owner. Except as provided in Section 15.2.1 below, all entries into Units or its appurtenant Limited Common Elements made pursuant to the easements granted in this Article 15 shall be permitted on reasonable notice, but in no event less than five (5) business days' notice to the Unit Owner, except that no notice will be necessary in the case of an Emergency, in which event, the Exercising Party shall give such notice (which may be verbal) as is practicable given the nature of the Emergency. The Exercising Party shall reimburse the Impacted Owner within thirty (30) days of demand therefor, for the Impacted Owner's Access Costs, which demand shall be accompanied by reasonable evidence of such Access Costs. In the event the Exercising Party fails to pay the Access Costs within said thirty (30) day period, the Impacted Owner shall be entitled to interest on the Access Costs at the Default Rate, together with all rights at equity and at law. Access Costs shall be deemed to be part of the Common Expenses included in the Common Charges and the Condominium Board shall have a lien and such rights with respect thereto as are set forth in the Bylaws. To the extent the Condominium Board is responsible for any costs and expenses, including, without limitation, Access Costs, under this Article 15, such costs shall be allocated to the Unit Owners as General Common Expenses. Notwithstanding the foregoing, if the exercise of the easements and rights of access described in this Section is required in order to remove or cure a violation or to cure a default hereunder or under the Declaration or any rules and regulations adopted by the Condominium Board, or for the purpose of correcting any conditions originating in such Unit Owner's Unit and threatening another Unit or all or any part of the Common Elements, such Unit Owner shall be responsible for all costs and expenses in connection with such exercise and access and any work performed in connection therewith, all of which shall be Unit Owner Expenses and the Unit Owner shall not be entitled to reimbursement for Access Costs. Any dispute by and among any Unit Owners and/or the Condominium Board as to the nature, scope or interpretation of the easements contained in this Article 15 shall be resolved by Arbitration.

15.2.1 Notwithstanding the notice provisions of Section 15.2 above, until a temporary certificate of occupancy is issued by the New York City Department of Buildings permitting the use and occupancy of the Hotel Unit as a hotel, the Hotel Unit Owner shall have the right to exercise the easements and rights of access described in this Article, including, without limitation, the right of entry in, to, across and through the Garage Unit and the Retail Unit, on no less than 24 hours' prior notice to the Garage Unit Owner or Retail Unit Owner, as applicable. Such notice may be delivered by any manner set forth in Section 4.1 of the By-Laws or by electronic mail (email); provided that a notice sent by electronic mail shall be deemed given on the date of sending by electronic mail as documented by the sender's electronic mail program, if sent no later than 5:00 PM on a Business Day (or if not sent on a Business Day, then

such notice shall be deemed given on the following Business Day). Notwithstanding the foregoing, no notice will be necessary in the case of an Emergency, however, the Hotel Unit Owner shall make good faith attempts to give such notice (which may be verbal), if any, as is practicable given the nature of the Emergency. Garage Unit Owner and Retail Unit Owner acknowledge and agree that initial construction with respect to the Hotel Unit shall continue until Hotel Unit Owner obtains such temporary certificate of occupancy and each hereby waives any claims due to noise, vibration, dust, customary construction debris and temporary inconvenience arising as a result of such construction activities, including without limitation, Hotel Unit Owner's exercise and use of the easements set forth herein.

15.3 All Permitted Users shall have a right and easement to use the public sidewalks and the ramps, stairways, entrances and exits constituting General Common Elements and any replacements thereof for the sole purpose of providing all Permitted Users a means of ingress and egress to and from the Building and its respective Unit and an approach to and from the public streets subject to compliance with the provisions of the By-Laws.

15.4 The Condominium Board and each Unit Owner shall have an easement to install, utilize, operate, Maintain, expand and relocate within the General Common Elements any utilities servicing the Units and/or the General Common Elements and/or the Limited Common Elements including, without limitation, all pipes, wires, ducts, cables, conduits, lines, service, connections and other apparatus and equipment for any electricity, gas, steam, heat, water, sewerage, telephone, cable, and other communications facilities as are reasonably necessary or desirable to provide all utility services required by the Unit Owners or as may be required by Law or by the utility companies providing such services (the "Utility Facilities"), together with a non-exclusive or an exclusive right and easement, as the case may be, to utilize and receive services from the Utility Facilities.

15.5 Each Unit shall have an easement of physical subjacent and lateral support and of necessity from all other Units and the Common Elements and shall be subject to an easement of physical subjacent and lateral support and necessity in favor of all other Units and the Common Elements.

15.6 All Permitted Users shall have a right of emergency egress through passageways, emergency stairways and exits contained within any Unit, Limited Common Element or General Common Element, and each Unit shall be subject to the rights of all Permitted Users to use such passageways, stairways and exits for emergency egress.

15.7 The Condominium Board with respect to the General Common Elements (with the consent of all Unit Owners) and the Building, the Garage Unit Owner with respect to the Garage Unit, the Retail Unit Owner with respect to the Retail Unit, and the Hotel Unit Owner with respect to the Hotel Unit and the Hotel Limited Common Elements, shall have the right to grant such additional electric, gas, water, ventilation, communications or other easements for utilities or otherwise or relocate such easements, as they shall deem necessary or desirable for the proper operation and Maintenance of the Building, the General Common Elements, the Limited Common Elements or the respective Units, as the case may be, or any portion thereof, or to complete the Building, or for the general health, safety or welfare of the Permitted Users of the Units; provided that such additional utilities or the relocation of existing utilities will not prevent

or materially interfere with the normal conduct of business of Tenants and occupants of the Units or with the use of the Units for their permitted purposes or diminish the square footage of the Units, and provided further that any work shall comply with all of the requirements of the By-Laws including, but not limited to Sections 5.17 and 5.18 thereof. Any utility company and its employees and agents shall have the right of access, upon not less than five (5) business days' notice, except in an Emergency, to any Unit or the Common Elements in furtherance of such easements, provided such right of access shall be exercised in such manner as shall not materially interfere with the normal conduct of business of the Tenants and occupants of the Units or with the use of the Units for their permitted purposes. Any fees, compensation or other profits received by the Condominium Board or the Unit Owners in furtherance of the aforesaid easements shall be the property of the Condominium Board or the Unit Owners granting such easements, as applicable.

15.8 The Condominium Board shall have the right, at reasonable times, at reasonable intervals and upon reasonable advance notice, to enter into the Land and the Building and all Common Elements and Units therein to inspect the structural condition of the Building, and the Utility Facilities and any other facilities that the inspecting party is permitted or required to Maintain; provided, however, that only such notice as shall be practicable under the circumstances (including no notice) shall be required in order to inspect or correct conditions imminently dangerous to persons or property.

15.9 Satellite Equipment.

15.9.1 The Hotel Unit Owner shall have an easement and the exclusive right to install, utilize, operate and Maintain Satellite Equipment on the Roofs and Roof Setbacks which are Hotel Limited Common Elements for the operations of the Hotel Unit Owner or its Tenants, subject to non-interference, relocation and other restrictive provisions that are commercially reasonable and typical in New York antenna agreements giving due consideration to the fact that such Satellite Equipment is necessary for the operation of the business located within the Hotel Unit. The Hotel Unit Owner shall also have an easement and the exclusive right to enter into lease or license agreements with telecommunications providers for the installation, utilization and/or operation of Satellite Equipment on the Roofs and Roof Setbacks which are Hotel Limited Common Elements, and the exclusive right to receive rent, revenue or other consideration for such lease or license agreement. In any event, no such Satellite Equipment can unreasonably interfere with telephone, television and other telecommunication services available to the other Unit Owners.

15.9.2 The Retail Unit Owner shall have an easement and the non-exclusive right to install, utilize, operate and Maintain, enter into lease or license agreements with telecommunications providers for the installation, utilization and/or operation of non-revenue generating Satellite Equipment on any portion of the Roofs or Roof Setbacks designated as General Common Elements for the operations of the Retail Unit Owner or its Tenants, subject to non-interference, relocation and other restrictive provisions that are commercially reasonable and typical in New York antenna agreements giving due consideration to the fact that such Satellite Equipment is necessary for the operation of the businesses located within the Retail Unit. In such event, the Retail Unit Owner shall be solely responsible for the Maintenance of the portion of the Roof and/or Roof Setback on which such Satellite Equipment is located. In any event, no such

Satellite Equipment can unreasonably interfere with telephone, television and other telecommunication services available to the other Unit Owners.

15.9.3 The Condominium Board shall have an easement and the non-exclusive right to enter into lease or license agreements with telecommunications providers for the installation, utilization and/or operation of Satellite Equipment on such portions of the Roofs and Roof Setbacks designated as General Common Elements, and the right to receive rent, revenue or other consideration for such lease or license agreement, provided the revenues generated by such Satellite Equipment shall be shared among all Unit Owners in accordance with their respective percentages of Common Interest. In any event, no such Satellite Equipment can unreasonably interfere with telephone, television and other telecommunication services available to any Unit Owner.

15.9.4 Any such Satellite Equipment shall be installed in a manner that minimizes the nuisance element of such placement and is consistent with occupancy of the Roofs and Roof Setbacks. Installation of any such Satellite Equipment shall be at the installing Unit Owner's or Condominium Board's sole cost and expense, as applicable, and the installing Unit Owner or the Condominium Board (as the case may be) shall, at its own cost and expense, Maintain all such Satellite Equipment and any portion of the Common Elements used in connection therewith. Except as it solely relates to any Satellite Equipment installed by the Condominium Board pursuant to Section 15.9.3 above, in no event shall any costs incurred in connection with installation, operation or Maintenance of any of the Satellite Equipment be considered a Common Expense or otherwise allocated to the other Unit Owners other than the installing Unit Owner. The location of Satellite Equipment installed by the Condominium Board, the Retail Unit Owner or the Hotel Unit Owner, as applicable, shall, if required by the non-installing Unit Owner or Condominium Board for a compelling reason such as material interference with another Unit Owner's or the Condominium Board's telecommunications service, be subject to relocation at the election of and at the expense of the non-installing Unit Owner or the Condominium Board (as the case may be) upon ninety (90) days' prior notice to the installing Unit Owner or the Condominium Board (as the case may be), and to such installing Unit Owner's respective Tenant, as applicable (except in case of an Emergency). Any relocation of the Satellite Equipment by the non-installing Unit Owner or the Condominium Board shall be performed in such manner as to minimize the interference with the use of such Satellite Equipment by the installing Unit Owner or its Tenants (or the Condominium Board, as applicable) and shall not impair the services provided or type of equipment used, prior to such relocation of the Satellite Equipment Except in an Emergency and except as otherwise provided in this Declaration and the By-Laws, the exercise of the rights granted in the easement with respect to the Maintenance, operation or relocation of any easements as aforesaid or as provided elsewhere in the Declaration or By-Laws (i) shall not have an Adverse Effect upon the use of the burdened Unit (or the Common Elements) by the Permitted Users thereof, (ii) shall not result in the imposition of any mechanic's or other monetary lien against any Unit (or the Common Elements); and (iii) shall be in compliance with Law. The Condominium Board, the Hotel Unit Owner and the Retail Unit Owner, with respect to the portions of the Roofs and Roof Setbacks on which such Satellite Equipment is located, shall each have an easement to maintain any encroachment thereon resulting from the installation, operation, Maintenance, repair, alteration, rebuilding, restoration or replacement of the Satellite Equipment, including, without limitation easements for ingress and egress and easements to use chases, conduits and other areas of the

Building which are Hotel Limited Common Elements or General Common Elements (with respect to the Hotel Unit Owner) or General Common Elements (with respect to the Condominium Board and the Retail Unit Owner) for wiring purposes; provided, however, that the use of such chases, conduits and other areas of the Building shall not unreasonably interfere with the use of the Hotel Unit or the Hotel Limited Common Elements or the Retail Unit or the General Common Elements and do not have an Adverse Effect on any Unit. The Hotel Unit Owner and the Retail Unit Owner shall have the right, at such Unit Owner's sole cost and expense to relocate any Satellite Equipment to other portions of the Roofs and Roof Setbacks which are General Common Elements (or, with respect to the Hotel Unit Owner, to other portions of the Hotel Limited Common Elements), in compliance with this Section 15.9, to the extent such Satellite Equipment no longer performs its function due to its original location.

15.9.5 Notwithstanding the foregoing, the Hotel Unit Owner shall have the right to install Satellite Equipment on Roofs and Roof Setbacks which are portions of the Hotel Unit or Hotel Limited Common Elements without the consent of any other Unit Owner or the Condominium Board, provided such installation does not have an Adverse Effect on any other Unit Owner.

15.10 Existing utilities cannot be installed in any Unit without the consent of the affected Unit Owner.

15.11 In addition to the easements set forth elsewhere in this Article 15, the following specific easements shall be granted to particular Unit Owners and other Permitted Users:

15.11.1 The Garage Unit Owner and its Permitted Users shall have an easement to (i) utilize Stair A between the subcellar and the first floor, and associated corridors and the Hotel Unit service entrance on Orchard Street for the purpose of egress from the Garage Unit in the event of an Emergency, and (ii) utilize passenger elevator #5 and associated vestibules and corridors between the subcellar and the first floor for handicap access to and from the Garage Unit.

15.11.2 Intentionally omitted.

15.11.3 The Retail Unit Owner and the Garage Unit Owner shall have an easement through the Hotel Unit (i) to access the mechanical rooms in the subcellar and cellar that are within the Hotel Unit and which contain mechanical, electrical, plumbing and other Facilities (including meters) servicing the Retail Unit and/or the Garage Unit, for the purpose of meter reading and Maintaining such Facilities that exclusively service the Retail Unit and/or the Garage Unit as applicable, and (ii) to access the portion of the second floor Roof designated on the Floor Plans as the "Second Floor Easement Zone" for the purpose of Maintaining, as applicable: (I) Facilities servicing the Retail Unit including, without limitation, the air-conditioning equipment, exhaust fans, fresh air supply ducts, and kitchen exhaust fans (II) Facilities servicing the Garage Unit including, without limitation, exhaust fans and fresh air supply ducts, and kitchen exhaust fans.

15.11.4 The Hotel Unit Owner shall have an easement through the Garage Unit to (i) access the fuel oil tank and fuel pumps located in the Garage Unit that service the emergency generator and associated piping, for Maintenance purposes.

15.11.5 Intentionally omitted.

15.11.6 The Retail Unit Owner shall have an easement to install, replace, improve and relocate exhaust and other flues necessary or desirable for the operation of the Retail Unit: (i) traversing below the second floor slab through the north sheer wall into the north setback of the Building; (ii) on the Exterior Façade of the Building facing Ludlow Street, up to the 14th floor bulkhead (including on a portion of the second floor Roof) and (iii) elsewhere in or on the General Common Elements as reasonably determined by the Retail Unit Owner after the date of this Declaration, and to Maintain such flues. The Retail Unit Owner shall provide plans of such easements to the Hotel Unit Owner for notice purposes; however the Retail Unit Owner may exercise such easements without the consent of the Hotel Unit Owner unless such easements are to be located within the Hotel Unit or the Hotel Limited Common Elements, in which event, the consent of the Hotel Unit Owner shall be required, not to be unreasonably withheld or delayed.

15.11.7 The Garage Unit Owner shall have an easement to install exhaust flues (i) on the Exterior Façade of the Building facing Ludlow Street and/or (ii) through the Retail Unit and exiting on the second floor Roof, and to Maintain such flues. Any addition, alteration, replacement or relocation of such flues shall be made by the Garage Unit Owner upon the prior written consent of the Hotel Unit Owner and the Retail Unit Owner, such consent not to be unreasonably withheld or delayed.

15.12 Any easements granted to Condominium Board, any Unit or any Unit Owner or any other party under this Declaration and the By-Laws may be exercised by such party's employees, agents, contractors, and Tenants, as the case may be, to the extent necessary to effectuate the purpose for the easement or as otherwise authorized by the Unit Owner or Condominium Board, provided such right of access shall be exercised in such manner as shall not unreasonably interfere with the normal conduct of business of the Tenants, occupants or Permitted Users of the Units.

15.13 Any dispute with respect to this Article 15 shall be resolved by Arbitration.

ARTICLE 16

LEASES

16.1 The Unit Owners have the right to enter into leases, occupancy agreements or operating agreements for all or any portion of the Units (as same may be modified, amended, supplemented or restated from time to time, such leases and operating agreements are hereinafter referred to as the "Leases"). All Leases, whether executed before or after the recording of the Declaration, will be subject and subordinate in all respects to the Condominium Documents. Each Unit Owner is hereby authorized to exercise hereunder all rights granted to the tenant ("Tenant") under the Lease entered into by such Unit Owner and to the extent granted under a Lease, the Tenant thereunder shall have all rights of the Unit Owner granted pursuant to this Declaration and the By-Laws and may take all actions which a Unit Owner has obligated itself to perform or has granted the right to a Tenant to perform under its Lease, including, without limitation, exercising any rights of "self-help" granted to Tenants under Leases.

16.2 The Unit Owners have the right to request the Condominium Board to issue Condominium Non-Disturbance Agreements in connection with Leases, provided the Unit Owner requesting such Condominium Non-Disturbance Agreement is not in default in such Unit Owner's obligations under the Declaration and the By-Laws. The Condominium Board's obligations with respect to the issuance of such Condominium Non-Disturbance Agreement are set forth in the By-Laws.

16.3 To the extent provided under the terms of the Lease, a Tenant under a Lease may exercise any and all rights available to it at law and in equity if the Condominium Board or a Unit Owner interferes with or otherwise fails to permit such Tenant to exercise any rights granted to it under the terms of this Declaration or the By-Laws.

16.4 Notwithstanding anything to the contrary contained in this Declaration or the By-Laws, easements through and access to any Unit granted under the Declaration and By-Laws will be restricted to the extent that access to the Unit is restricted under a Lease.

16.5 Provided such rights are granted in a Lease, a Tenant thereunder will have the right to seek appropriate injunctive relief and other equitable remedies against the Condominium Board or other Unit Owner or Unit Owners if (w) the Condominium Board or such Unit Owner or Unit Owners fail to perform their respective obligations, (x) any such failure results in the applicable Unit Owner being in default in respect of such Unit Owner's obligations to the Tenant, (y) the Tenant gives the Unit Owner notice that the Tenant intends to seek such injunctive relief, and (z) the Condominium Board or such other Unit Owner or Unit Owners fail to remedy their aforesaid failure within fifteen (15) days after the Tenant gives the Unit Owner notice thereof, or, if such failure is of a nature that cannot with due diligence be remedied within such period of fifteen (15) days, the Condominium Board or such other Unit Owners fail to commence the remedy of such failure within such period or fifteen (15) days or thereafter fail to prosecute such remedy to completion with due diligence.

16.6 Notwithstanding anything to the contrary set forth herein: (i) with respect to the rights of Tenants under Leases granted hereunder, in the event of a conflict between the rights granted to more than one such Tenant, the rights of the Tenant to which such conflicting rights were first granted shall govern and (ii) in the event of any inconsistency between the provisions of this Article 16 and any other provisions of this Declaration or the By-Laws, the provisions of this Article 16 shall govern.

16.7 Notwithstanding anything to the contrary set forth in this Article 16, a Unit Owner has the right, in its sole discretion, to assign to a Tenant of such Unit Owner some or all of the rights granted to such Unit Owner under this Declaration and the By-Laws. In such event, the Tenant shall be required to assume the obligations of the Unit Owner under this Declaration and the By-Laws and the Condominium Board shall be entitled to enforce such obligations against the Tenant as if such Tenant were the Unit Owner. The Unit Owner, the Tenant and the Condominium Board will execute a recognition agreement, prepared at the sole cost and expense of the Unit Owner, in which the Unit Owner assigns such rights and obligations to the Tenant, the Tenant assumes such rights and obligations, and the Condominium Board recognizes the Tenant as the sole party entitled to exercise such rights and perform such obligations on behalf of the Unit Owner. The Condominium Board shall not be obligated to execute any such recognition

agreement if the Unit Owner is in default of the Unit Owner's obligations under this Declaration or the By-Laws or if such recognition agreement does not comply with this Declaration or the By-Laws, including without limitation, Section 5.27 of the By-Laws. Notwithstanding anything to the contrary contained herein: (a) such recognition agreement shall not relieve the Unit Owner from performing its obligations under this Declaration, the By-Laws, any rules and regulations, at law or in equity (or otherwise relieve the Unit Owner from any liability); and (b) regardless of whether or not any such recognition agreement is entered into, the Condominium Board shall have the right to pursue any such Tenant directly with regard to the enforcement of any obligations of the Tenant/Unit Owner, violations of this Declaration, the By-Laws or any rules and regulations and otherwise for any matter for which the Condominium Board would otherwise have the right to pursue a Unit Owner under this Declaration, the By-Laws, any rules and regulations, at law or in equity, provided the Condominium Board notifies the Unit Owner (in as expeditious a manner as possible under the circumstances) of the action the Condominium Board intends to take or has taken against the Tenant, and the grounds for taking such action.

ARTICLE 17

COVENANTS RUNNING WITH THE LAND

17.1 All provisions of this Declaration and the By-Laws which are annexed hereto and made a part hereof, and any rules and regulations adopted by the Condominium Board, 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 such Unit 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 or any other third party. All present and future owners, Tenants, subtenants, licensees, and other Permitted Users of Units shall be subject to and shall comply with the provisions of this Declaration, the By-Laws and any reasonable, customary and non-discriminatory rules and regulations adopted by the Condominium Board, as they may be amended from time to time (subject to the reasonable approval of the Garage Unit Owner, the Retail Unit Owner and the Hotel Unit Owner, but only if a particular rule or regulation affects such Unit Owner(s)). The acceptance of a deed of 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 any rules and regulations adopted by the Condominium Board, as they may be amended from time to time in accordance with the provisions of this Declaration and the By-Laws, 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 or operating agreement thereof.

17.2 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 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.

ARTICLE 18

AMENDMENTS OF DECLARATION

18.1 Except as otherwise provided in this Article 18 or expressly provided elsewhere in this Declaration or in the By-Laws (including, without limitation, Section 12.2 thereof) or except as may otherwise be required by Law, any provision of this Declaration may be amended, modified, added to, or deleted only by the unanimous vote of the Garage Unit Owner, the Retail Unit Owner and the Hotel Unit Owner taken in accordance with the provisions of the By-Laws. No such amendment, modification, addition, or deletion shall be effective until executed and acknowledged by all Unit Owners and recorded in the City Register's Office.

18.2 Notwithstanding the foregoing but subject to the terms of Section 2.2.1 of the By-Laws and except as set forth in Section 18.3 of this Article 18, any provision of this Declaration benefiting, protecting or otherwise affecting only one or more but fewer than all Unit Owners and not impacting the other Unit(s) or Unit Owner(s) may be added to, amended, modified or deleted by such affected Unit Owner(s) or Unit Owner(s) by a written amendment to this Declaration executed by the Condominium Board and the affected Unit Owner(s), provided that the Condominium Board shall not unreasonably withhold, delay or condition its consent to such amendment if the amendment does not impact any other Unit Owner. No such amendment, modification, addition or deletion shall be effective (x) unless the Unit Owner(s) proposing such amendment, addition, modification, addition or deletion (the "Proposing Party") shall have provided the Condominium Board and the other Unit Owners at least thirty (30) days' prior written notice of the Proposing Party's proposed amendment, modification or deletion, along with a certification that such amendment, modification, addition or deletion does not impact the other Units, and (y) until recorded in the City Register's Office. Any such amendment, modification, addition or deletion made pursuant to this Section shall be executed by 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 for such purpose. Any dispute between the Unit Owners with respect to whether an amendment, modification, addition or deletion impacts a Unit or Unit Owner shall be resolved by Arbitration; provided, however, that no such dispute with respect to whether the Proposing Party's

amendment, modification, addition or deletion impacts another Unit or Unit Owner shall be deemed to exist unless the Unit Owner objecting to such amendment, modification, addition or deletion (the "Objecting Party") delivers written notice specifying the grounds for its objection in writing to the Proposing Party and the Condominium Board within thirty (30) days of receipt by it of notice of such proposed amendment, modification, addition or deletion. Provided the Objecting Party has delivered such written notice as aforesaid, the Objecting Party and the Proposing Party shall, within the ensuing fourteen (14) day period, exercise good faith efforts to resolve such dispute before the dispute may be submitted to Arbitration.

18.3 Notwithstanding the provisions of Section 18.2 of this Article 18, any Unit Owner shall have the right to amend this Declaration, without the consent of the Condominium Board or any other Unit Owner, but upon no less than thirty (30) days' notice to all Unit Owners, solely for the purpose of subdividing its Unit (to the extent permitted under the By-Laws) and to reflect the redesignation of the Limited Common Elements appurtenant to the Unit into Limited Common Elements applicable to such subdivided portions of the Unit, as provided in Section 10.2 hereof. In the event of such subdivision, the Declaration and By-Laws may be amended to provide for the creation and operation of a board of managers (each a "Resultant Board") elected by and representing the resultant subdivided units (the "Resultant Units") and any consents, approvals, determinations or actions required to be made by the Unit Owner so subdividing shall be made by the Resultant Board on behalf of the owners of the Resultant Units in accordance with the terms of this Declaration and the By-Laws, as so amended.

ARTICLE 19

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 withdrawal of the Property from the provisions of the Condominium Act is authorized by the affirmative vote of the Garage Unit Owner, the Retail Unit Owner and the Hotel Unit Owner taken in accordance with the provisions of the By-Laws. In the event said withdrawal is authorized as aforesaid, the Property shall be subject to an action for partition by any Unit Owner or lienor as if owned in common, in which event the net proceeds of sale shall be divided among the Unit Owners based upon the relative fair market values of the Units; 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 such Unit Owner's Unit, in the order of priority of such liens. If the Garage Unit Owner, the Hotel Unit Owner and the Retail Unit Owner cannot agree as to the relative fair market values of the Units within ninety (90) days following the date of termination, the determination of such values shall be resolved by Arbitration.

ARTICLE 20

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 21

CAPTIONS

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

ARTICLE 22

CERTAIN REFERENCES

22.1 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.

22.2 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.

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

ARTICLE 23

SEVERABILITY

Subject to the provisions of Section 17.2, if any provision of this Declaration is invalid or unenforceable as against any Person or under certain circumstances, the remainder of this Declaration and the applicability of such provision to other Persons or circumstances shall not be affected thereby. Each provision of this Declaration shall, except as otherwise herein provided, be valid and enforced to the fullest extent permitted by Law.

ARTICLE 24

COVENANT OF FURTHER ASSURANCES

24.1 Any party which is subject to the terms of this Declaration, whether such party is a Unit Owner, a lessee or sublessee of a Unit Owner, a Recognized Mortgagee, an occupant of a Unit, a member or officer of the Condominium Board or otherwise, shall, upon prior reasonable written request at the expense of any such other party requesting the same, execute, acknowledge and deliver to such other party such instruments, in addition to those specifically provided for

herein, and take such other action as such other party may reasonably request to effectuate the provisions of this Declaration or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction (the "Required Action").

24.2 A Unit Owner or any other party which is subject to the terms of this Declaration must take a Required Action or may object to taking a Required Action, in accordance with Section 11.9 of the By-Laws. Any objection by a Unit Owner as to whether or not a request pursuant to this Section 24.2 involves a "Required Action" shall be resolved by Arbitration. In the event the arbitrators determine that the action in question is a Required Action, then, the Condominium Board is hereby authorized as attorney-in-fact for such Unit Owner or other party, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action in the name of such Unit Owner or other party and such document or action shall be binding on such Unit Owner or other party.

24.3 Each Unit Owner shall have the affirmative duty to Maintain its respective Unit and its appurtenant Limited Common Elements in such a manner so as to reasonably prevent and avoid inflicting an Adverse Effect upon the other Units, the Limited Common Elements, the General Common Elements or the Building. In the event any Unit Owner fails to make any payments required under the terms of this Declaration and the By-Laws or causes or permits any condition, or fails to take any action to prevent a condition, that has an Adverse Effect on another Unit, any Limited Common Elements, the General Common Elements or the Building (the "Defaulting Unit Owner"), the Condominium Board shall give written notice to the Defaulting Unit Owner including a request that the Defaulting Unit Owner and to any Recognized Mortgagee in accordance with Article 6 of the By-Laws, take specific steps to ameliorate such a condition ("Remedy Notice"). If the Defaulting Unit Owner fails to remedy the condition within seven (7) days of the receipt of the Remedy Notice, or, if the condition is such that it cannot be remedied within seven days, fails to commence appropriate remedies, the Condominium Board may, upon ten (10) Business Days (or such shorter time that the Condominium Board reasonably determines is necessary to prevent irreparable damage in the event of an Emergency) additional notice to the Defaulting Unit Owner, enter into the Unit and effect a reasonable remedy, at the Unit Owner's sole cost and expense. In the event a Unit Owner reasonably believes another Unit Owner has caused, permitted, or failed to prevent a condition that has a deleterious effect on its Unit, the first Unit Owner may request that the Condominium Board send a Remedy Notice. If the Condominium Board fails or otherwise determines not to send the Remedy Notice within seven (7) Business Days of such request, the Unit Owner shall have all rights to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such condition or breach and to seek reimbursement for any costs or expenses incurred in connection therewith. Any such costs or expenses or expenses expended by the Condominium Board or a Unit Owner as aforesaid shall be deemed Unit Owner Expenses as to which the Condominium Board will have the lien rights more particularly set forth in Section 5.14 of the By-Laws.

ARTICLE 25

SUCCESSORS AND ASSIGNS

Except as set forth herein or in the By-Laws to the contrary, the rights and/or obligations of the Condominium Board and the Unit Owners shall inure to the benefit of and be binding upon any successor or assign of the Condominium Board and the Unit Owners and shall constitute and be enforceable with respect to the Property as a covenant running with the land.

ARTICLE 26

NON-RECOURSE

All covenants, stipulations, promises, agreements and obligations of a Unit Owner contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of such Unit Owner and not of any shareholder, affiliate, member, partner, trustee, director, officer, manager, employee or agent of such Unit Owner, and no recourse shall be had hereunder against any such shareholder, affiliate, member, partner, trustee, director, officer, manager employee or agent. The liability of any Unit Owner hereunder or under the By-laws for damages or otherwise, including as a result of any breach of the covenants, stipulations, promises, agreements and obligations of a Unit Owner contained herein or in the By-laws, shall be limited to such Unit Owner's interest in its Unit and its rights hereunder and under the By-laws, including (i) the rents, issues and profits thereof, (ii) the proceeds of any insurance policies covering or relating to its Unit and Appurtenant Interest, (iii) any awards payable in connection with the condemnation of its Unit (or its Common Interest) or any part thereof and (iv) amounts received or receivable by a Unit Owner in connection with a Sale of its Unit to the extent that such amounts have not been distributed by such Unit Owner. Neither any Unit Owner nor any of its direct or indirect shareholders, affiliates, members, partners, trustees, directors, officers, managers, employees or agents shall have any liability (personal or otherwise) beyond such Unit Owner's interest in its Unit and its rights hereunder and under the By-laws and no other property or assets of such Unit Owner or any of its direct or indirect shareholders, affiliate, members, trustees, partners, directors, officers, managers, employees or agents of such Unit Owner shall be subject to levy, execution or other enforcement procedures for the satisfaction of the Condominium Board's, any other Unit Owner's or any other Person's remedies hereunder or under the By-laws or at law or in equity with respect to this Declaration or the By-laws or the Condominium.

ARTICLE 27

INCORPORATION BY REFERENCE

The terms, covenants, conditions, descriptions and other information contained in (i) the property description 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 Budget Allocations annexed hereto as Exhibit E; and (vi) the Signage Criteria annexed hereto as Exhibit F and Exhibit F-1 are each incorporated herein by this

reference and made a part of this Declaration as if set forth at length in the text hereof.

ARTICLE 28

PERMITTED USERS

Any of the rights granted to Unit Owners or the Condominium Board in this Declaration or the By-Laws may be granted to Permitted Users.

* * * * *

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the
24th day of March, 2014

180 ORCHARD OWNER LLC

By: BCRE IHG 180 Orchard Holdings LLC,
sole member

By: _____

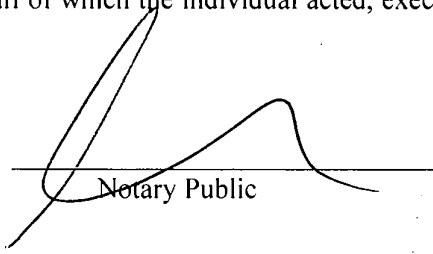
Name: Issac Hera

Title: Authorized Signatory

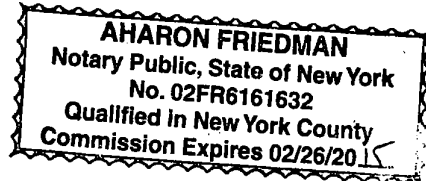
[SIGNATURE PAGE TO DECLARATION]

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

On the 24 day of March, in the year 2014, before me, the undersigned, personally appeared Issac Hera, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public



[NOTARY PAGE TO DECLARATION]

EXHIBIT A

**180 Orchard Street Condominium
180 Orchard Street
New York, NY 10002**

Block 412, f/k/a Lot 5, n/k/a Lots 1001, 1002 and 1003

DESCRIPTION OF THE LAND

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

BEGINNING at a point on the easterly side of Orchard Street, distant 50 feet northerly from the corner formed by the intersection of the easterly side of Orchard Street with the northerly side of Stanton Street;

RUNNING THENCE easterly and parallel with Stanton Street, 87 feet 6 inches;

THENCE northerly and parallel with Orchard Street, 51 feet 6 inches;

THENCE easterly and parallel with Stanton Street, 0 feet and 3 inches;

THENCE northerly and parallel with Orchard Street, 23 feet 11 ¼ inches;

THENCE easterly along a line which has an interior angle of 270 degrees 22 minutes 24 seconds with the last mentioned line, 87 feet 10 ¼ inches Calculated (87 feet 6 inches Deed) to a point on the westerly side of Ludlow Street;

THENCE northerly along the westerly side of Ludlow Street, 50 feet 0 inches;

THENCE westerly along a line which is parallel with East Houston Street and makes an interior angle of 90 degrees 29 minutes 26 seconds on its southerly side with the last mentioned course, 87 feet 10 inches Calculated (87 feet 6 inches Deed);

THENCE northerly along a line which forms an interior angle of 269 degrees 33 minutes 54 seconds with the last mentioned course, 2 feet 8 ¼ inches;

THENCE westerly along a line which is parallel with the East Houston Street and which forms an interior angle of 90 degrees 26 minutes 06 seconds on its southerly side with the last mentioned course, 87 feet 9 7/8 inches to a point on the easterly side of Orchard Street;

THENCE southerly along the easterly side of Orchard Street, 128 feet 1 ½ inches to the point or place of BEGINNING.

EXHIBIT B TO THE DECLARATION

180 Orchard Street Condominium
180 Orchard Street
New York, NY 10002

DESCRIPTION OF THE UNITS

Unit Designation	Floors	Approx. Square Footage	Approx. Square Footage of Limited Common Elements	Block 412 Tax Lot Number	Percentage of Common Interest	Location in portion of Building facing direction(s) set forth below	Common Elements to which Unit has Immediate Access
GAR	Sub-cellar Cellar 1 st Floor	10,469 9,254 1,977				East	Foundations, footings and other structural elements, certain shared mechanical equipment
Subtotal GAR		21,700	0	1001	5.7626%		
RT	1 st Floor Mezzanine Floor (2 nd Marketing Floor)	8,370 2,408				West	Foundations, footings and other structural elements, certain shared mechanical equipment
Subtotal RT		10,778	0	1002	5.4029%		
HOTEL	Sub-cellar Cellar 1 st Floor Mezzanine Floor (2 nd Marketing Floor)	5,100 6,315 4,859 2,160				East and West	Foundations, footings and other structural elements, certain shared mechanical equipment

Unit Designation	Floors	Approx. Square Footage	Approx. Square Footage of Limited Common Elements	Block 412 Tax Lot Number	Percentage of Common Interest	Location in portion of Building facing direction(s) set forth below	Common Elements to which Unit has Immediate Access
	2 nd Floor (3 rd Marketing Floor)	11,004	3128				
	3 rd Floor (4 th Marketing Floor)	11,004					
	4 th Floor (5 th Marketing Floor)	11,004					
	5 th Floor (6 th Marketing Floor)	11,004					
	6 th Floor (7 th Marketing Floor)	9,134	1870				
	7 th Floor (8 th Marketing Floor)	9,134					
	8 th Floor (9 th Marketing Floor)	9,134					
	9 th Floor (10 Marketing Floor)	9,134					
	10 th Floor (11 th Marketing Floor)	9,134					
	11 th Floor (12 th Marketing Floor)	9,134					
	12 th Floor (14 th Marketing Floor)	9,134					
	12 th Floor Mezzanine	1,047					
	13 th Floor (15 th Marketing Floor)	4,289	4844				
	13 th Floor Mezzanine	1,511					
	14 th Floor (16 th Marketing Floor)	3,981	490				
	15 th Floor	3,981					

Unit Designation	Floors	Approx. Square Footage	Approx. Square Footage of Limited Common Elements	Block 412 Tax Lot Number	Percentage of Common Interest	Location in portion of Building facing direction(s) set forth below	Common Elements to which Unit has Immediate Access
	(17 th Marketing Floor)						
	16 th Floor	3,981					
	(18 th Marketing Floor)						
	17 th Floor	3,981					
	(19 th Marketing Floor)						
	18 th Floor	3,981					
	(20 th Marketing Floor)						
	19 th Floor	2,331	1650				
	(21 st Marketing Floor)						
	20 th Floor	2,331					
	(22 nd Marketing Floor)						
	21 st Floor	2,331					
	(23 rd Marketing Floor)						
	22 nd Floor	2,331					
	(24 th Marketing Floor)						
	23 rd Floor	1,981	387				
	(25 th Marketing Floor)						
	24 th Floor	1,494	92				
	(26 th Marketing Floor)						
	Roof	626	841				
	EMR Floor	365	212				
	Bulkhead	0	415				
Subtotal HOTEL		166,930	13,929	1003	88.8345%		
TOTAL		199,408	13,929		100.0000%		

EXHIBIT C

DEFINITIONS

For convenience of presentation, definitions of certain of the terms used in the Declaration are set forth below:

“Access Costs” shall have the meaning ascribed thereto in Section 15.2 of the Declaration.

“Adverse Effect,” or “adverse effect” shall mean, with respect to any action or proposed change and with respect to any Unit Owner or Permitted Mortgagee, that such action or change could, if realized, (i) increase the Common Charges payable by such Unit Owner over those set forth in the budget at the time in question by 5% or more, (ii) prevent such Unit Owner’s access to its Unit, (iii) otherwise materially and adversely diminish such Unit Owner’s use and enjoyment of its Unit for itself and its Permitted Users in accordance with the Condominium Documents, (iv) affect in a material and adverse way a Unit Owner’s title to its Unit, or (v) materially and adversely affect the ability of any Unit Owner or Permitted User to operate the Unit in accordance with the manner theretofore operated.

“Affiliate” shall mean as to any Person, any other Person, which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” of a Person means (a) the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person or (b) ownership of more than 25% of the equity interests of such Person.

“Approved Annual Budget” shall have the meaning ascribed thereto in Section 5.1.5 of the By-Laws.

“Approved Capital Budget” shall have the meaning ascribed thereto in Section 5.1.5 of the By-Laws.

“Appurtenant Interest” refers to, with respect to a Unit, the proportionate undivided interest of the owner thereof, pursuant to the terms of Section 339-i of the Condominium Act, in and to: (i) the Common Elements; (ii) any Unit owned or leased at the time in question by the Condominium Board or its designee, corporate or otherwise; (iii) any proceeds of the sale or lease of the Unit of the nature described in subdivision (ii) above; and (iv) any other assets of the Condominium.

“Arbitration” shall have the meaning ascribed thereto in Section 10.1 of the By-Laws.

“Award” shall have the meaning set forth in Section 8.1 of the By-Laws.

“Budget Allocations” refers to the methodology to be utilized by the Condominium Board in determining each Unit Owners share of the Common Expenses which is annexed to the Declaration as Exhibit E.

“Building” refers to the structures and improvements including above and below grade

segments, known as 180 Orchard Street, New York, New York 10002 in which the Units of the Condominium are located.

“Building System” refers to any of the systems in the Building providing heat, sprinkler, water, electric, gas, sewer and fire protection or similar services serving more than one Unit.

“Business Day” means any day other than a Saturday, a Sunday or a legal holiday on which national banks are not open for general business in the State of New York.

“By-Laws” refers to the By-Laws governing the operations of the Condominium, which are set forth as Exhibit D of the Declaration, as same may be amended from time to time.

“Certifying Professional” shall have the meaning ascribed thereto in Section 8.8 of the By-Laws.

“City Register’s Office” refers to the New York County office of the Register of The City of New York.

“Common Charges” shall have the meaning ascribed thereto in Section 5.1.2 of the By-Laws.

“Common Elements” shall have the meaning ascribed thereto in Section 8.1 of the Declaration.

“Common Interest” refers to the proportionate undivided interest, expressed as a numerical percentage, in the General Common Elements appertaining to each Unit determined in accordance with the Declaration.

“Condominium” shall have the meaning ascribed thereto in Section 2.1 of the Declaration.

“Condominium Act” refers to the New York Condominium Act, as amended from time to time, and presently found in the New York Real Property Law, Article 9B.

“Condominium Board” shall have the meaning ascribed thereto in Section 2.1 of the By-Laws.

“Condominium Documents” refers to the Declaration, the By-Laws and the Floor Plans.

“Condominium Managing Agent” refers to the managing agent or manager employed by the Condominium Board in accordance with the terms of the By-Laws in connection with the management of the General Common Elements.

“Condominium Non-Disturbance Agreement” shall have the meaning ascribed thereto in Section 5.15.2 of the By-Laws.

“Creditor Unit Owner” shall have the meaning ascribed thereto in Section 5.14 of the By-Laws.

“Debtor Unit Owner” shall have the meaning ascribed thereto in Section 5.14 of the By-Laws.

“Declarant” refers to 180 Orchard Owner LLC and its successors and assigns.

“Declaration” refers to the instrument creating the Condominium, as the same may be amended from time to time.

“Default Rate” shall have the meaning ascribed thereto in Section 5.14 of the By-Laws.

“Defaulting Unit Owner” shall have the meaning ascribed thereto in Section 24.3 of the Declaration.

“Depository” shall have the meaning ascribed thereto in Section 11.5 of the By-Laws.

“Development Rights” shall have the meaning ascribed thereto in Section 2.2 of the Declaration.

“Development Rights Purchaser” shall have the meaning ascribed thereto in Section 2.2 of the Declaration.

“Emergency” refers to any situation where the applicable Person, in its reasonable judgment, concludes that a particular action (including, without limitation, the expenditure of funds) is immediately necessary (i) to avoid material damage to all or any material portion of the Building or Property, (ii) to protect any person from harm, or (iii) to avoid the unforeseen and unforeseeable suspension of any necessary material service in or to the Building or the Property, the failure of which service would have a material and Adverse Effect on the Building or Property.

“Exercising Party” shall have the meaning ascribed thereto in Section 15.2 of the Declaration.

“Exterior Facade” means the outer portion of the Building above grade, including, but not limited to, the exterior of all doors, masonry, aluminum or other skin materials, walls or parapets, whether or not visible from street level.

“Facility” or “Facilities” refers to, 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, fire pump, control, tank or tank assembly, insulation, induction unit, condenser, compressor, 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, breeching connections, ducts and exhaust vents, fittings, valves, siamese connection, hose, plumbing fixture, lighting fixture, other fixture, bulb, Signage, telephone, intercom, call boxes and televisions, cameras, receivers; meter, meter assembly, scaffolding, piping, line, duct, conduit, cable, riser, main shaft, waste stack, pit, flue, lock or other hardware, rack, screen, strainer, trap, drain, catch basin, leader, filter, canopy, incinerator, closet, cabinet, door, railing,

coping, step, appurtenance, urn, basket, mail box, carpeting, tile or other floor covering, wallpaper or other wall covering, tree, shrubbery, flower or other planting and horticulture tub or box.

“Floor Plans” shall have the meaning ascribed thereto in Section 6.1 of the Declaration.

“Garage Unit” or “GAR” refers to the Unit designated as the Garage Unit as more particularly described in Article 6 and Exhibit B to this Declaration and the Floor Plans.

“Garage Unit Owner” refers to the owner of the Garage Unit at the time in question.

“General Common Elements” shall have the meaning ascribed thereto in Section 8.4 of the Declaration.

“General Common Expenses” shall have the meaning ascribed thereto in Section 5.1.1 of the By-Laws.

“General Common Interest” is the percentage interest of each Unit in the General Common Elements as determined in accordance with Article 12 of the Declaration and as set forth in Exhibit B of the Declaration.

“Hazardous Material(s)” means any petroleum and petroleum products, flammable explosives, radioactive materials (excluding radioactive materials in smoke detectors), biohazards and medical waste, polychlorinated biphenyls, lead, asbestos in any form that is or could become friable, hazardous waste, toxic or hazardous substances or other related materials whether in the form of a chemical, element, compound, solution, mixture or otherwise, including, but not limited to, those materials defined as “hazardous substances,” “extremely hazardous substances,” “hazardous chemicals,” “hazardous materials,” “toxic substances,” “solid waste,” “toxic chemicals,” “air pollutants,” “toxic pollutants,” “hazardous wastes,” “extremely hazardous waste,” or “restricted hazardous waste” by Hazardous Materials Law or regulated by Hazardous Materials Law in any manner whatsoever.

“Hazardous Materials Law(s),” means all federal, state, and local laws, ordinances and regulations and standards, rules, policies and other binding governmental requirements now or hereafter enacted or in force, and any court judgments applicable to a Unit Owner or to the Premises relating to industrial hygiene or to environmental or unsafe conditions or to human health including, but not limited to, those relating to the generation, manufacture, storage, handling, transportation, disposal, release, emission or discharge of Hazardous Materials, those in connection with the construction, fuel supply, power generation and transmission, waste disposal or any other operations or processes relating to the Premises, and those relating to the atmosphere, soil, surface and ground water, wetlands, stream sediments and vegetation on, under, in or about the Premises.

“Hotel Limited Common Elements” shall have the meaning ascribed thereto in Section 8.5 of the Declaration and shall include those areas designated on the Floor Plans as “Hotel Limited Common Elements.”

“Hotel Unit” or “HOTEL” refers to the Unit designated as the Hotel Unit as more

particularly described in Article 6 and Exhibit B to this Declaration and the Floor Plans.

“Hotel Unit Owner” refers to the owner of the Hotel Unit at the time in question.

“Impacted Owner” shall have the meaning ascribed thereto in Section 15.2 of the Declaration.

“Impositions” means all taxes, assessments (including but not limited to, all assessments for public improvements or benefits, water, sewer and other rents, rates and charges, charges for public utilities, business improvement district charges, excises, levies, license and permit and inspection fees and other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever (collectively, “Taxes”)), which at any time may have been or may be assessed, levied, confirmed, imposed upon, or grow or become due or payable out of or in respect of, or become a lien on, a Unit or any part thereof or any appurtenance thereto, any personal property, the rent and income received by a Unit Owner from Users, any use, possession or occupation of a Unit, or rentals or sales therefrom or activity conducted therein, such franchises as may be appurtenant to the use or occupation of a Unit, or any document to which a Unit Owner is a party creating or transferring any right, title or interest or estate in a Unit, including Unit Owner’s actual costs and expenses of contesting taxes or any of the foregoing (including, without limitation, appraisal, accounting and legal fees), except that Impositions and Taxes shall not include any Common Charges or charges or expenses for utilities to the extent a Unit Owner is otherwise responsible therefor. Nothing herein contained shall require a Unit Owner to pay income taxes assessed against another Unit Owner, or any capital levy, corporation franchise, excess profits, estate, succession, inheritance or transfer taxes of another Unit Owner; provided, that if at any time the method of taxation shall be such that there shall be levied, assessed or imposed on the Unit Owner a capital levy, gross receipts or other tax directly on the rents received therefrom and/or a franchise tax or an assessment, levy or charge measured by or based, in whole or in part, upon such rents, the Unit (including, but not limited to, the acquisition, leasing use, or value thereof) or the improvements or the construction thereof and/or measured in whole or in part by Unit Owner’s income from the Unit, then all such taxes, assessments, levies and charges, or the part thereof so measured or based, shall be deemed to be included within the term “Imposition” for the purpose hereof.

“Land” refers to the parcel of land described in Exhibit A to the Declaration.

“Law or Laws” refers to laws and ordinances of any or all of the federal, state, city, county and borough governments and rules, regulations, orders and directives of any or all departments, subdivisions, bureaus, agencies or offices thereof, or of any other governmental, public or quasi-public authorities, having jurisdiction over the Property, the Land, the Building, and Unit or any portion of any of the foregoing, any requirements or conditions of any licenses, permits, approvals or certificates issued by any of the foregoing, the direction of any public officer pursuant to Law, and the requirements and conditions of any easement, covenant, restriction, condition or other encumbrance that is binding upon the Property or the applicable portion thereof.

“Lease” shall have the meaning ascribed thereto in Section 16.1 of the Declaration.

“Legal Requirements” shall mean all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen and unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Property, or any part thereof.

“Limited Common Elements” refers to any Limited Common Elements described in the Declaration or on the Floor Plans, and any Limited Common Elements that may be designated in the future pursuant to the terms of the Declaration.

“Maintenance or Maintain” or “Maintaining” refers to the maintenance, repair, reconditioning, refurbishing, reconfiguration, inspection, testing, cleaning, improvement, decorating, painting, installation, alteration, addition, reconstruction, construction, demolition, restoration and replacement as and when necessary or desirable of any portion of the Building.

“Merger” shall have the meaning ascribed thereto in Section 2.2 of the Declaration.

“Net Award” shall have the meaning set forth in Section 8.1 of the By-Laws.

“Permitted User(s)” refers to any officer, director, member, stockholder, principal, partner, employee, agent (including managing, sales and leasing agent) guest, Tenant, occupant, customer, invitee, licensee, contractor, Recognized Mortgagee or any other Person related, affiliated or designated by the Condominium Board or a Unit Owner who has permission to use a Unit and/or the Common Elements, subject to the terms of the Declaration and the By-Laws, whether written or oral, granted by: (i) a Unit Owner in the case of such Unit Owner’s Unit and its appurtenant Common Elements; or (ii) the Condominium Board; or (iii) the Declaration and the By-Laws.

“Persons” refers to an individual, corporation, partnership, joint venture, limited liability company, estate, trust, unincorporated association, any Federal, State, County or municipal government, or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

“Property” refers to the Land, the Building and the appurtenances thereto.

“Recognized Mortgage” refers to a mortgage, or a pledge or other security agreement encumbering the equity interests of a Unit Owner, in each case, placed upon a Unit or Units pursuant to Section 6.2 of the By-Laws and held by a Recognized Mortgagee.

“Recognized Mortgagee” has the meaning set forth in Section 6.2 of the By-Laws.

“Related Costs” refers to all reasonable fees and expenses incurred by the Condominium Board or a Unit Owner in connection with necessary and reasonable inspections of Unit Work or Common Element Work to determine whether the same are being or have been performed in accordance with the approved plans and specifications therefor and all requirements of (i) applicable Legal Requirements; (ii) insurance carriers providing insurance coverage pursuant to Section 5.2, (iii) the Declaration; and (iv) these By-Laws (including, with respect to Unit Work or Common Element Work which constitute Structural Alterations, the fees and expenses of any

architect or engineer employed for such purpose).

“Remedy Notice” has the meaning specified in Section 24.3 of the Declaration.

“Resultant Board” shall have the meaning ascribed thereto in Section 4.3 of the By-Laws.

“Resultant Unit” or “Resultant Units” shall have the meaning ascribed thereto in Section 4.3 of the By-Laws.

“Retail Unit” or “RT” refers to the Unit designated as the Retail Unit as more particularly described in Article 6 and Exhibit B to this Declaration and the Floor Plans.

“Retail Unit Owner” refers to the owner of the Retail Unit at the time in question.

“Roof Structures” refers to the underlayerments, fasteners, vents, pipes, flashings, gutters, coatings and protective layers of any portion of a Roof or Roof Setback from and below the waterproofing membrane, but excluding the floor slabs.

“Roofs and Roof Setbacks” refers to roofs, setbacks and terraces and the like in the Building (including, without limitation, bulkheads, parapets, Roof Structures and the surface materials of such Roofs).

“Satellite Equipment” refers the installation, operation and Maintenance of antennas, satellite equipment, telecommunications equipment, communication facilities and similar installations and equipment as set forth in the Declaration.

“Signage” shall include any sign, notice, plaque, advertisement or illumination, illustration, art work, poster, logo, canopy, banner, display or similar sign.

“Special Assessments” shall have the meaning set forth in Section 5.1.10 of the By-Laws.

“Substantially all of the Property” shall have the meaning set forth in Section 8.4 of the By-Laws.

“Taking” shall have the meaning set forth in Section 8.1 of the By-Laws.

“Taxes” shall have the meaning ascribed thereto in the definition of “Impositions” set forth on Exhibit C of the Declaration.

“Tax Recalculation” shall have the meaning ascribed thereto section 5.25 of the By-Laws.

“Tax Year” means each period of 12 months, commencing on the first day of July of each such period, or such other period of 12 months as may be adopted as the fiscal year for real estate tax purposes of the City of New York.

“Unit” or “Condominium Unit” refers to either the Hotel Unit, the Retail Unit or the Garage Unit as more particularly designated in the Declaration and the Floor Plans and all of such Units are collectively referred to as “Units.”

“Unit Owner” refers to either the Hotel Unit Owner or the Retail Unit Owner or the Garage Unit Owner, and all of such Unit Owners are collectively referred to as the “Unit Owners.”

“Unit Owner Expenses” refers to those expenses incurred by the Condominium Board or a Unit Owner in accordance with the provisions of the Declaration and the By-Laws on behalf of a specific Unit Owner and shall include such expenses expressly provided to be Unit Owner Expenses under the terms of the Declaration or the By-Laws.

“Unit Work” shall have the meaning ascribed thereto in Section 5.17.1 of the By-Laws.

“Utility Facilities” refers to the utilities referenced in Article 15.4 of the Declaration.

“Work Notice” shall have the meaning ascribed thereto in Section 5.17.3.1 of the By-Laws.

“ZLDA” shall have the meaning ascribed thereto in Section 2.2 of the Declaration.

“Zoning Resolution” refers to the Zoning Resolution of the City of New York, effective as of December 15, 1961, as amended, or any successor statute.

EXHIBIT D

BY-LAWS

OF

180 ORCHARD STREET CONDOMINIUM

180 ORCHARD STREET

NEW YORK, NEW YORK 10002

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BY-LAWS

ARTICLE 1

GENERAL

1.1 Purpose. The purpose of these By-Laws is to set forth the rules and procedures concerning the conduct of the affairs of 180 Orchard Street Condominium (the "Condominium"). The Condominium covers the property (the "Property") and land (the "Land") which forms a part of Block 412 on the Tax Map of the Borough of Manhattan, City, County and State of New York, the building and other improvements now or hereafter to be constructed thereon or therein, as the case may be (hereinafter collectively called the "Building"), including, without limitation, the Units and the Common Elements, all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, intended for use in connection therewith, all of which have been submitted to the provisions of Article 9-B of the Real Property Law of the State of New York by the recording of a Declaration (which, as the same may be amended from time to time, is herein called the "Declaration") in the New York County Office of the Register of The City of New York ("City Register's Office"), together with these By-Laws. All terms used herein which are not separately defined herein, shall have the meanings given to those terms in the Declaration or in Exhibit C thereto.

1.2 Applicability of By-Laws. These By-Laws are applicable to the Property and to the use and occupancy thereof. All present and future Permitted Users are and shall be subject to the Declaration, these By-Laws and any rules and regulations adopted by the Condominium Board. The acceptance of a deed or conveyance, or the succeeding to title to, or the execution of a Lease or sublease, operating agreement or use and occupancy agreement for, or the act of occupancy of, a Unit shall constitute an agreement that the provisions of these By-Laws, the Declaration and any rules and regulations adopted by the Condominium Board are accepted, ratified, and will be complied with.

1.3 Principal Office of Condominium. The principal office of the Condominium shall be located within the Property or at such other place within the Borough of Manhattan reasonably convenient thereto, as may be designated from time to time by the Condominium Board (as hereinafter defined).

ARTICLE 2

BOARD OF MANAGERS AND GOVERNANCE

2.1 Number, Term and Qualification. As more particularly set forth in Section 2.2, the affairs of the Condominium will be governed by a board of managers of the Condominium ("Condominium Board"). The Condominium Board will consist of five persons, one (1) of whom is to be designated by the Retail Unit Owner, one (1) of whom is to be designated by the Garage Unit Owner and three (3) of whom are to be designated by the Hotel Unit Owner. The Retail Unit Owner and the Garage Unit Owner shall prepare and submit to the Condominium Board a written list of no more than three individuals, who shall have the right to act, from time

to time and without prior notice, as its designated member(s) on the Condominium Board. The Hotel Unit Owner shall prepare and submit to the Condominium Board a written list of no more than five individuals, who shall have the right to act, from time to time and without prior notice, as its designated member(s) on the Condominium Board.

2.2 Powers and Duties.

2.2.1 The Condominium Board shall have the powers and duties necessary for or incidental to the administration of the affairs of the Condominium (except such powers and duties which by law, the Declaration, or these By-Laws may not be delegated to the Condominium Board by the Unit Owners). Except as otherwise expressly provided in the Declaration or these By-Laws, all determinations to be made by or on behalf of the Condominium Board, however, which (a) affect only the Hotel Unit (or any portion thereof) or the Hotel Limited Common Elements or the Hotel Unit Owner and do not adversely affect the Retail Unit (or any portion thereof) or the Retail Unit Owner or the Garage Unit (or any portion thereof) or the Garage Unit Owner or the General Common Elements or any easements granted to the Retail Unit Owner or the Garage Unit Owner, shall only be made by the Condominium Board members designated by the Hotel Unit Owner and such Condominium Board members shall promptly notify the other Condominium Board members of their determination; and (b) affect only the Retail Unit (or any portion thereof) or the Retail Unit Owner and do not adversely affect the Hotel Unit (or any portion thereof) or the Hotel Limited Common Elements or the Hotel Unit Owner or the Garage Unit (or any portion thereof) or the Garage Unit Owner or the General Common Elements or any easements granted to the Hotel Unit Owner or the Garage Unit Owner, shall only be made by the Condominium Board member designated by the Retail Unit Owner and such Condominium Board member shall promptly notify the other Condominium Board members of its determination; and (c) affect only the Garage Unit (or any portion thereof) or the Garage Unit Owner and do not adversely affect the Hotel Unit (or any portion thereof) or the Hotel Limited Common Elements or the Hotel Unit Owner or the Retail Unit (or any portion thereof) or the Retail Unit Owner or the General Common Elements or any easements granted to the Hotel Unit Owner or the Retail Unit Owner, shall only be made by the Condominium Board member designated by the Garage Unit Owner and such Condominium Board member shall promptly notify the other Condominium Board members of its determination, and any dispute between the Hotel Unit Owner and/or the Retail Unit Owner and/or the Garage Unit Owner (or the members of the Condominium Board designated by such Unit Owners) with respect to whether a determination adversely affects the other Unit Owners or the General Common Elements or the easements granted to a Unit Owner in the Declaration and whether a member of the Condominium Board designated by a particular Unit Owner shall be entitled to, or required to, make any determination shall be resolved by Arbitration; provided, however, that no such dispute with respect to whether a particular determination adversely affects a Unit Owner, or the Unit Owner's Unit or such Unit's Limited Common Elements, or the easements granted to such Unit Owner in the Declaration, or the General Common Elements, shall be deemed to exist unless the objecting Unit Owner (or member of the Condominium Board) specifies the grounds for its objection in writing to the Condominium Board and the other Unit Owners within fifteen (15) business days of receipt by it of notice of such determination.

2.2.2 Subject to the provisions of Section 2.2.1 and this Section 2.2.2 and

without limiting the generality thereof the Condominium Board shall be entitled to make determinations with respect to the following matters:

2.2.2.1 Using, operating and Maintaining the General Common Elements in accordance with the provisions of these By-Laws.

2.2.2.2 Determining the amount of and collecting the Common Charges, Special Assessments and Unit Owner Expenses, and determining from time to time the establishment of and maintenance of reasonable capital reserves, subject to the provisions of Section 5.1 of these By-Laws and the Budget Allocations set forth on Exhibit E.

2.2.2.3 Furnishing of services and utilities, as described in these By-Laws (subject to Unavoidable Delay and temporary cessation from time to time in connection with the performance of Maintenance).

2.2.2.4 Employing and dismissing personnel necessary for the Maintenance and operation of the General Common Elements.

2.2.2.5 Making contracts and incurring liabilities in connection with the exercise of any of the powers and duties of the Condominium Board; provided that any such contracts may be entered into with (i) an Affiliate of Unit Owner, (ii) a constituent entity of a Unit Owner or (iii) an Affiliate of any such constituent entity, provided such contracts shall be on arm's length terms at market rates.

2.2.2.6 Bringing actions on behalf of the Unit Owners, as their respective interests may appear, with respect to any cause of action relating to the General Common Elements, as the Condominium Board or the Unit Owners deem advisable.

2.2.2.7 Causing repairs to be performed in a Unit in the event of an Emergency (i.e., a situation involving continuing or imminent loss or threat of loss of life or property, personal injury or material business interruption).

2.2.2.8 Procuring such fidelity bonds as the Condominium Board deems advisable covering officers and employees of the Condominium Board handling and responsible for the Condominium Board's funds and personal property and to procure managers' and officers' liability insurance if the Condominium Board deems it advisable. The premiums of such bonds and insurance shall be at market rates and be paid by the Condominium Board as a part of General Common Expenses and allocated to Unit Owners based upon their respective General Common Interests except as otherwise provided in Section 5.2.5.2 of the By-Laws.

2.2.2.9 Determining policies, adopting and amending the rules and regulations governing the details of operation of the General Common Elements and amending such rules and regulations from time to time as the Condominium Board deems advisable in accordance with the terms of these By-Laws (provided that no such rule or regulation shall have an Adverse Effect on a Unit Owner without such Unit Owner's consent, unless such rule or regulation is required in order for the Condominium to comply with Law).

2.2.2.10 Making additions and improvements to, or alterations of, the

General Common Elements subject to the provisions of these By-Laws including Section 5.18 thereof.

2.2.2.11 Subject to Sections 5.3 through 5.11 and Article 8 of these By-Laws, making repairs and restorations of the General Common Elements or parts thereof damaged or destroyed by fire or other casualty or necessitated as a result of condemnation or eminent domain proceedings.

2.2.2.12 Enforcing obligations of Unit Owners under the Declaration, these By-Laws and the rules and regulations adopted from time to time in accordance with the provisions of these By-Laws, including without limitation, commencing, prosecuting and settling litigation in connection therewith.

2.2.2.13 Opening and maintaining bank accounts on behalf of the Condominium (with respect to matters within its jurisdiction as provided in these By-Laws) and designating signatories therefor.

2.2.2.14 Adjusting and settling insurance claims (and executing and delivering releases in connection therewith) to the extent such powers are granted to the Condominium Board pursuant to Section 5.2 of these By-Laws.

2.2.2.15 Borrowing money on behalf of the Condominium, when required in connection with the operation and Maintenance of, or the making of repairs, replacements, restorations or additions to or alterations of, the General Common Elements; provided, however, that (i) the consent of the Hotel Unit Owner, the Garage Unit Owner and the Retail Unit Owner (other than any such Unit Owner that is in default of its obligation to pay Common Charges and/or Special Assessments if such borrowing is a result of such default) and the consent of the Recognized Mortgagees of such Unit Owners (if same shall be required under the terms of the Recognized Mortgages) shall be required for any borrowings by the Condominium Board, (ii) no lien to secure repayment of any sum borrowed may be created or suffered on any Unit or its Appurtenant Interest in the Common Elements without the consent of the applicable Unit Owners and, if same shall be required under the terms of the Recognized Mortgages on such Units, the Recognized Mortgagees, and then only if the documents evidencing such lien specifically provide that if any such sum borrowed by the Condominium Board is not repaid by the Condominium Board, a Unit Owner who pays to the creditor such proportion thereof as such Unit Owner's interest in the General Common Elements bears to the interest of all the Unit Owners in the General Common Elements shall be entitled to obtain from the creditor and the creditor shall be obligated to provide a release of any judgment or other lien which said creditor has filed or has the right to file against such Unit Owner's Unit, and (iii) no Unit Owner shall have any personal liability for the repayment of such borrowing except to the extent set forth in clause (ii) above.

2.2.2.16 Organizing and owning interests in limited liability companies and/or other entities (but not corporations) to act as designees of the Condominium Board with respect to such matters as the Condominium Board may determine. It is expressly understood and agreed that under no circumstances shall the Condominium Board organize or own shares in any corporation.

2.2.2.17 Executing, acknowledging and delivering (i) any declaration or other instrument affecting the Property which the Condominium Board deems necessary or appropriate to comply with any Law, ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, or any other public authority, applicable to the Maintenance, demolition, construction, alteration, repair or restoration of the Building, or (ii) any consent, covenant, restriction, easement or declaration affecting the Property which the Condominium Board deems necessary or appropriate so long as the same does not adversely affect ownership, use or operation of the Units or increase the obligations of the Unit Owners or adversely affect or diminish the rights of the Unit Owners set forth in the Declaration or the By-Laws.

2.2.2.18 Preparing, executing and recording on behalf of all Unit Owners, as their attorney in fact, coupled with an interest, a restatement of the Declaration and/or these By-Laws (without modification) whenever, in the Condominium Board's estimation, it is advisable to consolidate and restate all amendments, modifications, additions and deletions theretofore made to the Declaration and/or these By-Laws.

2.2.2.19 Obtaining and reviewing insurance for the Property pursuant to the provisions of Section 5.2 and except as otherwise set forth in Section 5.2.5.5 of these By-Laws, changing any of the insurance requirements set forth therein.

2.2.2.20 Performing any and all duties imposed on the Condominium Board by Legal Requirements or Insurance Requirements applicable to the Property.

2.2.2.21 Any dispute under this Section 2.2.2 shall be resolved by the Unit Owners that appointed the members of the Condominium Board that are involved in the applicable dispute by Arbitration.

2.2.2.22 Any act with respect to a matter determinable by the Condominium Board and deemed necessary or desirable by the Condominium Board, shall be done or performed by the Condominium Board or shall be done on its behalf and at its direction by the agents, employees or designees of the Condominium Board.

2.2.2.23 To the extent required to effectuate the rights granted to the Unit Owners with respect to the Development Rights, entering into a zoning lot merger or any declaration or other instruments necessary to acquire, purchase, allocate, sell or dispose of any Development Rights now or in the future appurtenant to the Property or other zoning lot pursuant to the Zoning Resolution of the City of New York or to merge or subdivide a zoning lot.

2.2.2.24 Issuing estoppel certificates to any Unit Owner or Recognized Mortgagee relating to such Unit Owner's payment of Common Charges and Special Assessments.

2.2.2.25 Issuing estoppel certificates and non-disturbance agreements to Tenants of Unit Owners in accordance with Section 5.15.2 of these By-Laws.

2.3 Managing Agents and Managers.

2.3.1 With respect to matters the determinations concerning which the Condominium Board is entitled to make, the Condominium Board may employ a managing agent and/or a manager, at a reasonable market rate compensation, which is either the Hotel Unit Owner or an Affiliate of the Hotel Unit Owner or a recognized real estate company with a material presence in Manhattan that is experienced in managing mixed use buildings comparable to the Property and the Building in Manhattan (the "Condominium Managing Agent"). Notwithstanding the foregoing, in the event the Hotel Unit Owner so elects in its sole discretion, the Hotel Unit Owner shall have the right, but not the obligation, to serve (itself or by an Affiliate) as the Condominium Managing Agent.

2.3.2 The Hotel Unit Owner, the Garage Unit Owner and Retail Unit Owner are entitled, in their respective sole discretions, to each employ, at their own cost, a managing agent and/or manager to manage their respective Units and the Limited Common Elements, if any, as the case may be, appurtenant thereto. Nothing contained herein shall be deemed to prevent the managing agent and/or manager employed by the Hotel Unit Owner from also serving as the Condominium Managing Agent. To the extent either of the Retail Unit Owner or the Garage Unit Owner retains the Hotel Unit Owner or its Affiliate serving as Condominium Managing Agent to manage their respective Units, the Hotel Unit Owner shall endeavor to insure that the Condominium Managing Agent treats the other Unit Owners in a non-discriminatory and conflict of interest free manner.

2.4 Resignation and Removal. Any Condominium Board member may resign at any time by written notice delivered or sent by certified mail, return receipt requested, to the Condominium Board from which such member is resigning. Such resignation will take effect at the time specified therein and, unless specifically requested, acceptance of such resignation will not be necessary to make it effective. Any Condominium Board member may be removed, with or without cause, only by (i) the Unit Owner designating such Condominium Board member and the Unit Owner making such removal will have the right to designate the replacement for such member and (ii) by any Recognized Mortgagee of the Unit associated with such Condominium Board member pursuant to the terms and conditions of the Recognized Mortgage and the other loan documentation related thereto, and such Recognized Mortgagee making such removal shall the right to designate the replacement for such member.

2.5 Vacancies and Designations. The members of any Condominium Board shall be appointed by designation, in writing, made by the applicable Unit Owners in accordance with the provisions of Section 2.1. Each Unit Owner entitled to designate members to the Condominium Board in accordance with Section 2.1 may substitute or replace individuals designated to represent such Unit Owner on the Condominium Board and in the event a vacancy on the Condominium Board caused by the resignation or removal of a member or any other reason, such vacancy shall be filled by the Unit Owner who designated such member. If a Recognized Mortgagee has the right under its Recognized Mortgage (or other loan documentation related thereto) or regulatory agreement to remove members of the governing body of the Unit Owner of the Unit securing its loan, and if the Recognized Mortgagee exercises such right in accordance with the Recognized Mortgage (or other loan documentation related thereto) or regulatory agreement, then in such event the Recognized Mortgagee also shall upon notice to the Condominium Board have the right to remove the members of the Condominium Board appointed by that Unit Owner if any, and to appoint its own representatives to serve on behalf of

such Unit Owner.

2.6 Regular Meetings of the Condominium Board. Regular meetings of the Condominium Board may be held at such time and place in the Borough of Manhattan as will be determined from time to time by the Hotel Unit Owner, the Retail Unit Owner and the Garage Unit Owner, acting reasonably, but at least once in each alternate month. Notice of regular meetings will be given to each member (and all persons on the written list delivered to the Condominium Board in accordance with Section 2.1 of these By-Laws) thereof, by personal delivery, mail, facsimile or e-mail, at least five business days prior to the day named for such meeting.

2.7 Special Meetings of the Condominium Board. Special meetings of the Condominium Board may be called by any member of the Condominium Board by giving five business days' prior notice to each member of the Condominium Board by personal delivery, mail, facsimile or e-mail, which notice will state the time, place (in the Borough of Manhattan) and purpose of the meeting.

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

2.9 Determinations by the Condominium Board; Quorums.

2.9.1 Except as otherwise set forth in Section 2.9.2, all determinations by the Condominium Board shall be made at a meeting of the Condominium Board at which a quorum thereof is present. Except as otherwise provided in this Section 2.9, at any Condominium Board meeting, the presence of at least one member of the Condominium Board designated by each of the Hotel Unit Owner, the Retail Unit Owner and the Garage Unit Owner shall constitute a quorum, and except as otherwise set forth in the Declaration or these By-Laws, the majority votes of such members present shall constitute the decision of the Condominium Board. In the event the vote arises from the default of one Unit Owner in its obligations created under the Declaration or these By-Laws, the Condominium Board member(s) designated by the defaulting Unit Owner may not vote, the attendance of such Condominium Board member(s) shall not be required to constitute a quorum (i.e., two Condominium Board members could constitute a quorum), and the unanimous decision of the remaining Condominium Board members shall constitute the decision of the Condominium Board. All determinations of the Condominium Board shall be made and applied in a good faith, non-discriminatory manner.

2.9.2 If at any duly called Condominium Board meeting there is less than a quorum present, those members present may adjourn the meeting from time to time provided that all members of such Condominium Board are notified of the new date, time and place of the adjourned meeting in the manner set forth in Sections 2.6 or 2.7 above, as the case may be. In the event that there is not a quorum at the adjourned meeting, those members of the Condominium Board present at the adjourned meeting shall constitute a quorum and the

unanimous decision of the Condominium Board members attending the meeting shall constitute the decision of the Condominium Board. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. Notwithstanding the foregoing, in the event the Member(s) of the Condominium Board designated by a particular Unit Owner fail(s) to attend three (3) consecutive meetings of the Condominium Board (provided notice of such meetings has been provided to such Member(s) in accordance with these By-Laws), the presence at all subsequent meetings of the Condominium Board of the Members representing the other Unit Owners shall constitute a quorum at such subsequent meetings.

2.9.3 Members of the Condominium Board may participate in a meeting thereof by means of a conference telephone or similar communications equipment by means of which all individuals participating in such meeting can hear each other and such participation shall constitute presence at such meeting. Notwithstanding anything to the contrary contained herein, action permitted or required to be taken at a meeting of the Condominium Board may be taken without a meeting if all members of the Condominium Board consent in writing to the adoption of a Resolution authorizing such action and the writing or writings are filed with the minutes of the Condominium Board.

2.9.4 Notwithstanding anything to the contrary set forth in this Section 2.9 and except for those acts which expressly require the consent of the member of the Condominium Board designated by the Retail Unit Owner or the member of the Condominium Board designated by the Garage Unit Owner as more particularly provided in the Declaration and these By-Laws, the members of the Condominium Board designated by the Hotel Unit Owner may direct the Condominium Managing Agent in connection with the day-to-day ordinary management and operations of the Building without the need for a Condominium Board meeting in each instance, provided, that such direction is otherwise consistent with the Declaration, these By-Laws, the Approved Annual Budget, the Approved Capital Budget and prior decisions of the Condominium Board. In furtherance of the foregoing, the Condominium Managing Agent shall be obligated to provide all Unit Owners with a status report on a monthly basis.

2.10 Compensation. No member of the Condominium Board shall receive any compensation for acting as such.

2.11 Liability of the Condominium Board and Unit Owners.

2.11.1 To the extent permitted by applicable Law, except as set forth below, no member or officer of the Condominium Board shall have any personal liability with respect to any contract, act or omission of the Condominium Board or of the Condominium Managing Agent in connection with the affairs or operation of the Condominium, the Common Elements or the Units. Every contract made by the Condominium Board or by the Condominium Managing Agent shall provide or be deemed to provide that it is made by the Condominium Board or the Condominium Managing Agent, as agent for the Condominium, that the Condominium Board members, officers or Condominium Managing Agent shall have no personal liability thereon and shall also state the applicable limitations of liability of Unit Owners provided for in the next sentence. No Unit Owner, in its capacity as Unit Owner, shall be personally liable for any contract, act or omission of the Condominium. Nothing in the preceding sentence shall limit a

Unit Owner's liability for the payment of Common Charges or Special Assessments. Any such contract or agreement may also provide that it covers the assets, if any, of the Condominium Board. Notwithstanding anything herein to the contrary, the Condominium Board members shall have no liability to Unit Owners or the Condominium Board except that each Condominium Board member shall be liable for its own bad faith, gross negligence, willful misconduct or breach of fiduciary duty. The Condominium Board and each Unit Owner shall severally, to the extent of their respective interests in their Units and their appurtenant General Common Interests, indemnify and hold harmless (i) each Condominium Board member and officer, against any liability or claim arising out of such member or officer serving in such capacity, and (ii) the other Unit Owners and (iii) the Condominium Board, except for such Condominium Board member's or officer's or such Unit Owner's own bad faith, gross negligence or willful misconduct. The Condominium Board may contract or effect any transaction with any Condominium Board member, any Unit Owner, or any Affiliate of any of them without, except in cases of bad faith, gross negligence or willful misconduct, incurring any liability for self dealing, provided such contract or transaction is entered into in accordance with the provisions of Section 2.2.2.5 hereof.

2.11.2 Neither the Condominium Board nor any member thereof will be liable for either (i) any failure or interruption of any utility or other service 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, gross negligence 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 about either a Unit or any General Common Element or Limited Common Element, unless caused by the acts of bad faith, gross negligence or willful misconduct of the Condominium Board or any member thereof, as applicable.

2.12 Fidelity Bonds.

2.12.1 The Condominium Board shall obtain or ensure maintenance of fidelity bonds or insurance, in amounts deemed appropriate by it, consistent with industry standards, for all of its members, officers and employees and for the Condominium Managing Agent, if any, employed by it and the premiums on such bonds or insurance will constitute General Common Expenses.

2.12.2 To the full extent permitted by Law, the Condominium Board shall purchase and maintain directors and officers insurance (i) to indemnify the Unit Owners and the Condominium Board for any obligation which any of them incurs as a result of the indemnification of members and officers of the Condominium Board under the provisions of these By-Laws or as required by Law or by a court order, (ii) to indemnify members and officers of the Condominium Board in instances in which they may be indemnified by the Unit Owners or the Condominium Board under the provisions of these By-Laws, and (iii) to indemnify members and officers of the Condominium Board in instances in which they may not otherwise be indemnified, to the extent provided by such insurance

2.13 Intentionally Omitted.

2.14 Principal Office of the Condominium Board. The principal office of the

Condominium Board shall be located within the Property or at such other place in the Borough of Manhattan reasonably convenient thereto as may be designated from time to time by the Condominium Board.

2.15 Status of the Condominium Board. In addition to the status conferred upon the Condominium Board under or pursuant to the provisions of the Condominium Act, the Condominium Board will, to the extent permitted by applicable Legal Requirements, be deemed to constitute a separate association for all purposes under and pursuant to the provisions of the General Associations Law of the State of New York. In the event of the incorporation of the Condominium Board pursuant to the provisions of 2.16, the provisions of this Section 2.15 will no longer be applicable to the Condominium Board.

2.16 Intentionally Omitted.

2.17 Condominium Board as Agent of Unit Owners. In exercising its powers and performing their respective duties under the Declaration and these By Laws, the Condominium Board will act in good faith and in a non-discriminatory manner, as, and will be, the agent of the Unit Owners subject to and in accordance with the provisions of the Declaration and these By-Laws.

ARTICLE 3

OFFICERS

3.1 Designation. The principal officers of the Condominium Board shall be a President, Vice President and Secretary/Treasurer thereof. The President and the Treasurer shall be appointed by the members of the Condominium Board designated by the Hotel Unit Owner, the Vice President shall be appointed by the member of the Condominium Board designated by the Retail Unit Owner and the Secretary shall be appointed by the member of the Condominium Board designated by the Garage Unit Owner. The Condominium Board may appoint an Assistant Treasurer, Assistant Secretary and such other officers as in their judgment may be desirable. None of the officers of the Condominium Board need be Unit Owners or have any interest therein or be a member of the Condominium Board. At all times, at least one officer shall be a person associated or affiliated with the Hotel Unit Owner, at least one officer shall be a person associated or affiliated with the Retail Unit Owner and at least one officer shall be a person associated or affiliated with the Garage Unit Owner. The Condominium Board members of the Hotel Unit Owner shall have the right to appoint the President and the Treasurer and the Condominium Board member of the Retail Unit Owner shall have the right to appoint the Vice President and the Condominium Board member of the Garage Unit Owner shall have the right to appoint the Secretary, which appointments shall each be for a term of one year.

3.2 Intentionally Omitted.

3.3 Resignation and Removal of Officers. Any officer of the Condominium Board may resign at any time by written notice delivered or sent by certified mail, return receipt requested, to the Condominium Board. Such resignation shall take effect at the time specified therein and, unless specifically requested in such notice, acceptance of such resignation shall not

be necessary to make it effective. A successor officer may be appointed by the Unit Owner that appointed the resigning officer for the resigning officer's remaining term.

3.4 President. The President of the Condominium Board shall be the chief executive officer of the Condominium and shall preside at all joint meetings of Unit Owners and at all meetings of the Condominium Board. The President shall have all of the general powers and duties which are incident to the office of president of a stock corporation organized under the Business Corporation Law of the State of New York, including, but not limited to, the power to appoint committees from among Unit Owners from time to time as the President decides is appropriate to assist in the conduct of the affairs of the Condominium.

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

3.6 Secretary. The Secretary of the Condominium shall keep the minutes of all meetings of Unit Owners and of the Condominium Board. The Secretary shall have charge of such books and papers as the Condominium Board shall direct and shall in general perform all the duties incident to the office of secretary of a stock corporation organized under the Business Corporation Law of the State of New York.

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

3.8 Execution of Documents. Unless otherwise delegated by the Condominium Board with the consent of the Hotel Unit Owner, the Retail Unit Owner and the Garage Unit Owner, such consent not to be unreasonably withheld or delayed, all agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed by a Condominium Board member designated by the Hotel Unit Owner and by either the Condominium Board member designated by the Retail Unit Owner or the Condominium Board member designated by the Garage Unit Owner.

3.9 Compensation of Officers. No officer shall receive any compensation for acting as such.

ARTICLE 4

NOTICES

4.1 Notices. Unless provided for otherwise in the Declaration or these By-Laws, all notices required or desired to be given under the Declaration or the By-Laws to the Condominium Board or Condominium Board members or officers shall be in writing and personally delivered or sent by registered or certified mail or by recognized overnight courier service or by facsimile transmission with receipt confirmed, to the office of the Condominium Board or to such other address as the Condominium Board may in writing designate from time to time, by notice in writing and to all Unit Owners, all Condominium Board members, all officers and to all Recognized Mortgagees (to the extent requested by such Recognized Mortgagee in writing provided to the Condominium Board), as the case may be, and a duplicate shall be sent in like manner to the Condominium Managing Agent. All notices to any Unit Owner shall be in writing and (unless provided for otherwise in the Declaration or these By-Laws) personally delivered or sent by registered or certified mail or by recognized overnight courier service or by facsimile transmission with receipt confirmed to the Property address of such Unit Owner or to such other address(es) as may have been designated by such Unit Owner from time to time, in writing, to the Condominium Board. All notices to Recognized Mortgagees shall be personally delivered or sent by registered or certified mail or by recognized overnight courier service or by facsimile transmission with receipt confirmed to their respective addresses, as designated by them from time to time, in writing to the Condominium Board. All notices shall be deemed to have been given when personally delivered no later than 5:00 PM on such delivery date, or three (3) Business days after mailing in a postage prepaid sealed wrapper, or the first Business Day following delivery by the sender to the office of the recognized overnight courier service, or the date of sending by facsimile transmission with receipt confirmed, if no later than 5:00 PM on a Business Day (or if not sent on a Business Day, then the following Business Day) except notices of change of address which shall be deemed to have been given when received.

4.2 Waiver of Service of Notice. Whenever notice is required to be given by Law, the Declaration or these By-Laws, a waiver thereof in writing, signed by the Person or Persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

4.3 Unit Owner Rights in the Event of Subdivision. If any Unit shall be subdivided as permitted by and in accordance with the Declaration and this Section 4.3 (each a "Resultant Unit"), these By-Laws, may at the election of the respective Unit Owner subdividing its Unit, be amended to provide (i) for the creation and operation of a board of managers (each a "Resultant Board") elected by and representing any subdivided Hotel Units or Retail Units or Garage Units and any consents, approvals, determinations or actions required to be made by any Unit Owner whose Unit may be so subdivided (the "Resultant Units") may be made by the Resultant Board on behalf of the owners of the Resultant Units and (ii) for annual and special meetings for the owners of the Resultant Units. The By-Laws, as so amended, shall provide that any notice required to be made to a Unit Owner, except as may be required by Law, shall be made with respect to any such Resultant Units, to the Resultant Board, and any failure to give additional notice to the owners of the Resultant Units shall not affect the validity of any notice properly given to the Resultant Board. Notwithstanding the foregoing, no subdivision of any Unit shall cause the aggregate General Common Interest appurtenant to the Resultant Units to be lesser or

greater than the General Common Interest appurtenant to the Unit prior to such subdivision. Notwithstanding anything to the contrary contained herein or in the Declaration and the creation of any Resultant Units: (a) neither the Hotel Unit Owner nor the Unit Owner(s) of the Resultant Units created by the subdivision of the Hotel Unit shall be entitled, on a collective basis, to designate more than three (3) members of the Condominium Board, (b) neither the Retail Unit Owner nor the Unit Owner(s) of the Resultant Units created by the subdivision of the Retail Unit shall be entitled, on a collective basis, to designate more than one (1) member of the Condominium Board and (c) neither the Garage Unit Owner nor the Unit Owner(s) of the Resultant Units created by the subdivision of the Garage Unit shall be entitled, on a collective basis, to designate more than one (1) member of the Condominium Board.

ARTICLE 5

OPERATION OF THE PROPERTY

5.1 Determination of Common Expenses and Fixing of Common Charges.

5.1.1 Except as otherwise provided herein, the General Common Expenses and Unit Owner Expenses (as such terms are hereinafter defined) shall be determined by the Condominium Board. "General Common Expenses" shall be defined to include the following: (i) all costs and expenses attributable to the Maintenance, care, upkeep and operation of, and any alteration, addition or improvement to, the General Common Elements and (ii) all such other items provided for in the Declaration or these By-Laws to be General Common Expenses. "Unit Owner Expenses" shall be defined as those expenses incurred by the Condominium Board or a Unit Owner in accordance with the provisions of the Declaration and these By-Laws on behalf of a specific Unit Owner and shall include such expenses expressly provided to be Unit Owner Expenses under the terms of the Declaration or these By-Laws.

5.1.2 The Condominium Board shall cause the Condominium Managing Agent to prepare a proposed annual budget for operations for the Property (the "Annual Budget") for the Condominium for each calendar year and shall deliver such proposed Annual Budget to each of the Condominium Board members not later than October 1 of each calendar year. In preparing such proposed Annual Budget, the Condominium Managing Agent may consult with the Building architect and/or engineer or other professionals with unique knowledge of the Building. Such proposed Annual Budget shall include a property operating statement, a budget detail and trial balance for the General Common Elements including, General Common Expenses and Unit Owner Expenses. The proposed Annual Budget shall show the estimated costs of Maintaining and operating the Condominium for the following calendar year, but shall not include capital expenditures but may include a budget item for capital reserves, provided that (notwithstanding the approval process for the Annual Budget set forth in this Section) the unanimous consent of the members of the Condominium Board shall be required in order to establish and/or maintain a capital reserve account. The proposed Annual Budget shall reflect General Common Expenses charged to Unit Owners based upon the Budget Allocations annexed to the Declaration as Exhibit E. The proposed Annual Budget shall allocate and assess General Common Expenses to each Unit Owner in accordance with the Budget Allocations annexed hereto as Exhibit E. In the event any costs and expenses (whether or not set forth in the proposed Annual Budget and whether or not anticipated) are allocable solely to the repair, Maintenance

and operation of a Unit or the Limited Common Elements appurtenant thereto, such costs and expenses shall be deemed to be "Unit Owner Expenses" (and not General Common Expenses), shall be borne solely by the Unit Owner of such Unit or the Unit Owner having an interest in such Limited Common Element and shall be payable within five (5) days after receipt of an invoice therefor from the Condominium Managing Agent or other party to whom such payment is due. Any other cost and expense relating to Limited Common Elements that is not included in the Annual Budget shall nonetheless be the sole expense of the (i) Hotel Unit Owner with respect to the Hotel Limited Common Elements or (ii) the applicable Unit Owner with respect to any Limited Common Elements that may be created in the future in accordance with the terms of the Declaration. Each Unit Owner shall pay its allocable share of the General Common Expenses (hereinafter collectively, the "Common Charges"), as applicable, on a monthly basis within five (5) days after receipt of an invoice therefor from the Condominium Managing Agent; provided, however that amounts which become due hereunder in respect of Impositions, insurance premiums and any unanticipated expenses not set forth in the then-current Approved Annual Budget (and which are outside the control of the Unit Owners and the Condominium Managing Agent) may be invoiced by the Condominium Managing Agent from time to time as such expenses are incurred and shall be promptly paid (and in any event shall be paid within five (5) days) after receipt of an invoice therefor. The Condominium Board shall furnish (or cause to be furnished) copies of the proposed Annual Budget (in a reasonably itemized form) upon which such Common Charges are based to all Unit Owners.

5.1.3 Except as set forth in the following sentence, any modification of an Approved Annual Budget shall be subject to the approval process set forth in Section 5.1.6 below. The approval of the Condominium Board and the Unit Owners shall not be required for any modification of an Approved Annual Budget that results in (i) any increase in any "discretionary" budget category set forth in the applicable Approved Annual Budget that is ten percent (10%) or less of the approved amount for such category, or (ii) any increase in non-controllable items (e.g. Impositions, insurance premiums, utilities, etc.). Any modification of an Approved Annual Budget that results in any increase in any "discretionary" budget category set forth in the applicable Approved Annual Budget that is more than ten percent (10%) of the approved amount for such category, other than an increase in non-controllable items (e.g. Impositions, insurance premiums, utilities, etc.) shall require the unanimous approval of the Hotel Unit Owner, the Retail Unit Owner and the Garage Unit in order to implement such modification. Notwithstanding anything to the contrary set forth in this Section 5.1.3, in the event a particular Unit Owner wishes to include the increased amount of any discretionary budget category in the modification of the Approved Annual Budget, and such Unit Owner is willing to pay for the entire portion of the cost of such discretionary budget category that exceeds the ten percent (10%) threshold, then such portion of the cost of such discretionary budget category exceeding the ten percent (10%) threshold shall be a Common Charge payable solely by such Unit Owner and the modification of the Approved Annual Budget shall be effective upon the affirmative vote of the members of the Condominium Board.

5.1.4 The Condominium Board shall cause the Condominium Managing Agent to prepare a proposed budget for capital expenditures for the following three (3) calendar years of condominium operation (the "Capital Budget") and shall deliver such proposed Capital Budget for approval to each of the Hotel Unit Owner, the Retail Unit Owner and the Garage Unit Owner simultaneously with delivery to the Condominium Board of the proposed Annual Budget

for each such calendar year. Such proposed Capital Budget shall describe in reasonable detail the capital expenditures scheduled for the immediately following three (3) year period including; (i) a project description, (ii) the estimated duration of the work and (iii) the estimated cost thereof. The Condominium Managing Agent shall submit to the Unit Owners for approval a new proposed three (3) year Capital Budget for approval at the end of the second year of the existing three (3) year Approved Capital Budget. Each Capital Budget must be approved by the unanimous consent of the Hotel Unit Owner, the Retail Unit Owner and the Garage Unit Owner, in which event, the Approved Capital Budget shall be deemed effective. In the event the Unit Owners fail to adopt a proposed Capital Budget for a calendar year prior to the commencement of that calendar year (it being understood and agreed that no Unit Owner or member of the Condominium Board shall have any right to object to any item set forth in any proposed Capital Budget that is contained in the Approved Capital Budget for the preceding year that is in effect at the time the proposed Capital Budget is prepared and delivered to the Hotel Unit Owner, the Retail Unit Owner and the Garage Unit Owner):(a) the Approved Capital Budget for the previous calendar year shall remain in effect, (b) the proposed Capital Budget (or the portions thereof that are in dispute) shall be submitted to Arbitration by any of the Hotel Unit Owner, the Retail Unit Owner or the Garage Unit Owner, (c) at such time as the arbitrators have ruled on the proposed Capital Budget (or the portions thereof that are in dispute), such proposed Capital Budget shall be substituted for the previous calendar year's Approved Capital Budget. All costs and expenses set forth in the proposed Capital Budget shall be payable within forty-five (45) days after receipt of an invoice therefor from the Condominium Managing Agent or other party to whom such payment is due.

5.1.5 Subject to the provisions of Sections 5.1.8 and 5.1.9 hereof, capital expenditures set forth in the Approved Capital Budget as well as any unanticipated capital expenditures approved by the Unit Owners shall be paid by the Unit Owners based on the method of allocation set forth in the Budget Allocations annexed hereto as Exhibit E. Such expenditures may be invoiced by the Condominium Managing Agent from time to time but not more frequently than monthly as such expenses are incurred, and shall be paid within thirty (30) days after receipt of an invoice therefore.

5.1.6 The members of the Condominium Board shall have a period of thirty (30) days following receipt of each proposed Annual Budget and the Unit Owners shall have and a period of forty-five (45) days following receipt of each proposed Capital Budget to review same. Each proposed Annual Budget shall be deemed to be approved if a majority of the members of the Condominium Board affirmatively vote to approve such Annual Budget at a meeting called for such purpose at which a quorum is present. The proposed Capital Budget shall be deemed to be approved if affirmatively consented to by the Hotel Unit Owner, the Retail Unit Owner and the Garage Unit Owner, provided, however, if either the Hotel Unit Owner, the Retail Unit Owner or the Garage Unit Owner has not responded within such forty-five (45) day period, a reminder notice delivered by the Condominium Managing Agent to such Unit Owner shall state in bold letters that if such Unit Owner does not disapprove of such proposed Capital Budget within five (5) Business Days, such failure to respond shall be deemed an approval of such proposed Capital Budget. If a Unit Owner objects to a proposed Capital Budget in the manner provided in this Section, its objection shall specify in reasonable detail the specific items as to which it is objecting and the reasons for such objection, it being agreed that a blanket rejection of a proposed Capital Budget shall not be acceptable. If a Unit Owner shall object to any proposed

Capital Budget, the Unit Owners shall attempt to resolve such objection and upon resolution thereof, the Condominium Managing Agent shall revise and resubmit the proposed Capital Budget, to the Unit Owners. Each Unit Owner shall notify the other Unit Owners of any objections to such revised budget within forty (45) days. Subject to the provisions of the following sentence, the Unit Owners shall attempt to resolve any such objections and upon resolution thereof, the Condominium Managing Agent shall revise and resubmit the proposed Capital Budget to the Unit Owners in accordance with the process described in this Section until the Unit Owners have approved the proposed Capital Budget in writing (such approved Capital Budget being herein referred to as the "Approved Capital Budget"). Any dispute with respect to any proposed Capital Budget which is not resolved prior to December 31, of the applicable calendar year, shall be submitted to Arbitration, and in such event, the Approved Capital Budget for the preceding calendar year shall remain in effect until such time as a proposed Capital Budget for the applicable calendar year is approved in accordance with this Section.

5.1.7 If any dispute shall arise as to the proper allocation of expenses, such dispute shall be resolved by Arbitration. Pending resolution of such Arbitration, the Approved Annual Budget for the preceding calendar year shall remain in effect until such time as a proposed Annual Budget for the applicable calendar year is approved (increased by an amount equal to any actual increases in Impositions, insurance premiums and utility costs and as adjusted by any items in the proposed Annual Budget which have been approved by the Condominium Board),

5.1.8 Intentionally Omitted.

5.1.9 If a third party (i.e. a Person that is not an affiliate of any Unit Owner) is engaged to perform any of the Maintenance or repair work approved in the applicable Approved Annual Budget or Approved Capital Budget, such work shall be performed by such third party at a cost which is not in excess of the cost set forth for such work in or permitted pursuant to the applicable Approved Annual Budget or Approved Capital Budget. If an affiliate of any Unit Owner is engaged to perform any of the Maintenance or repair work approved in the applicable Approved Annual Budget or Approved Capital Budget, such work shall be performed by such affiliate at a cost which is not in excess of the cost set forth for such work in or permitted pursuant to the applicable Approved Annual Budget or Approved Capital Budget provided such cost represents a reasonably competitive price for such work. If the work to be performed under this Section is provided pursuant to a national or other contract that covers other properties owned or managed by one of the Unit Owners in addition to the Property, the costs payable under such contract with respect to the Property shall not be disproportionately higher than those payable with respect to the other properties covered by such contract. Any dispute regarding the cost of such work performed under this Section by an affiliate of any Unit Owner shall be submitted to Arbitration.

5.1.10 "Special Assessments" shall mean those assessments levied against Unit Owners for the purpose of paying non-recurring, extraordinary expenses (including without limitation, capital expenses) with respect to the General Common Elements or any category of Limited Common Elements. All Special Assessments relative to the General Common Elements shall be levied by the Condominium Board, approved by at least one member of the Condominium Board designated by the Hotel Unit Owner, one member of the Condominium

Board designated by the Retail Unit Owner and one member of the Condominium Board designated by the Garage Unit Owner, against the Unit Owners in accordance with the Budget Allocations set forth in Exhibit E. All Special Assessments relative to the Hotel Limited Common Elements shall be levied by the Condominium Board against the Hotel Unit Owner. Notwithstanding the foregoing, where a Resultant Board has been created for subdivided Hotel Units or Retail Units or Garage Units, (x) Special Assessments relative to Hotel Limited Common Elements shall be levied by the Resultant Board (on behalf of the Condominium Board) against the Resultant Units of the Hotel Unit, and (y) Special Assessments relative to any other Limited Common Elements shall be levied by the Resultant Board (on behalf of the Condominium Board) against the Resultant Units of the Retail Unit or the Garage Unit, as applicable. Such Special Assessments shall be payable by the Unit Owners in addition to their respective obligations to pay Common Charges as herein above provided by this Section 5.1. Notwithstanding anything to the contrary set forth herein, if such Special Assessment is solely to the Hotel Unit Owner, then the approval of the Retail Unit Owner's and the Garage Unit Owner's Condominium Board members shall not be required, and if such Special Assessment is solely to the Retail Unit Owner, then the approval of the Hotel Unit Owner's and Garage Unit Owner's Condominium Board members shall not be required, and if such Special Assessment is solely to the Garage Unit Owner, then the approval of the Hotel Unit Owner's and Retail Unit Owner's Condominium Board members shall not be required. 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 affected, not less than thirty (30) days' written notice, except in the case of an Emergency, 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 Sections 5.14 and 5.15).

5.1.11 Financial Surplus. If at the expiration of any Approved Annual Budget or Approved Capital Budget, if the Condominium Board in its discretion (based upon the affirmative vote of at least one member of the Condominium Board designated by the Hotel Unit Owner, one member of the Condominium Board designated by the Retail Unit Owner and one member of the Condominium Board designated by the Garage Unit Owner) determines that there is a surplus of funds in the Condominium accounts, the Condominium Board shall either distribute the surplus of funds to the Unit Owners in proportion to their respective Common Interest or reduce Common Charges due to the Unit Owners for a temporary period of time, or set aside such surplus for reserves, until the surplus is reduced.

5.1.12 Impositions. Until the Units are separately assessed for real estate tax purposes and/or other Impositions (as applicable), the Unit Owners shall pay their respective share of all Impositions with respect to the Property, in accordance with each Unit's respective percentage Common Interest, to the Condominium Board as Common Charges, which will in turn pay real estate taxes (and such other Impositions, if applicable, as and when due and payable) to the proper authorities of The City of New York. Upon the separate assessment of the Units and issuance of separate bills to the Unit Owners by the taxing authorities for real estate taxes (and other Impositions, if applicable), the Retail Unit Owner, the Garage Unit Owner and the Hotel Unit Owner shall recalculate the real estate taxes (or other Impositions, as applicable)

paid for the prior tax year in the proportion that the real estate taxes (or other Impositions, as applicable) finally assessed against each of the Retail Unit, the Garage Unit and the Hotel Unit bears to the aggregate of the real estate taxes (or other Impositions, as applicable) assessed against the Retail Unit Owner, the Garage Unit Owner and the Hotel Unit Owner (the "Tax Recalculation"). The Tax Recalculation with respect to real estate taxes (or other Impositions, as applicable) shall be determined not more than thirty (30) days after the issuance by The City of New York of final real estate tax assessment for each of the Retail Unit Owner, the Garage Unit Owner and the Hotel Unit Owner and in the event that the real estate taxes (or other Impositions, as applicable) paid by a Unit Owner prior to the separate assessment were less than should have been paid in accordance with the Tax Recalculation, not more than ten (10) days after the date of the Tax Recalculation, such Unit Owner shall reimburse the other Unit Owner(s) for the differential.

5.2 Insurance.

5.2.1 The Condominium Board shall be required to obtain and maintain to the extent obtainable the following insurance: (i) "all risk" insurance on the Property, the Building and the Improvements and the personal property, in each case (A) in an amount equal to one hundred percent (100%) of the "Full Replacement Cost," which for purposes of this Agreement shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) with a waiver of depreciation; (B) containing an agreed amount endorsement with respect to the Property, the Building and the Improvements and personal property waiving all co-insurance provisions; (C) providing for no deductible in excess of \$100,000 for all such insurance coverage; and (D) if any of the Improvements or the use of the Property shall at any time constitute legal non-conforming structures or uses, providing coverage for contingent liability from Operation of Building Laws, Demolition Costs and Increased Cost of Construction Endorsements and containing an "Ordinance or Law Coverage" or "Enforcement" endorsement; and (E): (y) if any portion of the Improvements is currently or at any time in the future located in a "special flood hazard area" designated by the Federal Emergency Management Agency, flood hazard insurance in an amount equal to the maximum amount of such insurance available under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as each may be amended; and (z) earthquake insurance in the event the Property is located in an area with a high degree of seismic risk, provided that the insurance pursuant to clauses (y) and (z) hereof shall be on terms consistent with the all risk insurance policy required under this clause (i); (ii) Commercial General Liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Property, with such insurance (A) to be on the so-called "occurrence" form with a general aggregate limit of not less than \$50,000,000 in the occurrence and the aggregate and (B) to cover at least the following hazards as contained in the CG00-01 Commercial General Liability form: (1) premises and operations; (2) products and completed operations; (3) independent contractors; and (4) blanket contractual liability; (iii) loss of rents insurance or business interruption insurance (including extra expense), as applicable, (A) covering all risks required to be covered by the insurance provided for in clause (i) above, (B) which provides that after the physical loss to the Improvements and/or personal property occurs, the loss of rents or income, as applicable, will be insured until completion of restoration notwithstanding that the policy may expire prior to the end of such period and (C) which contains an extended period of indemnity endorsement which provides that after the physical

loss to the Improvements and/or personal property has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of six (6) months from the date that the Property is repaired or replaced and notwithstanding that the policy may expire prior to the end of such period. The amount of such loss of rents or business income insurance, as applicable, shall be determined prior to the date hereof and at least once each year thereafter based on the Condominium Board's reasonable estimate of the gross income from the Property for the succeeding period of coverage required above; (iv) at all times during which structural construction, repairs or alterations are being made with respect to the Improvements, and only if the Property coverage form does not otherwise apply, the insurance provided for in clause (i) above written in a so-called Builder's Risk Completed Value form (1) on a non-reporting basis, (2) against "all risks" insured against pursuant to clause (i) above, (3) including permission to occupy the Property, and (4) with an agreed amount endorsement waiving co-insurance provisions; (v) workers' compensation, subject to the statutory limits of the State of New York, and employer's liability insurance in respect of any work or operations on or about the Property, or in connection with the Property or its operation (if applicable); (vi) boiler and machinery insurance, if applicable, on terms consistent with the commercial property insurance policy required under clause (i) above; (vii) excess liability insurance in an amount not less than \$50,000,000 per occurrence on terms consistent with the commercial general liability insurance required under (ii) above; (viii) liquor liability insurance and (ix) upon sixty (60) days' written notice, such other reasonable insurance and in such reasonable amounts as the Condominium Board from time to time may reasonably determine against such other insurable hazards which at the time are commonly insured against for property similar to the Property located in or around the region in which the Property is located.

With respect to the Policies required to be maintained pursuant to clauses (i) through (viii) above, to the extent applicable, the Condominium Board shall maintain insurance coverage against losses resulting from acts of terrorism if commercially available with coverage amounts of not less than an amount equal to the full insurable value of the Improvements and the personal property.

5.2.2 All policies maintained by or on behalf of the Condominium Board as provided in Section 5.2.1 shall provide that adjustment of loss shall be made between the insurance company(ies) and (a) by the Condominium Board member designated by the Retail Unit Owner if the loss involves only the Retail Unit (or the Retail Common Elements, if any) (b) by one of the Condominium Board members designated by the Hotel Unit Owner if the loss involves only the Hotel Unit or the Hotel Limited Common Elements, (c) by the Condominium Board member designated by the Garage Unit Owner if the loss involves only the Garage Unit (or the Garage Common Elements, if any) (d) by the Condominium Board, if the loss involves the Retail Unit and the Hotel Unit and the Garage Unit, or only the General Common Elements or the General Common Elements and one or more Units. The right of the Condominium Board or a Unit Owner to adjust any loss as described above shall be subject (as to an encumbered Unit) to the rights of a Recognized Mortgagee, if any, under the terms of a Recognized Mortgage to approve adjustments, as it pertains to the Unit secured by the Recognized Mortgage (or other loan documentation related thereto) held by said Recognized Mortgagee, which approval shall not be unreasonably withheld or delayed.

5.2.3 All Policies provided for in this Section 5.2 shall contain clauses or endorsements to the effect that:

5.2.3.1 no act or negligence of the Condominium Board, the Unit Owners, or anyone acting for the Condominium Board or Unit Owners, or of any Tenant or other occupant of a Unit, or failure to comply with the provisions of any Policy, which might otherwise result in a forfeiture of the insurance or any part thereof, shall in any way affect the validity or enforceability of the insurance insofar as any Recognized Mortgagee is concerned;

5.2.3.2 the Policies shall not be materially changed (other than to increase the coverage provided thereby) or canceled without at least thirty (30) days' prior written notice to any party named therein as an additional insured, including, without limitation, any Recognized Mortgagee (except that, in the event of non-payment of premium, the Policies may be cancelled upon ten (10) days' prior written notice to any party named therein as an additional insured, including, without limitation, any Recognized Mortgagee); and

5.2.3.3 the issuers thereof shall give written notice to the Recognized Mortgagees if a Policy has not been renewed thirty (30) days (or in the event the failure to renew is due to non-payment of premium, ten (10) days) prior to its expiration.

5.2.4 The following provisions shall apply with respect to insurance requirements of Unit Owners.

5.2.4.1 No Unit Owner shall (1) knowingly do or permit any act or thing to be done in or to its Unit which will invalidate or be in material conflict with any public liability, property or other policy of insurance at any time carried by the Condominium Board with respect to the Property, (2) knowingly keep anything in its Unit or in the General Common Elements which is prohibited by the Fire Department, Board of Fire Underwriters, fire insurance rating organization or other authority having jurisdiction or (3) knowingly permit its Unit or the Common Elements to be used in any manner which will increase the insurance rate for the Property over that in effect as of the date of this Declaration, unless such Unit Owner pays the additional cost thereof as provided below.

5.2.4.2 Any costs, expenses, fines, penalties or damages which shall be imposed upon the Condominium Board by reason of a default by a Unit Owner in performing its obligations under this Section 5.2. or by reason of any increase in the premium charged for insurance carried by the Condominium Board resulting from a change in the insurance rate for the Property attributable to a use of such Unit Owner's Unit, other than for rental use, parking or ancillary uses or for any other use to which such Unit is put as of the date of the recordation of the Declaration, shall be assessed against such Unit and shall be payable by the Unit Owner thereof. For all purposes hereunder, a schedule or "makeup" of rates for the Property issued by the New York Fire Insurance Rating Bureau or other body making fire insurance rates applicable to the Property shall be conclusive evidence of the facts therein stated and of the several items and charges in the fire insurance rate or rates then applicable to the Property.

5.2.4.3 Any blanket insurance Policy shall specifically allocate to the Property the amount of coverage from time to time required hereunder and shall otherwise

provide the same protection as would a separate Policy insuring only the Property in compliance with the provisions of Section 5.2.1 above.

5.2.4.4 All policies of physical damage insurance obtained by the Condominium Board and the Unit Owners shall contain, waivers of subrogation and waivers of any defense based on (i) co insurance, (ii) other insurance, (iii) invalidity arising from any acts of the insured, or (iv) pro rata reduction of liability, and shall provide that such policies may not be canceled or materially or substantially modified without at least thirty (30) days' prior written notice to all of the insureds, including all Unit Owners and Recognized Mortgagee. The Condominium Board and all Unit Owners hereby waive their subrogation rights.

5.2.4.5 Intentionally omitted.

5.2.5 The insurance required to be maintained under this Section 5.2 shall meet the following criteria:

5.2.5.1 Except for Workers Compensation and New York Statutory Disability Insurance coverages, all insurance maintained hereunder shall contain waivers of subrogation and the Condominium Board and the Unit Owners each hereby waive and agree that they shall make no claim for recovery against each other for damages to or loss of the Common Elements and/or any Unit, or any improvements and betterments thereon or therein, and injury or damage arising out of operations if such damage injury or loss is covered by valid and collectible insurance protecting the Condominium Board and the Unit Owners and which contains a clause permitting the insured to waive such rights prior to the occurrence of a loss. Such waiver of subrogation shall apply to all stated insurance coverages herein.

5.2.5.2 All policies maintained by the Condominium Board shall acknowledge and provide that (a) all Unit Owners and Recognized Mortgagees are deemed additional insureds for any liability insurance except that Unit Owners shall not be considered additional insureds with respect to the operations of their own Unit, (b) the Condominium Board is deemed a loss payee for casualty to a General Common Element or a Limited Common Element appurtenant to more than one but not all Units and (c) each Unit Owner is deemed a loss payee for casualty to its respective Limited Common Elements exclusively appurtenant to such Unit. The Condominium Board shall provide a copy of all insurance policies to all Unit Owners and Recognized Mortgagees, at no cost to any Recognized Mortgagee, evidencing all required Condominium Board policy coverages and additional insured, loss payee or mortgagee status.

5.2.5.3 Liability coverage shall be endorsed with a severability of interest endorsement, if not otherwise included, stating that if a claim is brought by one insured against another insured under such policy, or by an employee of one insured against another insured under such policy, each insured shall be considered a separate insured for purposes of the insurance. The policies shall be written with a contractual liability endorsement, if not otherwise included, providing coverage for bodily injury or property damage assumed under any type of "written agreement," as defined in the standard ISO liability policy form CG00-01, to the extent permitted by Law, with no limitations or exclusions with respect to Labor Law 240 or gravity issues.

5.2.5.4 Neither the issuance of any insurance policy hereunder, nor the minimum limits specified herein with respect to a Unit Owner's insurance coverage, shall be deemed to limit or restrict in any way any Unit Owner's liability in connection with or arising out of its work and the indemnification obligations set forth in this Declaration.

5.2.6 The Condominium Board shall provide copies of its new or renewal policies to each Recognized Mortgagee within thirty (30) days following expiration of expired policies, and evidence of renewal policies, in binder form, shall be delivered by the Condominium Board to each Recognized Mortgagee at least ten (10) days prior to the expiration dates of such policies, together with proof that the premiums for at least the first year of the term of such policies have been paid.

5.2.7 If any of the foregoing insurance coverages, including without limitation, the deductibles with respect thereto, are unavailable or unavailable at commercially reasonable rates, then in lieu thereof, the Condominium Board may obtain and maintain such other insurance coverages as would then be obtained and maintained by prudent property owners of similar properties situated in the City of New York. The Condominium Board shall have the right to reasonably amend the required limits and types of insurance from time to time with the consent of at least one member of the Condominium Board designated by the Hotel Unit Owner and at least one member of the Condominium Board designated by the Retail Unit Owner. The insurance coverages described herein may be adjusted for inflation at the discretion of the Condominium Board.

5.2.8 If the Condominium Board fails to obtain and maintain the insurance required in this Article 5, then any one or more of the Unit Owners shall have a joint and several right, upon three (3) business days' notice to the Condominium Board, to obtain such insurance in the required amounts. If the Unit Owners fail to obtain and maintain the insurance required in this Article 5 following the Condominium Board's failure, then a Recognized Mortgagee shall have the right, upon three (3) business days' notice to the Condominium Board and the Unit Owners, to obtain such insurance in the required amounts. All premiums paid therefor shall be deemed a debt and obligation of the Condominium Board to be repaid with interest at a rate equal to the prime rate of interest (as reported from day to day in The Wall Street Journal) imposed by Citibank, N.A. or its successor, or if such rate is not available, the same rate or prime rate of interest at any "money center" bank as may be designated by a Recognized Mortgagee (the "Prime Rate"), plus 2% per year, upon demand. Each of the Unit Owners shall be deemed to have a power of attorney, coupled with an interest, from the Condominium Board to act on its behalf to perform the obligations of the Condominium Board as set forth herein. Each Recognized Mortgagee also shall be deemed to have a power of attorney, coupled with an interest, from the Condominium Board and the Unit Owners to act on its behalf to perform the obligations of the Condominium Board as provided under this Section. Any dispute hereunder shall be resolved by Arbitration.

5.2.9 Each Unit Owner, at its cost and expense, shall maintain or require the Tenants or occupants of its Unit to maintain, at all times such additional insurance, in type and limit, as is customarily carried with respect to comparable properties as the Condominium Board may reasonably require including, without limitation, the following insurance ("Tenant's Insurance"):

5.2.9.1 Commercial General Liability Insurance applicable to the each of its Tenants' leased premises and its appurtenances providing, on an occurrence basis, a minimum combined single limit of \$1,000,000.00 provided under a ISO CG00-01 form and naming as additional insureds the Condominium Board, the Unit Owners, and Recognized Mortgagees and such other parties as the particular Unit Owner shall desire, all as their respective interests shall appear on a primary and non-contributory basis with a waiver of subrogation in favor of the same; and

5.2.9.2 Hired Non-Owned Automobile coverage in a limit of no less than \$1,000,000; and.

5.2.9.3 If applicable, Garagekeepers Liability coverage in the amount of \$5,000,000 and inclusive of bailees coverage; and

5.2.9.4 Umbrella Liability coverage in the amount of \$10,000,000; and

5.2.9.5 Property Insurance written on an All Risk or Special Perils form, with coverage for broad form water damage at replacement cost value and with a replacement cost endorsement/agreed value with no co-insurance covering all of the applicable Tenant's business and trade fixtures, equipment, movable partitions, furniture, merchandise and other personal property within the Premises ("Tenant's Property") and any leasehold improvements performed by or for the benefit of Tenant; and

5.2.9.6 Workers' Compensation insurance in amounts required by Legal Requirements.

Any company writing Tenant's Insurance shall have an A.M. Best rating of not less than A-VIII All policies of Tenant's Insurance shall contain endorsements that the insurer(s) shall give the Condominium Board and the Unit Owners and their designees at least thirty (30) days' advance written notice of any cancellation, termination, material change or lapse of insurance. Certificates evidencing the existence of the Policies to be maintained by a Unit Owner or occupant under this Section 5.2.10 shall evidence satisfaction of the requirements for such Policies set forth herein and shall be delivered to the Condominium Board and each Unit Owner no later than ten (10) days prior to such Unit Owner's acceptance of the deed for its Unit or, if under Section 5.17.2, not less than fifteen (15) days prior to the commencement of the work. Within ten (10) days of the expiration or termination date of any policy, the Unit Owner or occupant shall deliver a renewal or replacement certificate evidencing the existence thereof, to the Condominium Board, each Unit Owner and Recognized Mortgagee. All policies of property insurance maintained by any Unit Owner shall contain a waiver of subrogation with respect to the Condominium Board, each Unit Owner, each Recognized Mortgagee and their respective agents and employees, to the extent obtainable. Nothing herein shall preclude or prevent any Unit Owner from obtaining or maintaining insurance which is greater in scope than that which is required hereunder.

5.2.10 Without limiting the remedies of the Condominium Board for a Unit Owner's default, in the event that a Unit Owner fails to provide a certificate or other evidence of insurance required to be provided by each Unit Owner hereunder and does not cure such default

within ten (10) business days after notice from the Condominium Board or any other Unit Owner or a Recognized Mortgagee, the Condominium Board or the other Unit Owner or Recognized Mortgagee of such Unit shall be authorized (but not required), if the same remains uncured, to procure such coverage on behalf of such Unit Owner and the cost thereof shall be charged back to such Unit Owner as a Unit Owner Expense (and, if such coverage is obtained by one of the other Unit Owners, all payments with respect thereto shall be made to such Unit Owner).

5.2.11 The Condominium Board shall obtain and maintain such additional or greater insurance coverage as may be requested in writing by a Unit Owner, provided, such Unit Owner shall pay the premium (or increase in existing premiums) related thereto. Such additional premium shall, to the extent the other Unit Owners elect not to obtain such additional or greater insurance coverage, be charged as a Unit Owner Expense against the requesting Unit Owner.

5.2.12 The provisions of this Section 5.2 shall be referred to as the "Insurance Requirements."

5.3 Repair or Reconstruction after Fire or Other Casualty.

5.3.1 If the Building is damaged by fire or other casualty, the Condominium Board shall, with due diligence and in as timely a manner as practicable under the circumstances, cause the damage to be repaired and the Building (exclusive of Tenant build outs and other similar interior improvements which shall be the responsibility of the affected Unit Owner in accordance with Section 5.3.1.2 below) to be restored pursuant to the following provisions of this Section 5.3 and Sections 5.4 – 5.11 below, unless such casualty is a Significant Casualty (as defined in Section 5.5 below) and the Hotel Unit Owner, the Retail Unit Owner and the Garage Unit Owner mutually agree not to repair and restore the Building, in which event the provisions of Section 5.5 below shall apply.

5.3.1.1 Claims shall be adjusted as follows: (w) if the casualty affects only the Retail Unit (or any portion thereof) or any Retail Limited Common Elements, such adjustment shall be made by the Retail Unit Owner, (x) if the casualty affects only the Hotel Unit (or any portion thereof) or the Hotel Limited Common Elements, such adjustment shall be made by the Hotel Unit Owner, and (y) if the casualty affects only the Garage Unit (or any portion thereof) or any Garage Limited Common Elements, such adjustment shall be made by the Garage Unit Owner (z) if the casualty involves the General Common Elements such adjustment shall be made by the Condominium Board. Any dispute regarding the adjustment and/or settlement of any claim with the relevant insurance company shall be submitted to Arbitration.

5.3.1.2 The Unit Owners and the Condominium Board shall cause all necessary repair and restoration work with respect to the Building to be performed in accordance with the provisions of this Section 5.3 and Sections 5.4-5.11. If proceeds with respect to a loss shall be payable to the Condominium Board, the Condominium Board (i) shall hold such proceeds in trust for the purpose of paying the costs of the repair or restoration as provided in Section 5.3.1 and (ii) shall apply such proceeds first to the payment in full of the cost of such repair and restoration before using any part of the same for any other purpose. The Condominium Board shall give notice of completion of any such repair or restoration to the Unit Owners, then the excess proceeds shall be distributed in accordance with Section 5.8. In

connection with the repair and restoration work to the Building in accordance with the provisions of this Section 5.3 and Sections 5.4 – 5.11, the Condominium Board shall engage an Architect (as defined below). The repair and restoration shall be commenced and pursued to completion in as timely a manner as practicable and shall be performed on behalf of the Unit Owners and the Condominium Board by a Contractor (as hereinafter defined) reasonably approved by one (1) Condominium Board member designated by the Hotel Unit Owner, one (1) Condominium Board member designated by the Retail Unit Owner and one (1) Condominium Board member designated by the Garage Unit Owner, which approval shall not be unreasonably withheld or delayed. If the aforementioned Condominium Board members fail to agree upon the selection of an Architect or Contractor within sixty (60) days after the occurrence of such fire or other casualty, then the selection of the Architect or Contractor, as applicable, may be submitted to Arbitration by any Unit Owner. “Architect” shall mean an architect or construction consulting firm that provides engineering and/or architectural services, which is experienced in the design and operation in the City of New York of structures similar to the Building and has provided services comparable to those being requested hereunder within not less than three (3) of the immediately preceding ten (10) years and reasonably approved by a Condominium Board member designated by the Hotel Unit Owner, a Condominium Board member designated by the Retail Unit Owner, and a Condominium Board member designated by the Garage Unit Owner, which approval shall not be unreasonably withheld or delayed. “Contractor” shall mean a qualified general contractor or construction manager with significant experience in the construction of structures in Manhattan similar to the Building.

5.3.1.3 The plans and specifications for such repair and restoration shall be prepared by the Architect in accordance with instructions given by the Hotel Unit Owner with respect to the Hotel Unit and/or the Hotel Limited Common Elements, as applicable, and the Retail Unit Owner with respect to the Retail Unit and/or the Retail Limited Common Elements, if any, as applicable, and the Garage Unit Owner with respect to the Garage Unit and/or the Garage Limited Common Elements, if any, as applicable, and the Condominium Board with respect to the General Common Elements, and shall provide for the restoration of the damaged portion of the Building as close as commercially practicable to the Building as it existed prior to the damage or destruction, except to the extent any changes in applicable Legal Requirements require otherwise or unless one member of the Condominium Board designated by the Hotel Unit Owner, one member of the Condominium Board designated by the Retail Unit Owner and one member of the Condominium Board designated by the Garage Unit Owner agree otherwise. The Condominium Board shall cause the Architect to furnish to each of the Unit Owners and the Condominium Board a set of the plans and specifications (and shop drawings upon request), which it has prepared or caused to be prepared. If, in connection with any restoration or repair hereunder, the Hotel Unit Owner, the Garage Unit Owner or the Retail Unit Owner desires to make any material change in the Building (other than a change to such Unit Owner’s Unit or its appurtenant Limited Common Elements, if any), the consent of the other Unit Owners who will be affected by such material change shall be required, which consent shall not be unreasonably withheld or delayed provided that (w) such change is consistent with the standards generally applicable to similar hotel/retail/garage buildings in Manhattan, (x) such change will not result in a reduction of the rentable square footage of any of the other Unit Owner’s Units; (y) such change will not have a material Adverse Effect on any easements or easement rights of any Unit Owner or on any utility or other service provided to any Unit Owner by pipes, lines, conduits or other mechanical equipment located in another Unit Owner’s Unit or

another Unit Owner's appurtenant Limited Common Elements or General Common Elements without the consent of all affected Unit Owners; and (z) any additional costs associated with such changes over and above those which would be incurred in connection with an "as is" restoration (including without limitation, any increase in operating costs as a result of such change) shall be borne by the Unit Owner requesting such change. Any dispute concerning any such material change shall be submitted to Arbitration.

5.3.1.4 During the course of the repair and restoration, the Condominium Board shall maintain the insurance required pursuant to Section 5.2.1 above.

5.4 Tenant Improvements and Other Interior Components. In the event any Tenant build outs or other similar improvements to the interior of any of the Units or to the Unit's appurtenant Limited Common Elements, as applicable, are damaged or destroyed by fire or other casualty, the affected Unit Owner, at its sole cost and expense, shall immediately remove any rubble and debris resulting from such event and, within a reasonable time thereafter, shall, at its election, and at its sole cost and expense, either (i) repair and restore the space so damaged to a habitable and usable condition in compliance with the provisions of any Leases and otherwise in compliance and conformity with applicable Legal Requirements, the Declaration, these By-Laws and the standards generally applicable to similar hotel, retail and garage buildings in Manhattan, or (ii) restore such space to a safe and secure condition in compliance with applicable Legal Requirements and with complete and slightly demising walls, doors and exterior visible surfaces separating such space from any other space which is visible from outside of the damaged space, which shall include, with respect to the Hotel Unit, the Retail Unit and the Garage Unit, any appropriate aesthetic alterations to the exterior of such damaged space.

5.5 Significant Casualty. If the Building is damaged by fire or other casualty, the Building shall be repaired or restored in accordance with the provisions of Section 5.3 above, unless (i) more than seventy five (75%) percent of the rentable square footage of the Building (without taking into account any Tenant build outs and other similar improvements to the interior components of the Units) is damaged or destroyed or otherwise rendered unusable by fire or casualty (a "Significant Casualty") as determined by the Certifying Professional in accordance with Section 5.6 below, and (ii) the Hotel Unit Owner and either the Retail Unit Owner or the Garage Unit Owner (or, in the event a Unit has been subdivided and a Resultant Board has been established to govern such Resultant Units, such Resultant Board) jointly agree not to repair and restore the Building. If a Significant Casualty occurs and the Hotel Unit Owner and either the Retail Unit Owner or the Garage Unit Owner (or the applicable Resultant Board(s), as applicable) jointly agree not to repair and restore the Building, (i) the Condominium Board shall secure and fence in the Property boundary, and shall raze the Building, if necessary, and put the Building and Property into compliance with applicable Legal Requirements, and otherwise make the Property and Building safe (all of the activities described in this clause (i), the "Safety Work"), (ii) the insurance proceeds, net of the costs and expenses of the Condominium Board and the Unit Owners hereunder and the cost of any Safety Work, shall be distributed to the Unit Owners based upon the relative fair market values of the Hotel Unit, the Retail Unit and the Garage Unit (or the applicable Resultant Units) immediately prior to such casualty as determined by the Hotel Unit Owner, the Retail Unit Owner and the Garage Unit Owner (or the applicable Resultant Board(s), as applicable) and (iii) the Condominium shall be terminated. If the Hotel

Unit Owner, the Retail Unit Owner and the Garage Unit Owner (or the applicable Resultant Board(s), as applicable) cannot agree as to the relative fair market values of the Units within ninety (90) days following the date of the casualty, the determination of such values shall be submitted to Arbitration. In addition, to the extent that a Recognized Mortgagee has the right, under a Recognized Mortgage secured by the Hotel Unit or the Retail Unit or the Garage Unit (or Resultant Units, as applicable), to vote or consent on behalf of the Hotel Unit Owner or the Retail Unit Owner or the Garage Unit Owner (or the Resultant Units, as applicable) with respect to whether to proceed with the repair or restoration of the Building as provided in this Section 5.5, such rights of the Recognized Mortgagee are hereby recognized and consented to.

5.6 Determination of Cost. As soon as reasonably practical after any fire or other casualty (but in no event more than sixty (60) days after such fire or other casualty), a Certifying Professional shall be retained by the Condominium Board. The Condominium Board shall direct the Certifying Professional to prepare a reasonably detailed statement setting forth (i) a description of the damaged areas of the Building (exclusive of tenant build outs and other similar interior improvements) and structural supports, and (ii) an estimate (the "Casualty Estimate") of the total costs of such repair or restoration (exclusive of Tenant build outs and other similar interior improvements), and to reasonably determine and certify to the initial Architect Casualty Allocation Ratio (as hereinafter defined) and to notify the Condominium Board and the Unit Owners of such ratio and the method by which such ratio was calculated, which notice shall include a complete schedule of costs and a reasonably detailed breakdown thereof by area and type of damage and necessary repair and restoration. The term "Architect Casualty Allocation Ratio" shall have the following meaning: the ratio of (A) the relative cost of the restoration to be performed as a result of the damage to each Unit and such Unit's appurtenant Limited Common Elements, if any (including such Unit's applicable share of damage to the General Common Elements), to (B) initially, the Casualty Estimate and, as and if the costs change during the course of the restoration work, the actual total costs. To the extent that the Condominium Board and the Unit Owners are required to restore in accordance with the provisions of this Section 5.6 and Sections 5.3 – 5.5 and 5.7-5.11, each Unit Owner shall be responsible for its share of the costs of restoration based upon the Architect Casualty Allocation Ratio. If the cost and expense of any repair and restoration to the Building (exclusive of Tenant build outs and other similar interior improvements) pursuant to this Section and Sections 5.3-5.5 and 5.7-5.11 shall exceed the amount of Net Insurance Proceeds (as hereinafter defined), the excess cost and expense (or the entire amount of such cost and expense, if there are no insurance proceeds) shall be borne by the Unit Owners in proportion to the Architect Casualty Allocation Ratio. Notwithstanding the foregoing, (1) to the extent the additional costs result from changes requested by a Unit Owner or the acts or omissions of a Unit Owner, such Unit Owner shall be solely responsible for payment of the additional costs, and (2) if a Unit Owner fails to carry any insurance required under Section 5.2 (or otherwise cause its Tenants to maintain such coverage, as applicable), such Unit Owner shall be responsible for the payment of any restoration costs that would have been paid from the proceeds of such insurance. The Unit Owners shall share, subject to the terms of the immediately preceding sentence, any cost overruns resulting from Unavoidable Delays based on the Architect Casualty Allocation Ratio. Each Unit Owner shall share in paying any insurance deductible in accordance with the Architect Casualty Allocation Ratio. "Certifying Professional" shall mean an architect or a licensed professional engineer or, engineering or construction consulting firm that provides engineering and/or architectural services, who is experienced in the design and operation in the City of New York of structures similar to the Building and has

provided services comparable to those being requested hereunder for not less than the statute of repose, approved by a Condominium Board member designated by the Hotel Unit Owner, a Condominium Board member designated by the Retail Unit Owner and a Condominium Board member designated by the Garage Unit Owner, which approval shall not be unreasonably withheld or delayed. The term "Net Proceeds" shall mean the total insurance proceeds payable as a result of such fire or other casualty less all reasonable fees and expenses incurred by the Unit Owners and/or the Condominium Board in collecting such insurance proceeds.

5.7 Net Insurance Proceeds to Depositary. In connection with any repairs to or restoration of the Building pursuant to the provisions of these By-Laws, the Depositary shall hold all Net Proceeds and shall be the disbursement agent for all Net Proceeds.

5.8 Excess Insurance Proceeds. Upon completion of the repair and restoration in accordance with the provisions of this Section and full payment therefore and for all costs in connection therewith, any excess Net Proceeds shall be distributed as follows:

5.8.1 If one of the Unit Owners failed to contribute to a deficiency in connection with the repair and restoration work as herein provided, the amount of such deficiency, together with interest thereon at the Default Rate, shall be paid to the other Unit Owners to the extent advanced by such other Unit Owners (pro rata based on the amounts advanced by each such Unit Owner for such deficiency).

5.8.2 Any remaining balance shall be paid to the Unit Owners in accordance with the Architect Casualty Allocation Ratio.

5.9 Obligation and Rights to Rebuild. Except as set forth in Sections 5.4 and 5.5 above, the Condominium Board and the Unit Owners shall be obligated to repair and restore the Building regardless of whether or not any insurance proceeds are available, provided, however, that the Unit Owners shall share the cost of repairing or restoring General Common Elements based on their respective Common Interests, to the extent that such cost is not satisfied out of available insurance proceeds. Furthermore, the Condominium Board and each Unit Owner shall cooperate with the other Unit Owners and the Condominium Board in connection with any such repairs or restoration to the Property.

5.10 Costs Defined. For purposes of Sections 5.3 through 5.9 hereof, architects' and engineers' fees, attorneys' fees and disbursements (other than those arising from a dispute of the parties hereunder, including, without limitation, any dispute that is submitted to Arbitration), consultants' fees, the fees of the Certifying Professional, title insurance premiums and other similar costs and expenses (including costs incurred by the Condominium Board) relating to repair or restoration shall be included in the costs and expenses of any such repair or restoration.

5.11 Reallocation of Common Interests. If, as a result of a casualty, the total square footage of the Retail Unit or the Hotel Unit or the Garage Unit, as applicable, changes, the Unit Owners shall promptly (x) adjust, as of the date of completion of the repairs and restoration required in connection with such casualty, the Unit Owners' respective Common Interests in the Condominium in accordance with the method of determination of Common Interest set forth in Article 12 of the Declaration, and (y) prepare and record in the City Register's Office an

amendment to the Declaration and/or these By-Laws, as appropriate, confirming such reallocation. If the Unit Owner shall not agree on any of the matters referred to in the foregoing clauses (x) and (y) within ninety (90) days following completion of the repairs and restoration, they shall submit such issue to Arbitration.

5.12 Payment of Common Charges.

5.12.1 The Unit Owners shall be obligated to pay to the Condominium Board the Common Charges and Special Assessments in accordance with the provisions of Section 5.1 of these By-Laws.

5.12.2 No Unit Owner shall be liable for the payment of any part of the Common Charges or any Special Assessment assessed against such Unit Owner's Unit subsequent to the effective date of a sale or other conveyance by such Unit Owner (made in accordance with these By-Laws) of such Unit together with its appurtenant Common Interests. A purchaser of a Unit shall be liable for the payment of Common Charges and any Special Assessments accrued and unpaid against such Unit prior to the acquisition by such purchaser of such Unit. In the event of a foreclosure sale of a Unit by a Recognized Mortgagee, deed in lieu of foreclosure or other remedy elected by such Recognized Mortgagee, the owner of such Unit prior to the foreclosure sale shall remain liable for the payment of all unpaid Common Charges and any Special Assessments, which accrued prior to such sale. Except to the extent prohibited by Law, the Condominium Board, (x) on behalf of all Unit Owners shall have a lien on each Unit for unpaid Common Charges and Special Assessments and (y) on behalf of any Creditor Unit Owner, shall have a lien on each Unit of a Debtor Unit Owner for unpaid Common Charges and/or Special Assessments paid or otherwise incurred by such Creditor Unit Owner on behalf of the Debtor Unit Owner.

5.12.3 No Unit Owner may exempt itself from liability to pay Common Charges or Special Assessments or from any of its other obligations hereunder by waiver of the use or enjoyment of any of the Common Elements or by abandonment of its Unit. Any sums assessed against a Unit Owner by the Condominium Board, or expended by a Unit Owner or the Condominium Board on behalf of another Unit Owner (including, without limitation, for Unit Owner Expenses) as provided in the Declaration or these By-Laws, shall be deemed Common Charges payable under this Section 5.12 for which the Condominium Board shall have a lien for nonpayment as provided in Section 5.14 of these By-Laws

5.12.4 The lien of any mortgage of record on a Unit shall be subordinate to all liens provided for in Section 5.12.2.

5.12.5 Notwithstanding Section 5.12.2, neither the seller nor the purchaser of a Unit shall be liable for, nor shall the Unit be conveyed subject to a lien for, any unpaid Common Charges or Special Assessments against such Unit accrued prior to such conveyance in excess of the amount set forth in a written statement from the Condominium Board (if a statement is so requested by the seller or purchaser of the Unit).

5.13 Collection of Common Charges. The Condominium Board shall take prompt action to collect any Common Charges and Special Assessments due to the Condominium Board,

which remain unpaid for more than thirty days after the due date for payment thereof.

5.14 Default in Payment of Common Charges and other Obligations. In the event any Unit Owner fails to make payment of Common Charges or Special Assessments when due, such Unit Owner shall be obligated to pay interest thereon at a rate per annum equal to the Prime Rate plus 4% per month, but in no event in excess of the maximum rate permitted by Law (the "Default Rate") (provided that the Unit Owner has received prior notice from the Condominium Board or the Condominium Managing Agent and an opportunity to cure) on such unpaid amounts computed from the due date thereof, together with all reasonable expenses, including, without limitation, reasonable attorneys' fees, costs and disbursements paid or incurred by the Condominium Board or by the Condominium Managing Agent in any proceeding brought to collect such unpaid Common Charges or Special Assessments, as applicable, or in any action to foreclose the lien on such Unit arising from said unpaid Common Charges or Special Assessments, as applicable, as provided in Section 339- z of the New York Condominium Act, in the manner provided in Section 339-aa thereof or in any other manner permitted by Law. Notwithstanding anything to the contrary set forth herein, in the event a Unit Owner disputes the amounts owed in good faith, the Default Rate shall be the Prime Rate plus one percent (1%) per year. Notwithstanding the foregoing, the Condominium Board may establish its own reasonable alternate fees for late payments, whether such fees are more or less than the charges set forth herein. All such "late charges," interest, fees and expenses shall be added to and shall constitute Common Charges or Special Assessments, as applicable, payable by such Unit Owner and the Condominium Board's lien for unpaid Common Charges and/or Special Assessments, as applicable, shall also secure payment of such late charges, interest, fees and expenses. The Condominium Board shall diligently and in good faith enforce the obligations of each Unit Owner to pay Common Charges and Special Assessments. If a Unit Owner fails to make any payments required to be made under the terms of the Declaration and these By-Laws (such Unit Owner, a "Debtor Unit Owner"), another Unit Owner may but shall have no obligation to, make such payment (the "Creditor Unit Owner"), provided, such Creditor Unit Owner gives notice to the Debtor Unit Owner, the Debtor Unit Owner's Recognized Mortgagee, if any, in accordance with Section 6.3 of the By-Laws and the Condominium Board of its intention to make such payment if such default is not cured within thirty (30) days following receipt of such notice. The Creditor Unit Owner shall be entitled to reimbursement for all such payments together with interest earned thereon from the date advanced until the date paid at the Default Rate and the Condominium Board shall have a lien on the Debtor Unit Owner's Unit as though such amounts were payable to the Condominium Board as Common Charges, but such lien shall be held and enforced by the Condominium Board for the benefit of the Creditor Unit Owner. Any disputes hereunder shall be resolved by Arbitration.

5.15 Foreclosure of Liens for Unpaid Common Charges.

5.15.1 Upon the Condominium Board's foreclosure of a lien on a Unit because of unpaid Common Charges or Special Assessments, the Unit Owner shall be required to pay a reasonable rental for the use and occupancy of such Unit Owner's Unit from and after the period commencing after the commencement of the foreclosure action and the purchaser in such foreclosure action shall be entitled to collect the same. A suit to recover a money judgment for unpaid Common Charges and/or Special Assessments shall be maintainable without foreclosing or waiving the lien securing such charges. No action shall be brought to foreclose such lien

unless thirty (30) days' notice of claim of lien is given to the Defaulting Unit Owner and any Recognized Mortgagee thereof. The Condominium Board, acting on behalf of the Unit Owners, shall have the power to bid in the amount of the lien at the foreclosure sale and to acquire and hold, lease, mortgage and convey same. Under no circumstances shall any Unit Owner remain liable for any deficit if the net proceeds received on such foreclosure sale (after deduction of all reasonable legal fees, advertising costs, brokerage commissions and other reasonable costs and expenses incurred in connection therewith) are insufficient to satisfy the Defaulting Unit Owner's obligations hereunder.

5.15.2 The Condominium Board at the written request of any Unit Owner, will enter into a non-disturbance agreement (the "Condominium Non-Disturbance Agreement") with a Tenant occupying all or a portion of a Unit pursuant to a written Lease, operating agreement or use and, on the terms set forth in this Section 5.15.2; provided that such Unit Owner has not received a notice of default under the terms of the Declaration or these By-Laws at the time of such request. Under the terms of the Condominium Non-Disturbance Agreement, the Tenant will acknowledge that the Lease, operating agreement or use and occupancy agreement is subject and subordinate to the Declaration and the By Laws and the Condominium Board will agree that so long as no event of default exists under said Lease, operating agreement or use and occupancy agreement as would entitle the Unit Owner, or any successor landlord under the Lease, operating agreement or use and occupancy agreement to terminate the Lease, operating agreement or use and occupancy agreement or dispossess the Tenant thereunder, the Tenant shall not be named or joined in any action or proceeding to foreclose the Condominium Board's lien for Common Charges and/or Special Assessments, as applicable on a Unit or any other sums of any sort, the Condominium Board will recognize all of Tenant's rights under the Lease, operating agreement or use and occupancy agreement and will not diminish, terminate or disturb Tenant's possession or rights under the Lease, operating agreement or use and occupancy agreement, expand any of Tenant's obligations under the Lease, operating agreement or use and occupancy agreement or under the Declaration or these By-Laws, or obligate Tenant to comply with any of the provisions of the Declaration or these By-Laws, except as expressly provided herein and in the Lease, operating agreement or use and occupancy agreement, and will recognize Tenant as the direct Tenant of the Condominium Board or its successor on the same terms and conditions as are contained in the Lease and the Tenant's use, possession, or enjoyment of the Unit (or portion thereof) in question shall not be interfered with, nor shall the leasehold estate granted by the Lease, operating agreement or use and occupancy agreement be affected in any manner, nor shall any of the rights of the Tenant granted under the Lease, operating agreement or use and occupancy agreement be affected in any manner, in any foreclosure or other action or proceeding instituted under or in connection with such lien or in the exercise of any rights of the Condominium Board, or, in case the Condominium Board takes possession of said Unit pursuant to any provision of the Declaration or By-Laws, or otherwise; provided however that if the Condominium Board or any other party succeeds to the interests of the Unit Owner under the Lease, operating agreement or use and occupancy agreement the Tenant will agree to be bound to the Condominium Board or other party under all of the terms, covenants and conditions of the Lease, operating agreement or use and occupancy agreement and the Tenant will attorn to the Condominium Board or other party as its landlord. The Condominium Board, at the written request of the Unit Owner entering into a Lease, operating agreement or use and occupancy agreement with a Tenant, shall execute and deliver within a commercially reasonable period of time the Condominium Non-Disturbance Agreement and any

other agreement that such Tenant may reasonably request in confirmation of the foregoing in form reasonably satisfactory to the Condominium Board. The Unit Owner requesting such Condominium Non-Disturbance Agreement or other agreement requested by the Tenant of such Unit Owner shall pay all costs and expenses of the Condominium Board in connection therewith.

5.16 Statement of Common Charges. The Condominium Board shall promptly provide any Unit Owner who so requests, with a written statement of all unpaid Common Charges, Special Assessments, late charges and interest due to it from Unit Owners.

5.17 Alterations, Additions, Improvements and Repairs of Units. Each Unit shall be kept in good order and repair in a manner consistent with the standards maintained in similar hotel, retail and garage buildings in Manhattan, subject to any rights of Existing Tenants, by the Unit Owner thereof at its sole cost and expense. The Unit Owners shall promptly make or perform, or cause to be made or performed, all Maintenance work, repairs and replacements necessary in connection with their respective Maintenance obligations. Each Unit Owner shall have the affirmative duty to Maintain its respective Unit in such a manner so as to prevent and avoid inflicting harm to other Units, Common Elements or the Building, including without limitation, providing necessary services and utilities to its respective Unit such as heat and water to the extent the provision of such services and utilities is necessary to the proper functioning of another Unit and not taking any actions which would adversely affect the water tightness of those portions of the Roofs that are a Limited Common Element appurtenant to such Unit.

5.17.1 Each Unit Owner shall have the right, pursuant to the terms of Article 10 of the Declaration, to make such structural and non-structural alterations, additions, improvements, or repairs in, to or upon the its Unit or the Limited Common Elements appurtenant thereto as authorized by and subject to the provisions of Article 10 of the Declaration, (collectively the "Unit Work") and further subject to the provisions of this Section 5.17. In the event a Unit is subdivided, any work to the resultant Limited Common Elements shall be deemed to be Unit Work and subject to the applicable provisions hereof. Upon subdivision of a Unit in accordance with the provisions of the Declaration and these By Laws, these By-Laws shall be amended to permit the Resultant Board to establish rules and regulations governing work to its Resultant Units and Limited Common Elements.

5.17.2 Each Unit Owner performing Unit Work (the "Performing Unit Owner"), at its expense, shall (x) obtain and keep in effect during the course of the Unit Work, all necessary municipal and other governmental permits, authorizations, approvals and certificates for the commencement and prosecution of its Unit Work and shall obtain final approval thereof upon completion (including, without limitation, a certificate of occupancy, if required by Law), and deliver copies of the same to the Condominium Board, (y) obtain such insurance coverage with respect to the Unit Work as the Condominium Board commercially reasonably determines is necessary or appropriate in its reasonable discretion, which shall be consistent with requirements for hotel and retail buildings with garages located in Manhattan similar in size and location to the Building (and shall maintain the same in effect during the course of the Unit Work) and (z) if the Condominium Board determines that any Unit Work so requires, cause the Declaration to be amended and new Floor Plans to be filed (by those Persons designated by the Condominium Board to prepare such amendment or file such plans) at the sole cost of the Performing Unit Owner. The Condominium Board shall cooperate with the

Performing Unit Owner and, at such Performing Unit Owner's expense, execute all applications, authorizations and other instruments reasonably required to enable such Performing Unit Owner to obtain such permits, authorizations, approvals and certificates, provided the Condominium Board receives the indemnity referenced in Section 5.17.6 below. To the extent the Condominium Board on a non-discriminatory basis determines that it is commercially reasonably necessary, the Performing Unit Owner shall reimburse the Condominium Board, within thirty (30) days of receipt of such expenses, for all reasonable fees and expenses incurred by the Condominium Board in connection with necessary and reasonable inspections of the Unit Work to determine whether the same are being or have been performed in accordance with the approved plans and specifications therefor and all requirements of (i) applicable Legal Requirements; (ii) insurance carriers providing insurance coverage pursuant to Section 5.2; (iii) the Declaration; and (iv) these By-Laws (including, with respect to Unit Work which may affect the Building structure, systems or Exterior Façade, the fees and expenses of any architect or engineer employed for such purpose). Any costs of the Condominium Board associated with the Unit Work including, but not limited to, the costs set forth above, shall be deemed "Related Costs."

5.17.3 No Unit Work (x) involving any structural alterations, additions, or improvements in, to or upon its respective Unit or (y) impacting any Building system (such Unit Work hereinafter referred to as "Notice Work") shall be commenced by or on behalf of a Unit Owner until the Performing Unit Owner complies with the provisions of Article 10 of the Declaration, to the extent applicable, and the Condominium Board and the other Unit Owners shall have been furnished with (i) certificates of insurance, in such form, amount and from an insurance carrier or carriers commercially reasonably satisfactory to the Condominium Board, which shall be consistent with requirements for hotel and retail buildings with garages located in Manhattan similar in size and location to the Building (and shall maintain the same in effect during the course of the Unit Work); (ii) in the case of Notice Work involving structural alterations or Building systems, a certification of the architect for the Notice Work (or such other consultant reasonably acceptable to the Condominium Board) containing the statements set forth in Article 10.2 of the Declaration or in lieu of such certification, the prior written consent of the Condominium Board has been obtained, such consent not to be unreasonably withheld or delayed; and (iii) all necessary permits, authorizations, approvals and certificates required for the commencement of the Unit Work (the provisions of subparagraphs (i) through (iii) are hereinafter referred to as the "Work Conditions"). Notwithstanding anything to the contrary herein, the provisions of this Section 5.17.3 do not apply to non-structural work performed in a Unit, provided that the provisions of Article 10.1 of the Declaration shall apply to such non-structural work.

5.17.3.1 Except in case of an Emergency (in which event the Performing Unit Owner must use commercially reasonable efforts to notify the Condominium Board and the other Unit Owners as soon as possible), a Performing Unit Owner shall not commence Notice Work unless (i) the Performing Unit Owner has given at least twenty (20) days' prior written notice to the other Unit Owners of its intent to perform the Notice Work (the "Work Notice") which Work Notice shall include a set of plans of the Notice Work and a copy of the application for the building permit for the Notice Work and (ii) the Performing Unit Owner has complied with all applicable provisions of Article 10 of the Declaration.

5.17.3.2 Once Unit Work is commenced, such work shall be completed with reasonable diligence and designed and undertaken in such manner as not to commercially unreasonably delay or impose any expense upon the Condominium Board or the other Unit Owners in the construction, Maintenance, cleaning, repair, safety, management, security of operation of the Building, or any part thereof, and so as not to unreasonably interfere with, or cause unreasonable interruption of, the operation and Maintenance of the Building, or any part thereof, or otherwise have an Adverse Effect.

5.17.4 Any application to any department of The City of New York or to any other governmental authority having jurisdiction thereof for a permit to perform structural alterations in or to any Unit or to the Limited Common Elements exclusively appurtenant thereto shall, if required by Law or such department or authority and authorized by the terms of the Declaration or these By-Laws, be executed by the Condominium, provided that the Condominium Board shall not incur any liability, cost or expense in connection with such application or to any Unit Owner, contractor, subcontractor, materialman, architect or engineer on account of such alteration, addition, improvement or repair or to any Person having any claim for injury to person or damage to property arising therefrom and the Unit Owner undertaking such structural alterations (or an entity reasonably acceptable to the Condominium Board) shall have executed and delivered to the Condominium Board the indemnity referenced in Section 5.17.6 below.

5.17.5 Each Unit Owner shall:

5.17.5.1 Give prompt notice to the Condominium Board of any written notice of violation received by said Unit Owner arising from or otherwise connected to the Unit Work performed by it or on such Unit Owner's behalf, which shall be issued by any public authority having or asserting jurisdiction over the Unit or Building, and, upon receipt of notice from the Condominium Board or otherwise acquiring knowledge thereof, promptly procure the cancellation or discharge of the same at its expense; provided, however, nothing herein shall prevent a Unit Owner from contesting in good faith and at its own expense any such notice of violation.

5.17.5.2 Within 30 days after a Unit Owner receives notice from the Condominium Board or otherwise acquires knowledge of the filing of any lien or violation resulting from such Unit Owner's Unit Work performed by it or on its behalf, such Unit Owner shall discharge, by payment, bond or otherwise, such mechanics' liens or other liens or violations filed against the Building or its Unit for work, labor, services or materials claimed to have been performed at or furnished to such Unit Owner's Unit as aforesaid for or on behalf of such Unit Owner or otherwise. If a Unit Owner shall fail to so discharge any such lien within such 30 day period, the Condominium Board or another Unit Owner shall have the right, but not the obligation, to do so at the expense of such Unit Owner and any such expenditure shall be a Special Assessment assessed against such Unit Owner's Unit.

5.17.6 Neither the Condominium Board nor the Unit Owners (other than the Unit Owner making any alterations, improvements, additions, or repairs, or causing any of the same to be made) shall incur any liability, cost or expense (i) in connection with the preparation, execution, or submission of the applications referred to in Section 5.17.4 hereof; (ii) to any

contractor, subcontractor, materialman, architect or engineer on account of any alterations, improvements, additions, or repairs made or caused to be made by any other Unit Owner; or (iii) to any Person asserting any claim for personal injury or property damage arising therefrom. A Unit Owner making any alterations, improvements, additions, or repairs, or causing any of the same to be made, in or to its Unit or the Limited Common Elements appurtenant thereto shall agree (in writing executed and delivered to the Condominium Board and the other Unit Owners, if the Condominium Board or any other Unit Owner 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 Board, the Condominium Managing Agent and the other Unit Owners harmless from and against any such liability, cost and expense, except with respect to the willful misconduct or gross negligence of any such indemnified party.

5.17.7 Notwithstanding any other provision of these By-Laws to the contrary:

5.17.7.1 In the event that any Maintenance to the Property or any part thereof is necessitated by the negligence, misuse or neglect of (a) any Unit Owner or any guest, agent, licensee, Tenant or invitee of a Unit Owner, the entire cost thereof shall be borne by such Unit Owner or (b) the Condominium Board, the entire cost thereof shall be charged to the Unit Owners as a General Common Expense, except in all such cases to the extent such cost is covered by the proceeds of any insurance maintained pursuant to the provisions hereof.

5.17.7.2 Notwithstanding anything to the contrary set forth in the Declaration or these By-Laws, to the extent that there is located on a Roof or Roof Setback, a terrace which is appurtenant to any Unit, the Unit Owner thereof shall have the exclusive right to use such terrace (subject to any easements in favor of other Unit Owners as set forth in the Declaration and subject further to the right of the Condominium Board to access same to perform any Maintenance and repair obligations (if any) under the Declaration and these By-Laws), and shall be responsible for normal Maintenance, repair and replacements to such terrace, and to any fencing or other enclosure around the terrace and to any decking, pavers or other surface of the terrace. The Unit Owner will have the right to install plantings, surface coverings and other furniture, equipment and installations on the terraces located within the Unit's Limited Common Elements, and shall remove same, at the Unit Owner's sole cost and expense, if requested by the Condominium Board, to facilitate access to any General Common Elements pursuant to the Declaration or these By-Laws.

5.17.7.3 The public areas of the Building and those areas exposed to public view shall be kept in good, clean and neat appearance, in conformity with the dignity and character of the Building, by (a) the Condominium Board with respect to the General Common Elements, and (b) the Unit Owners with respect to the Units and their respective appurtenant Limited Common Elements.

5.17.7.4 Except as otherwise expressly provided in the Declaration or these By-Laws, all Maintenance, whether structural or nonstructural, ordinary or extraordinary, (a) in or to any Unit or Limited Common Element appurtenant thereto shall be made by the owner of such Unit at such Unit Owner's sole cost and expense and (b) in or to the General Common Elements shall be made by the Condominium Board and the cost and expense thereof

shall be charged to the Unit Owners as a General Common Expense.

5.17.7.5 Upon request of a Unit Owner, the Condominium Board shall execute (i) any declaration or other instrument affecting such Unit Owner's Unit which the Unit Owner deems necessary or appropriate to comply with any Law, ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the Maintenance, demolition, construction, alteration, repair or restoration thereof and which would not adversely affect the other Units or the Common Elements, or otherwise violate the Declaration or these By-Laws, and (ii) any consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting the Unit which the Unit Owner deems necessary or appropriate and which would not adversely affect the other Units or the Common Elements or otherwise violate the Declaration or these By-Laws; provided, in each such case it shall have received an indemnity in form and substance acceptable to the Condominium Board and from a creditworthy entity acceptable to the Condominium Board, in its reasonable discretion, indemnifying the Condominium Board from any and all liability and claims in connection with such instrument, declaration, easement, amendment or other document. All reasonable costs and expenses of the Condominium Board in connection with the foregoing shall be paid by the Unit Owner making such request.

5.17.7.6 The provisions of Article 10.6 of the Declaration shall control in the event of any dispute with respect to alterations, additions, improvements and changes to Units and Common Elements, including without limitation, Unit Work and Notice Work.

5.18 Performance of Work in Common Elements.

5.18.1 Except as otherwise expressly provided herein, the Condominium Board shall be responsible for and shall operate and Maintain the General Common Elements and any appurtenances thereto (except for portions of the public sidewalks reserved for the exclusive use of particular Unit Owners, subject to the rights of all Unit Owners, Permitted Users and the public for ordinary pedestrian passage and ingress and egress to and from the Building and the Units, which portions shall be Maintained by such particular Unit Owner(s) as if they were Limited Common Elements appurtenant to such Unit(s)) in good order and repair in a manner consistent with the standards of similar hotel/retail/garage buildings in Manhattan and subject to the rights of Tenants under Leases in the Building. Whenever in the judgment of the Condominium Board, the General Common Elements require Maintenance (the "Common Element Work"), the Condominium Board shall proceed with the Common Element Work and shall assess all Unit Owners for the cost (including the Related Costs) thereof as a Common Charge as provided in Section 5.1 of these By-Laws. To the extent the Common Element Work is set forth in an Approved Annual Budget or Approved Capital Budget or otherwise approved by the Condominium Board, the Condominium Board will hire a third party to perform all Common Element Work. Notwithstanding the foregoing, (i) any determination by the Condominium Board to perform Common Element Work (other than expenses set forth in an Approved Annual Budget or Approved Capital Budget) (the "Major Work") shall only be made if consents to the Major Work have been obtained from at least one (1) member of the Condominium Board designated by the Hotel Unit Owner, one (1) member of the Condominium Board designated by the Retail Unit Owner and one (1) member of the Condominium Board

designated by the Garage Unit Owner. Notwithstanding the foregoing, any changes to the Exterior Facade of the Building made by a Unit Owner shall be permitted only in compliance with Article 10.5 of the Declaration. The Hotel Unit Owner shall be responsible for Maintaining the Hotel Limited Common Elements (the "Hotel Limited Common Element Work") and the cost (including the Related Costs) thereof shall be assessed to the Hotel Unit Owner as a Common Charge as provided in Section 5.1 of these By-Laws. In addition, all capital improvements or repairs with the exception of capital improvements or repairs to the General Common Elements (other than those set forth in the Approved Annual Budget or Approved Capital Budget) shall be subject to the following competitive bid process unless otherwise agreed by the Condominium Board. At least two competent contractors (which may include an affiliate of any Unit Owner) shall be invited to bid pursuant to this Section, which contractors shall be selected by the Unit Owners. The contractor which presents the most competitive and favorable bid (which bid need not be the lowest bid) in the reasonable opinion of the Unit Owners shall be engaged by the Condominium Managing Agent to do the work in question. The Unit Owners may select an affiliated entity of a Unit Owner to perform the work in question so long as such affiliate's bid is reasonably competitive with the other bids. All material information about the bidding, the work and the selection process shall be promptly delivered to the Unit Owners upon receipt. The Condominium Board shall include all anticipated costs of Common Element Work in the Approved Annual Budget or the Approved Capital Budget, as applicable, and any and all costs incurred by the Condominium Board in connection with performing such Common Element Work shall be chargeable to the Unit Owners as General Common Expenses. Any dispute under this Section shall be resolved by Arbitration.

5.18.2 If the members of the Condominium Board cannot agree on a particular matter (e.g., the necessity of making a capital improvement or repair or the proper allocation of expenses attributable to the Maintenance, repair or construction of shared Building systems or other Maintenance and repair of the General Common Elements or attributable to the making of capital improvements to the Building), such dispute may be submitted to Arbitration by the Unit Owner whose members cannot agree on such matter, provided, however, if it is determined by the arbitrators that such capital improvement or repair is not necessary for the general health, safety and welfare of the owners, Tenants and occupants of the appropriate Units, the Retail Unit Owner or the Hotel Unit Owner or the Garage Unit Owner, shall have the right, at its sole cost and expense, to cause the Condominium Managing Agent to make such capital improvement or repair, and no other party shall be responsible for any portion of the cost of such capital improvement or repair (in which event the provisions of Section 5.18.1 shall not apply). The arbitrators in making its determination as to whether a particular capital improvement or repair is necessary shall be entitled to consider whether the making of such capital improvement or repair is necessary in order to maintain the status of the Building consistent with mixed use hotel/retail/garage buildings of similar size and location as the Building.

5.18.3 If any Common Element Work shall be required in order to comply with applicable Legal Requirements, such Common Element Work, as applicable shall be performed by the Condominium Board and shall be payable by the Unit Owners as provided in this Section 5.18.

5.19 Restrictions on Use of Units.

5.19.1 The use of Units shall be restricted to, and shall be in accordance with, the terms of Article 9 of the Declaration and the provisions of this Section 5.19.

5.19.2 The Unit Owners shall not use or occupy the Units or the Building or any part thereof or permit the Units or the Building or any parts thereof and the Condominium Board shall not permit any part of the Building to be used or occupied for the use, storage, production or generation of Hazardous Materials in violation of Hazardous Materials Laws, Each Unit Owner, the Condominium and the Condominium Board, shall indemnify and hold the others and their respective officers, directors, shareholders, members, and managers harmless from and against any and all loss, liability, claims, penalties, costs and expenses, including without limitation, attorneys' fees, costs and disbursements, incurred by the Condominium, the Condominium Board, the other Unit Owners and/or other indemnified parties arising in connection with a violation of the terms of this Section 5.19.

5.20 Use of General Common Elements. General Common Elements may be used only for the furnishing of the services and facilities and for the other uses for which they are reasonably suited.

5.21 Other Provisions as to Use.

5.21.1 All Legal Requirements, including without limitation, zoning ordinances, and all rules, regulations and requirements of any insurance rating bureau having jurisdiction over the Property or any portion thereof, shall be complied with at the full expense of the respective Unit Owners or the Condominium Board (in which event, such expense shall be paid by the Unit Owners as a Common Charge), whoever shall have the obligation to Maintain such part of the Property. Notwithstanding anything to the contrary set forth above, if the compliance required pursuant to this Section 5.21.1 is required solely because of the nature of the use, possession and/or management of, or activities of, one of the Unit Owners or its Tenants, subtenants or invitees, then such Unit Owner shall be solely liable for the costs and expense of such compliance.

5.21.2 Nothing shall be done, suffered or permitted to be done in any Unit or in or to any Common Element which would (1) impair the soundness, structural integrity or safety of the Building or materially impair any easement pertaining to the Property, (2) affect in any way the outside appearance of the Building, subject to the rights of the Unit Owners to alter particular portions of the Exterior Façade as set forth in and subject to the provisions of the Declaration and these By-Laws, (3) result in or materially threatens the cancellation of any insurance carried by the Condominium Board or any Owner hereunder, (4) be noxious or a commercially unreasonable interference with the peaceful possession and proper use of other Units, or otherwise constitute a nuisance; or (5) be in violation of any applicable Legal Requirements or Insurance Requirements with respect to the insurance referred to in clause (3) above, (6) be in violation of this certificate of occupancy for such Unit or the Building, (7) be in violation of the Declaration or these By-Laws or the rules and regulations of the Condominium Board promulgated thereunder, (8) materially interfere with the mechanical and utility systems of the Building or any Unit, or (9) materially impair the delivery of any service that the Condominium Board or any Unit Owner is permitted to receive or required or permitted to provide hereunder.

5.21.3 If any governmental license or permit (other than a certificate of occupancy or a license or permit applicable to the Building as a whole and required in order to render lawful the operation of the Building), shall be required for the proper and lawful conduct of any business in a Unit, it shall be the responsibility of the Unit Owner of such Unit to duly procure and thereafter maintain such license or permit and submit the same to inspection by the Condominium Board. The Unit Owner shall at all times comply with the terms and conditions of each such license, permit, or certificate of occupancy.

5.21.4 No Unit Owner shall discharge or permit to be discharged any materials into waste lines, vents or flues of the Building which might reasonably be anticipated to cause damage thereto or any fumes, vapors, or odors into flues or vents or otherwise as may be commercially reasonably objectionable to Permitted Users, or that is a Hazardous Material.

5.21.5 All mechanical and electrical equipment installed and used in a Unit shall not exceed the permissible floor or electrical loads for said Unit and shall be so equipped, installed and Maintained by the Unit Owner as to prevent the transmission of commercially unreasonable noise, vibration or electrical or other interference from such Unit to any other area of the Building. All Satellite Equipment of any kind or nature installed or utilized by a Unit Owner 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 such equipment or Satellite Equipment installed or utilized by such Unit Owner.

5.21.6 Each Unit Owner shall pay, before delinquency, any and all Impositions, custom and import duties, sales tax, occupancy tax, assessments and public charges levied, assessed or imposed upon such Unit Owner's business and/or personal property and its Unit.

5.21.7 Without the consent of the Condominium Board, which consent shall not be unreasonably withheld or delayed, and except as expressly set forth in the Declaration or these By-Laws, no Unit Owner shall use or permit to be used the public sidewalks or other space outside the Building (except as may be permitted under Leases) for any solicitation, display, sale or similar undertaking (except for the installation and Maintenance of Signage to the extent permitted by the Declaration, these By-Laws and Exhibit F (and Exhibit F-1, if applicable) to the Declaration).

5.21.8 Notwithstanding the provisions of Section 5.21.7 of these By-Laws, the Retail Unit Owner shall have an easement to use the sidewalks on Orchard Street adjacent to the Retail Unit for outdoor seating or other uses consistent with the use of the Retail Unit in compliance with applicable Legal Requirements, provided however, in no event shall use of the sidewalks or other areas; (i) detract from the high-end character of the Building, (ii) permit any nuisance to continue therein or emanate therefrom, (iii) permit live or recorded music to be performed or broadcast in, to or from such sidewalk, or (iv) impede or obstruct any entrances or exits to the Building or to any other Unit. The Retail Unit Owner shall keep the outdoor seating area and any seating, tables and other furniture utilized on such sidewalks clean and in good repair at all times and shall be solely responsible to Maintain the portion of the sidewalk utilized by the Retail Unit Owner for such purposes. The Condominium Board may revoke the Retail Unit Owner's privilege to use the sidewalk or other areas for outdoor seating and other purposes

by giving written notice to the Retail Unit Owner of the violation of any of the foregoing provisions, if said violation is not cured within sixty (60) days after notice of such default.

5.21.9 Each Unit Owner shall cause its Unit to comply with all Legal Requirements and Insurance Requirements.

5.21.10 Except as otherwise provided below, each Unit Owner shall be responsible for cleaning the interior and exterior of the windows appurtenant to its Unit at its sole cost and expense and shall cause such windows to be cleaned in a manner consistent with acceptable practices for hotel and/or retail use, as the case may be. No Unit Owner or occupant shall clean or permit to be cleaned any window or require, permit or allow it to be cleaned, from the outside, in violation of Section 202 of the Labor Law of the State of New York, or any future Legal Requirements of like import, or in violation of the rules of any other governmental authority having jurisdiction over the Land or the Building. Each Unit Owner shall indemnify the Condominium Board and the other Unit Owners and their respective agents and employees, for all losses, damages, or fines suffered by any of them as a result of a violation of applicable Legal Requirements; except as may be caused by the gross negligence or willful misconduct of another Unit Owner, or its employees, contractors or assigns or the Condominium Board, as applicable.

5.21.11 If at any time it is necessary to place scaffolding over the sidewalks around the Property in accordance with applicable Legal Requirements, such scaffolding shall to the full extent permitted under applicable Legal Requirements be erected at a height and in such a manner so as not to obstruct the first floor windows and any Signage of the Tenants in the Retail Unit, or the second floor windows and Signage of the Hotel Unit Owner or Tenants in the Hotel Unit, or the Signage of the Garage Unit Owner or Tenant in the Garage Unit, or access to the space occupied by such Unit Owner(s) or Tenants. The cost of scaffolding shall be payable solely by the Condominium Board, unless such scaffolding is being erected solely for the benefit of a Unit Owner, in which event such Unit Owner shall bear all costs incurred with respect to such scaffolding. In addition, the Condominium Board or such Unit Owner erecting such scaffolding (as applicable) shall bear all costs incurred with respect to any temporary Signage permitted to be installed on or under such scaffolding. Signage on scaffolding shall be in compliance with applicable Legal Requirements and the provisions of Section 5.23 hereof, and shall, to the extent reasonably practicable, be in approximately the form of the applicable Tenant's then-existing Signage. The Condominium Board or other Unit Owner erecting the scaffolding shall notify the other Unit Owners at least forty five (45) days prior to erecting any scaffolding (except in cases of Emergency) and shall perform, or cause to be performed, the work for which such scaffolding is erected as expeditiously as possible under the circumstances in a commercially reasonable manner.

5.21.12 Each Unit Owner will dispose of trash and other materials generated from its use of the Unit and its appurtenant Limited Common Elements in accordance with applicable Legal Requirements. No Unit Owner shall throw or permit to be swept or thrown therefrom, or from the doors or windows thereof, any dirt or other substance.

5.21.13 Any dispute arising under this Section 5.21 shall be resolved by Arbitration.

5.22 Right of Access.

5.22.1 Each Unit Owner shall grant a right of access to its Unit to the Condominium Board, the Condominium Managing Agent, managers, superintendents and/or any other Person authorized by any of the foregoing for the purpose of making inspections of, or for the purpose of removing violations against such Unit and/or the Common Elements, or any other part of the Property or for the purpose of curing defaults (after the giving of notice and applicable grace period as set forth herein) hereunder or under the Declaration or any of the rules and regulations adopted by the Condominium Board, by such Unit Owner or correcting any conditions originating in such Unit Owner's Unit and threatening another Unit or all or any part of the Common Elements, but in each such event, subject to and in accordance with the provisions of these By-Laws, or for the purpose of performing installations, alterations or repairs to the mechanical, plumbing, gas, fuel oil or electrical services or other portions of the Common Elements within such Unit Owner's Unit or elsewhere in the Building, or for the purpose of reading, Maintaining or replacing utility meters relating to the Common Elements, the Unit or any other Unit in the Building, provided that requests for such entry are made not less than five (5) business day(s) in advance (except that in case of an Emergency, the Exercising Party shall give such notice, which may be verbal, as is practicable given the nature of the Emergency) and that any such right shall be exercised in such a manner as will not materially or unreasonably interfere with the normal conduct of business by the Tenants and occupants of the Units or with the use of the Units for their permitted purposes. Each Unit Owner whose Unit is subject to the easements and rights of access described in this Section 5.22 shall be reimbursed for Access Costs. In connection with such access or work, such party shall (i) minimize any interference with the normal conduct of business by the Unit Owners or by the Tenants and other occupants of the Unit in connection therewith (including minimizing the extent and duration of any interruption, curtailment, stoppage or suspension of any Building services) as is reasonably possible under circumstances (including, without limitation, performing any such work or obtaining such access on an overtime basis if failure to do so would cause unreasonable interference with any Unit Owner's or such Unit Owner's Tenant's business, but subject to such reasonable requirements pertaining to security issues) and (ii) promptly repair any damages from such work or such access, thus restoring the Building or such Unit as the case may be, as nearly as possible to its condition prior thereto. Any additional costs and expenses incurred as a result of such work being done outside of normal business hours will be borne by the Unit Owner or the Condominium Board requiring such access. To the extent the Condominium Board is responsible for any costs and expenses, including, without limitation, Access Costs, under this Section 5.22, such costs shall be allocated to the Unit Owners as General Common Expense. In the event the Unit Owner or the Condominium Board requiring such access fails to pay the Access Costs within said thirty (30) day period, the Impacted Owner shall be entitled to interest on the Access Costs at the Default Rate, together with all rights at equity and at law. Notwithstanding the foregoing, if the exercise of the easements and rights of access described in this Section is required in order to remove or cure a violation or to cure a default hereunder or under the Declaration or any rules and regulations adopted by the Condominium Board, or for the purpose of correcting any conditions originating in such Unit Owner's Unit and threatening another Unit or all or any part of the Common Elements, such Unit Owner shall be responsible for all costs and expenses in connection with such exercise and access and any work performed in connection therewith, all of which shall be Unit Owner Expenses, and the Unit Owner shall not be entitled to reimbursement for Access Costs.

5.22.2 If any excavation or other substructure work shall be undertaken or authorized upon land adjacent to the Building, then, provided that the Condominium Board shall have obtained evidence of insurance, indemnification and other legal protections, for the benefit of the Condominium Board and the Unit Owners and Tenants and other occupants of the Units, reasonably satisfactory to the Unit Owners, each Unit Owner shall, to the extent necessary, afford to the Person causing or authorized to cause such excavation or other substructure work, license to enter upon the Unit owned by such Unit Owner for the purpose of doing such work as shall be reasonably necessary to preserve any of the walls or structures of the Building from injury or damage and to support the same by proper foundations; provided that all such work shall be performed on not less than five (5) business day(s) advance notice and in a manner that shall minimize interference with the use and enjoyment of the Unit by the Unit Owner or occupant thereof.

5.22.3 Each Recognized Mortgagee, while it holds a mortgage on a Unit, shall have the right, from time to time, upon reasonable advance notice to the Condominium Board and during reasonable business hours except in the event of an Emergency or as otherwise expressly set forth in the loan documents evidencing the loan made by the Recognized Mortgagee, to have access to and to inspect the Common Elements that are subject to the lien of such Recognized Mortgagee's Recognized Mortgage, in the company of a member of the Condominium Board or in the company of the Condominium Managing Agent for such portion of the Property, in the same manner and to the same extent as provided for access to and inspection of the Unit and the Common Elements appurtenant thereto that is subject to the lien of the Recognized Mortgagee's Recognized Mortgage. Notwithstanding anything to the contrary set forth herein, access to any General Common Elements located within a Unit other than the Unit subject to the lien of the Recognized Mortgagee, shall be permitted only on not less than five (5) business days' advance notice to the affected Unit Owner, except in the case of an Emergency (and shall be subject to reasonable security measures required by the affected Unit Owner) and shall not materially or unreasonably interfere with the use of the affected Unit for its permitted purposes or with the normal conduct and use of the affected Unit by its Tenants and occupants.

5.23 Signage. Each Unit Owner shall have the right to install and replace Signage, provided such Signage shall satisfy the following criteria:

5.23.1 All Signage must conform with the Declaration, these By-Laws and the Signage Criteria set forth in Exhibit F (and Exhibit F-1, if applicable) to the Declaration, and the installation or replacement of such Signage shall be subject to such consent of the non-installing Unit Owner(s), to the extent such consent is required by the provisions of such Exhibit F (and Exhibit F-1, if applicable).

5.24 Rules and Regulations. The Condominium Board may, from time to time, adopt rules and regulations governing the use and occupancy of the Units and the Common Elements. The Condominium Board shall enforce such rules and regulations in a good faith and non-discriminatory manner.

5.25 Real Estate Taxes and Impositions. During the period commencing on the recording date of the Declaration until the first fiscal year with respect to which real estate taxes

for the Units are separately assessed, the Unit Owners shall pay to the Condominium Board in respect of real estate taxes for the Units in the proportion that each Unit's respective percentage Common Interest bears to the aggregate Common Interest of all Units. Upon the separate assessment of the Units and issuance of separate bills to Unit Owners by the taxing authorities, Unit Owners shall recalculate the real estate taxes paid for the prior tax year ("Tax Recalculation"). The Tax Recalculation shall be determined not more than thirty (30) days after the final tax assessment for each Unit and in the event that the real estate taxes paid by one or more Unit Owners prior to the separate assessment were less than should have been paid in accordance with the Tax Recalculation, not more than ten (10) days after the date of the Tax Recalculation, such Unit Owner shall reimburse the other Unit Owners for the differential.

5.26 Utilities Serving the General Common Elements. Except as otherwise provided in this Article 5, the cost and expense of water, sewer facilities, electricity and/or gas serving or benefiting any General Common Element shall be considered part of the expense of Maintaining such General Common Element, and shall be allocated in accordance with the Budget Allocations annexed hereto as Exhibit E, provided however, that a Unit Owner may seek a reallocation based upon a change in use of a Unit, in which event, an independent and unrelated third-party mechanical engineer having not less than ten (10) years' experience dealing with mixed use hotel/retail/garage buildings in Manhattan shall resurvey utility usage in the General Common Elements for the Condominium Board and make a determination regarding the proper allocation of such utilities among the Unit Owners.

5.27 Abatement and Enjoinment of Violations . The violation of any of the rules and regulations or the breach of any By-Law contained herein, or the breach of any provision of the Declaration, shall give the Condominium Board or any Unit Owner the right, in addition to such other rights set forth in these By-Laws, (i) to send a Remedy Notice to the owner of any Unit which has given rise to such a violation or breach, (ii) if the condition referenced in the Remedy Notice is not cured within ten (10) days of the receipt of the Remedy Notice, or, if the condition is such that it cannot be cured within ten (10) days, such cure is not commenced and diligently prosecuted within such time period, the Condominium Board may, upon ten (10) days additional notice to the Unit Owner, enter into any Unit or Common Element in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the Defaulting Unit Owner, any structure, thing or condition resulting in such violation or breach and the Condominium Board shall not thereby be deemed guilty or liable in any manner of trespass, or (iii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such violation or breach and to seek reimbursement for any costs or expenses incurred in connection therewith; provided, that in cases of Emergency the Condominium Board shall not be required to send a Remedy Notice but may implement the terms of this Section immediately. The rights of access granted to the Condominium Board and the Unit Owners under shall be in accordance with the provisions of Section 5.22 of these By-Laws.

5.28 Violations. If notice of a municipal or other violation of applicable Legal Requirements is given or filed in respect of any portion of the Property as a result of the alleged or actual act of or failure to act by one Unit Owner or its Tenants, subtenants or invitees (the "Violating Unit Owner") and such violation (1) jeopardizes the full force or effect of any certificate of occupancy issued for the Property, (2) has an Adverse Effect on the other Unit Owners' rights to occupy, use, enjoy and improve their respective portions of the Property, or

any part thereof, (3) results in the imposition of a lien against the Property as a whole or another Unit Owners' Unit, or (4) would create criminal liability for another Unit Owner or the Condominium Board (in such other Unit Owners' and/or the Condominium Board's reasonable opinion, as the case may be), the Violating Unit Owner shall remove such violation within sixty (60) days of receipt of notice from the other Unit Owner(s) and/or the Condominium Board, provided, however, if the Violating Unit Owner has been diligently prosecuting the removal of such violation, the period shall be extended for such additional time as is reasonably necessary to remove the violation. Any time a Violating Unit Owner is otherwise required under this Section to remove a violation, such Violating Unit Owner shall nevertheless not be required to remove the violation if upon prior notice to the Condominium Board and the other Unit Owners, and at its own expense, it is contesting by appropriate legal or administrative proceedings or redress, promptly initiated and conducted in good faith and with due diligence, the validity or enforceability, in whole or in part, of the applicable Legal Requirement giving rise to the violation, provided the following conditions are met: (i) such proceeding shall suspend the obligation of the Violating Unit Owner to comply with any such Legal Requirement, (ii) failure to comply with any such Legal Requirement pending the contest will not invalidate or vitiate any insurance required hereunder to be maintained with respect to the Property, in whole or in part, and will not, in the reasonable opinion of the other Unit Owner and/or the Condominium Board, constitute a present danger to the Property, or any portion thereof, or to the persons using and entering upon the Property, (iii) neither the Property nor any part thereof or interest therein will in the reasonable opinion of the other Unit Owner(s) and/or the Condominium Board be in danger of being sold, forfeited, confiscated, terminated, canceled or lost as a result of such contest by the Violating Unit Owner (whether by foreclosure of any mortgage thereon or otherwise), (iv) the Violating Unit Owner shall have furnished such security as may be required in the proceeding, or in the event that none is required, as may be reasonably required by the other Unit Owner(s) and/or the Condominium Board to insure the payment by the Violating Unit Owner of all costs of compliance, fines and penalties, together with interest thereon, as may be incurred by the Violating Unit Owner in the event of a determination in such proceeding adverse to the Violating Unit Owner, and (v) the other Unit Owner(s) and the Condominium Board will not, in their reasonable opinion, be subject to any criminal liability as the result of such contest by the Violating Unit Owner. If any compliance with this Section shall require any repairs to, or which otherwise affect, the General Common Elements, such repairs shall be performed by the Condominium Board pursuant to Section 5.18 hereof.

5.29 Liens. Each Unit Owner (the "Liening Unit Owner") shall cause to be removed, by payment, bond or otherwise, within thirty (30) days after notice of the filing thereof, any mechanics', materialmen's or any other like lien arising by reason of its acts or acts of its agents and contractors or for any work or materials which it or its agents, contractors, Tenants, subtenants or invitees has ordered and filed against the Property or another Unit Owners Unit. Except as may be otherwise expressly set forth in the loan documentation evidencing a Recognized Mortgagee's loan to the Liening Unit Owner, the Liening Unit Owner shall not be required to remove such lien if such lien does not expose the other Unit Owners and/or the Condominium Board to civil and criminal penalties and does not cause the foreclosure of any Recognized Mortgage on any other Unit Owner's portion of the Property, and within said thirty (30) day period the Liening Unit Owner (i) shall in good faith diligently proceed to contest the same by appropriate proceedings and shall give notice to the other Unit Owners and the Condominium Board of its intention to contest the validity of such lien and (ii) shall deliver to

the other Unit Owners and the Condominium Board, at the other Unit Owners' and/or Condominium Board's option, either: (a) cash or a surety bond from a responsible surety company reasonably acceptable to the Condominium Board, as the case may be, in an amount equal to one hundred ten percent (110%) of the lien claim and all interest and penalties then accrued thereon or such greater amount as may be required by Law or (b) such other security or indemnity reasonably acceptable to the Condominium Board and/or the other Unit Owners and their Recognized Mortgagees, if any. The Liening Unit Owner must cause to be removed or released all liens prior to foreclosure thereof. In the event the Liening Unit Owner fails to comply with the foregoing provisions of this Section, the other Unit Owners and/or the Condominium Board may give notice to the Liening Unit Owner specifying the respect or respects of such noncompliance and if, upon the expiration of ten (10) days after the receipt of such notice, the cure of any such noncompliance is still not proceeding diligently, then the Condominium Board and/or the non-defaulting Unit Owners may cause such compliance to occur by taking all appropriate steps necessary to defend against or remove such lien. The Condominium Board and the non-defaulting Unit Owners shall be entitled to payment from the Liening Unit Owner for all costs and expenses (including reasonable attorneys' fees) paid or incurred by the Condominium Board and/or the non-defaulting Unit Owners, as the case may be, in defending against, removing or attempting to defend against or remove such lien and may use any security delivered to the Condominium Board and/or the non-defaulting Unit Owners for such purposes and for any other damages from the Liening Unit Owner's breach under this Section. NOTHING CONTAINED IN THIS SECTION IS INTENDED TO GIVE OR CONFER ANY BENEFITS, RIGHTS, PRIVILEGES, CLAIMS, ACTIONS OR REMEDIES TO ANY PERSON AS A THIRD PARTY BENEFICIARY UNDER ANY LAWS OR OTHERWISE AND THE PERFORMANCE OF WORK ON ONLY ONE UNIT OWNER'S UNIT SHALL IN NO WAY BE DEEMED TO GIVE THE PARTY PERFORMING SUCH WORK THE RIGHT TO ATTACH A LIEN AGAINST ANY OTHER UNIT OWNER'S UNIT OR THE CONDOMINIUM.

ARTICLE 6

MORTGAGES

6.1 Unit Owners Rights. Any Unit Owner shall have the right to mortgage or otherwise finance such Unit Owner's Unit without the consent of the Condominium Board or any other Unit Owner subject to and in accordance with the terms of the Condominium Documents.

6.2 Recognized Mortgagees. A Unit Owner who mortgages or pledges its Unit or receives notice of the assignment of such mortgage or pledge by the Recognized Mortgagee, shall notify the Condominium Board of the name and address of said mortgagee or the assignee. A Unit Owner who satisfies a mortgage covering such Unit Owner's Unit shall so notify the Condominium Board of such satisfaction. The Condominium Board shall maintain such information in a book entitled "Mortgages." A "Recognized Mortgagee" hereunder shall mean any mortgagee holding a mortgage encumbering one or more Units or any lender providing mezzanine financing or preferred equity financing to one or more of the direct or indirect owners of a Unit Owner, for which the notice pursuant to the provisions of this Section 6.2 has been

provided to the Condominium Board and as to which the lien of the applicable mortgage or pledge is subordinate to the Declaration, and, if applicable, any mortgagee or other lender for which a Recognized Mortgage has been funded with the proceeds from bonds issued by such mortgagee or lender, whether or not such mortgagee or lender holds the Recognized Mortgage at the time in question. The Recognized Mortgagee upon notice to the Unit Owner and the Condominium Board shall have the right to assign its rights as Recognized Mortgagee to a servicer. Upon the request of any mortgagee who shall request the same, at the time of execution of a Recognized Mortgage or thereafter, the Condominium Board shall confirm to the holder thereof in writing that such mortgage or pledge, as applicable constitutes a "Recognized Mortgage" hereunder and is entitled to all of the rights and benefits of a Recognized Mortgagee hereunder and that such holder is a "Recognized Mortgagee" hereunder provided the criteria set forth above for "Recognized Mortgage" and "Recognized Mortgagee" are met. Notwithstanding the foregoing, the lien of any mortgage on a Unit or of any pledge on any direct or indirect ownership interest in a Unit Owner, as applicable, shall not be deemed to be impaired in any respect in the event such mortgage or pledge, as applicable, shall not constitute a Recognized Mortgage hereunder.

6.3 Notice of Default and Unpaid Common Charges. The Condominium Board shall reasonably promptly notify each Recognized Mortgagee in writing of a Defaulting Unit Owner of (i) any default in the payment of Common Charges and/or Special Assessments, (ii) any other default beyond all cure periods by the Unit Owner of such Unit under the provisions of the Declaration or these By-Laws which may to the Condominium Board's knowledge then exist and (iii) the commencement by the Condominium Board of any action or proceeding pursuant to Section 5.15 of these By-Laws.

6.4 Performance by Recognized Mortgagees. The Condominium Board shall accept, by any Recognized Mortgagee of a Unit Owner, payment of any sum or performance of any act required to be paid or performed by such Unit Owner pursuant to the provisions of the Declaration, these By-Laws and/or any rules and regulations adopted by the Condominium Board, with the same force and effect as though paid or performed by such Unit Owner. Any Recognized Mortgagee shall have a period of thirty (30) days more than the period of time given to its corresponding Unit Owner for remedying any default by a Unit Owner under the Declaration or these By-Laws or causing the same to be remedied and shall, within such period and otherwise as herein provided, have the right, but not the obligation, to remedy such default, or cause action to remedy such default to be taken; provided, however, that if such default is not reasonably susceptible of being cured by a Recognized Mortgagee either within such thirty (30) day period or without obtaining possession of the Unit, the Recognized Mortgagee shall have such additional period of time as is reasonably necessary to obtain possession of the Unit and thereafter cure such default, provided the Recognized Mortgagee has commenced such cure and is diligently prosecuting such cure. The Condominium Board will not commence a proceeding to foreclose its lien against any Unit as a result of any Unit Owner's default until the expiration of the time period described herein that is afforded to any Recognized Mortgagee to cure such default. Payment or performance of any obligation of a Unit Owner by a Recognized Mortgagee shall not give rise to any obligation on the part of the Recognized Mortgagee to so pay or perform in the future.

6.5 Examination of Books. Each Unit Owner and Recognized Mortgagee shall be

permitted to upon reasonable notice, examine the books of account of the Condominium at reasonable times, on business days, but not more than once a month.

6.6 Rights of Recognized Mortgagees.

6.6.1 If a Recognized Mortgagee delivers to the Condominium Board, in the manner required by this Section, a notice specifying the name and address of such Recognized Mortgagee, such Recognized Mortgagee shall be reasonably promptly provided with copies of all notices required by these By-Laws to be provided to the Unit Owner whose Unit is encumbered by such Recognized Mortgage. Any Recognized Mortgagee as of the date of the recording of the Declaration shall be deemed to have properly delivered to the Unit Owners and the Condominium Board a notice specifying its name and address. After receipt of such notice from a Recognized Mortgagee, no notice given under these By-Laws to the Unit Owner is encumbered by such Recognized Mortgage shall be deemed to have been given unless and until a copy thereof shall have been so given to the Recognized Mortgagee.

6.6.2 Intentionally omitted.

6.6.3 If a Unit Owner shall fail to appoint an arbitrator or otherwise fail to take any action as may be required or permitted under the Condominium Documents with respect to Arbitration within the time periods applicable thereto, such appointment or action as otherwise would have been permitted by that Unit Owner may be taken by its Recognized Mortgagee and such appointment and action shall be recognized in all respects by the other Unit Owners and the Condominium Board and any determination made in such Arbitration shall be binding on the applicable Unit Owner.

6.6.4 If more than one Recognized Mortgagee having a lien on a Unit exercises any of the rights afforded by Section 6.6 of these By-Laws, only that Recognized Mortgagee, to the exclusion of all other Recognized Mortgagees, whose Recognized Mortgage is most senior in lien with respect to such Unit shall be recognized by the other Unit Owners and the Condominium Board as having exercised such right, unless such Recognized Mortgagee has designated a Recognized Mortgagee whose Recognized Mortgage is junior in lien to exercise such right.

6.6.5 No amendment, modification, supplement, extension or assignment of a Recognized Mortgage shall affect the status of the holder thereof as a Recognized Mortgagee provided that in the case of an assignment, written notice of the name and address of the assignee is provided to the Condominium Board by the assigning holder.

6.6.6 If any amendment, modification or waiver to the Declaration or these By-Laws (i) changes the percentage interests in the Common Elements of any Unit, (ii) otherwise adversely impairs or changes the priority of the lien held by a Recognized Mortgagee with respect to the Unit, or (iii) terminates the Condominium or otherwise affects the termination of the Condominium as provided under the Declaration or these By-Laws, such amendment, modification or waiver, as applicable, shall not be binding upon such Recognized Mortgagee without the prior written consent of the Recognized Mortgagee affected by such amendment, modification or waiver.

6.6.7 From time to time, within ten (10) business days after written request therefor from any Unit Owner or any Recognized Mortgagee, the Condominium Board shall deliver to the requesting party a written statement executed and acknowledged by the Condominium Board (i) stating that the Declaration and these By-Laws are then in full force and effect and have not been modified (or if modified, setting forth all modifications), (ii) setting forth the then annual Common Charges allocable to the Unit in question and the date to which such Common Charges have been paid, (iii) setting forth the amount of any other expenses payable with respect to the Unit in question, (iv) stating, to the best knowledge of the Condominium Board, whether the Unit Owner in question is in default under the Declaration or these By-Laws and, if such Unit Owner is in default, setting forth the specific nature of all such defaults, and (v) affirming other customary matters reasonably requested by any such Unit Owner or Recognized Mortgagee. The Condominium Board acknowledges that any statement delivered pursuant to this Section 6.6.7 may be relied upon by any Unit Owner, any institutional lender or any prospective institutional lender, purchaser or Tenant of any Unit Owner.

6.6.8 Upon notice to the Condominium Board in accordance with Section 6.6.2 of these By-Laws, the Condominium Board will give notice to, and accept commitments and the performance of obligations on behalf of, the Recognized Mortgagee from the Recognized Mortgagee's loan servicing agent. The Condominium Board acknowledges that upon a securitization of any loan or other financing evidenced by a Recognized Mortgage, the trustee for the securitization will transfer the responsibility of the servicing and general administration of the loan or other financing evidenced by a Recognized Mortgage to a subservicer or master servicer, and that, upon compliance with the preceding sentence of this Section 6.6.8, such subservicer or master servicer may act on behalf of the trustee with regard to the loan or other financing evidenced by a Recognized Mortgage.

ARTICLE 7

SELLING AND LEASING OF UNITS

7.1 Selling and Leasing. A Unit Owner may sell, lease, transfer, assign, sublease, pledge, hypothecate or encumber such Unit Owner's Unit subject to the terms of the Condominium Documents at any time without limitation or restriction subject to the provisions of this Article 7.

7.2 No Severance of Ownership. No Unit Owner shall execute any deed, mortgage or other instrument conveying or mortgaging title to such Unit Owner's Unit without including therein its appurtenant Common Interest, it being the intention to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interests without including all such interests shall be deemed and taken to include the interest or interests so omitted even though the latter shall not be expressly mentioned or described therein. No part of the Common Interest appurtenant to 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 interest is appurtenant or as part of a sale, conveyance or other disposition of such part of the appurtenant Common Interests of all Units. Nothing in this Section 7.2 shall permit the lease of any Unit without the simultaneous lease of its appurtenant Common Interest.

7.3 Payment of Assessments. No Unit Owner shall be permitted to convey, mortgage, pledge, hypothecate or lease such Unit Owner's 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 by the Condominium Board against such Unit and until such Unit Owner shall have satisfied all unpaid liens against such Unit Owner's Unit other than Recognized Mortgages.

7.4 Leasing of Units. Subject to the provisions of these By-Laws, a Unit Owner (including a Recognized Mortgagee who acquires title to the Unit through foreclosure or by deed or assignment in lieu of foreclosure or otherwise) may lease or sublease the Unit in whole or in part, without any notice to or consent of the Condominium Board or the other Unit Owner but subject, in all events, to the provisions of the Condominium Documents. Any lease for all or part of a Unit shall be consistent with and shall be deemed to incorporate by reference these By-Laws.

ARTICLE 8

CONDEMNATION

8.1 Takings in General. If the Condominium Board or any Unit Owner receives notice that all or any part of the Property has been or is to be taken through the exercise of the power of eminent domain under applicable Law (a "Taking") or becomes aware of any actual or threatened commencement of any proceeding for the condemnation of all or any portion of the Property, the Condominium Board or Unit Owner, as applicable, shall so notify the other Unit Owners and the Condominium Board, as applicable. The Condominium Board shall have the right to participate in the prosecution of the claims for the Award (as defined below) but the Condominium Board shall not compromise or settle the Award without the consent of at least one member of the Condominium Board designated by the Hotel Unit Owner, one member of the Condominium Board designated by the Retail Unit Owner and one member of the Condominium Board designated by the Garage Unit Owner. If such Taking is not of Substantially All the Property (as defined below in Section 8.4), then any restoration, reconstruction, or alteration required in connection with such Taking shall be performed with due diligence and in as timely a manner as practicable under the circumstances in accordance with the provisions of this Article. "Award" shall mean the award for damages or compensation payable on the basis of, or attributable to, a Taking, and, in the case of a Taking of less than Substantially All of the Property, shall include any award (or portion thereof) payable on the basis of restoration or other work necessitated by the Taking, but not including any separate claim by any Unit Owner or their respective Tenants for personal property, trade fixtures, moving or relocation costs. "Net Award" shall mean the Award less all reasonable fees and expenses incurred by the Unit Owners and the Condominium Board in collecting the Award.

8.2 Immaterial or Temporary Taking. In the event of an immaterial Taking (e.g. a Taking in connection with a street widening which does not affect the Building), the Net Award shall, following payment of any amounts required in connection with any restoration in connection with such Taking, be disbursed to the Unit Owners in accordance with their respective General Common Interests. In the event of a temporary Taking, the Net Award will be allocated to the Unit Owners based upon the portion of each Unit, as applicable, that is so

taken.

8.3 Material Takings. In the event of a material Taking that does not constitute a Taking of Substantially All of the Property, the Unit Owners shall cooperate to repair and restore the remainder of the Building in accordance with the applicable provisions of this Article.

8.4 Taking of Substantially All of the Property. In the event of a Taking of Substantially All of the Property, the Net Award shall be disbursed to the Unit Owners based upon the relative fair market values of the Units immediately prior to such Taking as determined by the Condominium Board with the consent of at least one member of the Board designated by the Hotel Unit Owner, one member of the Board designated by the Retail Unit Owner and one member of the Condominium Board designated by the Garage Unit Owner, and the Condominium shall be terminated. If the Hotel Unit Owner, the Retail Unit Owner and the Garage Unit Owner cannot agree as to the relative fair market values of the Units within ninety (90) days following the date of the Taking, the determination of such values shall be submitted to Arbitration. A Taking of "Substantially All of the Property" shall mean (i) such portion of the Property as, when so taken, would leave a balance of the Property that, due either to the area so taken or the location of the part or parts so taken in relation to the part or parts not so taken, would not, under economic conditions, zoning laws and building regulations then existing, readily accommodate a new or reconstructed building or buildings of a type and size generally similar to the Building existing at the date of Taking or (ii) a Taking of more than seventy-five (75%) percent of the rentable square footage of the Building (exclusive of any Tenant build outs and other similar improvements to the interior components of the Units), as determined by the Certifying Consultant in accordance with Section 8.8 of these By-Laws unless the Condominium Board agrees to repair and restore the Property as a result of such Taking in which event such Taking shall not be deemed to be a Taking of Substantially All of the Property.

8.5 Obligation to Restore. Except to the limited extent provided in Section 8.4 above, the Unit Owners shall be obligated to repair and restore the Building to the extent required in connection with a Taking regardless of whether or not the Net Award is sufficient. Furthermore, each Unit Owner shall cooperate with the other Unit Owners and the Condominium Board in connection with any such repairs or restoration to the Building.

8.6 Supervision of Repair and Restoration. The Condominium Board shall cause all necessary repair and restoration work with respect to the Building to be performed in accordance with the provisions of this Article. In connection therewith, the Condominium Board shall engage an Architect (as defined below). The repair and restoration shall be commenced and pursued to completion in as timely a manner as practicable and shall be performed on behalf of the Condominium Board by a Contractor (as hereinafter defined) provided; however, that the selection by the Condominium Board of an Architect or Contractor shall require the approval of one member of the Condominium Board designated by the Hotel Unit Owner, one member of the Condominium Board designated by the Retail Unit Owner and one member of the Condominium Board designated by the Garage Unit Owner, which approval shall not be unreasonably withheld or delayed. If the aforementioned members of the Condominium Board fail to agree upon the selection of an Architect or the Contractor within sixty (60) days after the occurrence of such Taking, then the selection of the Architect and the Contractor, as applicable, shall be submitted to Arbitration. "Architect" shall mean an architect or construction consulting firm that provides

engineering and/or architectural services, which is experienced in the design and operation in the City of New York of structures similar to the Building and has provided services comparable to those being requested hereunder within not less than three (3) of the immediately preceding ten (10) years. "Contractor" shall mean a qualified general contractor or construction manager with significant experience in the construction of structures in Manhattan similar to the Building.

8.7 Plans and Specifications. The plans and specifications for necessary repair and restoration in accordance with the provisions of this Article shall be prepared by the Architect in accordance with instructions given by the Condominium Board and shall provide for the restoration of the remaining portion of the Building as close as commercially practicable to the Building as it existed prior to the Taking, except to the extent any changes in applicable Legal Requirements require otherwise or unless at least one member of the Condominium Board designated by the Hotel Unit Owner, one member of the Condominium Board designated by the Retail Unit Owner and one member of the Condominium Board designated by the Garage Unit Owner agree otherwise. The Condominium Board shall cause the Architect to furnish to the Condominium Board and each of the Unit Owners, a set of the plans and specifications (and shop drawings upon request), which it has prepared or caused to be prepared. If, in connection with any restoration or repair hereunder, the Hotel Unit Owner, the Garage Unit Owner or the Retail Unit Owner desires to make any material change in the Building (other than a change to such Unit Owner's Unit or its appurtenant Limited Common Elements, if any), the consent of the other Unit Owners who will be affected by such material change shall be required, which consent shall not be unreasonably withheld or delayed provided that (w) such change is consistent with the standards generally applicable to similar hotel/retail/garage buildings in Manhattan, (x) such change will not result in a reduction of the rentable square footage of any of the other Unit Owner's Units; (y) such change will not have a material Adverse Effect on any easements or easement rights of any Unit Owner or on any utility or other service provided to any Unit Owner by pipes, lines, conduits or other mechanical equipment located in another Unit Owner's Unit or another Unit Owner's appurtenant Limited Common Elements or General Common Elements without the consent of all affected Unit Owners; and (z) any additional costs associated with such changes over and above those which would be incurred in connection with an "as is" restoration (including without limitation, any increase in operating costs as a result of such change) shall be borne by the Unit Owner requesting such change. Any dispute concerning any such material change shall be submitted to Arbitration. During the course of the repair and restoration, the Condominium Board shall maintain the insurance required pursuant to Section 5.2.1 above.

8.8 Determination of Costs. As soon as reasonably practical after a Taking (but in no event more than sixty (60) days after a Taking), a Certifying Professional (as hereinafter defined) shall be retained by the Condominium Board. The Condominium Board shall direct the Certifying Professional to prepare a reasonably detailed statement setting forth (a) a description of the condemned areas of the Building and structural supports, and (b) an estimate of the total costs of required repairs and restoration (exclusive of Tenant build outs and other similar interior improvements) (which estimate shall be deemed the "Condemnation Estimate"), and to reasonably determine and certify to the initial Architect Taking Allocation Ratio (as defined below) and to notify the Unit Owners of such ratio and the method by which such ratio was calculated, which notice shall include a complete schedule of costs and a reasonably detailed breakdown thereof by area and type of damage and type of necessary repair and restoration. The

term “Architect Taking Allocation Ratio” shall have the following meaning: the ratio of (A) the relative cost of the restoration to be performed as a result of the damage suffered by each Unit Owner to (B) initially, the Condemnation Estimate and, as and if the costs change during the course of the restoration work, the actual total costs. To the extent the Unit Owners are required to restore pursuant to this Article, each Unit Owner shall be responsible for its share of the costs of restoration based on the Architect Taking Allocation Ratio. If the cost and expense of any repair and restoration to the Building pursuant to this Article shall exceed the amount of the Net Award, the excess cost and expense shall be borne by the Unit Owner based on the Architect Taking Allocation Ratio. Notwithstanding the foregoing, to the extent the additional costs result from the acts or omissions of one of the Unit Owners or optional changes requested by a Unit Owner, such Unit Owner requesting the changes or causing the delays shall be solely responsible for payment of the additional costs (which costs will be factored into an adjusted Architect Taking Allocation Ratio). The Unit Owners shall share, subject to the terms of the immediately preceding sentence, any cost overruns resulting from Unavoidable Delays based on the Architect Taking Allocation Ratio. Notwithstanding the foregoing, the cost of any restoration of the General Common Elements in connection with a covered Taking shall be shared by the Unit Owners based on their respective General Common Interests, to the extent that such cost is not satisfied out of the available Net Award. “Certifying Professional” shall mean an architect or a licensed professional engineer or, engineering or construction consulting firm that provides engineering and/or architectural services, which is experienced in the design and operation in the City of New York of structures similar to the Building and has provided services comparable to those being requested hereunder within not less than three (3) of the immediately preceding ten (10) years, approved by at one Condominium Board member designated by the Hotel Unit Owner, one Condominium Board member designated by the Retail Unit Owner and one Condominium Board member designated by the Garage Unit Owner, which approval shall not be unreasonably withheld or delayed.

8.9 Excess Net Award. Upon completion of the repair and restoration in accordance with the provisions of this Article and full payment therefore and for all costs in connection therewith, any excess Net Award shall be distributed as follows:

8.9.1 If one of the Unit Owners failed to contribute to a deficiency in connection with the repair and restoration work as herein provided, the amount of such deficiency, together with interest thereon at the Default Rate, shall be paid to the other Unit Owners to the extent advanced by them and the amount of such deficiency shall be deemed a Unit Owner Expense, and

8.9.2 Any remaining balance shall be paid to the Unit Owners in accordance with the Architect Taking Allocation Ratio.

8.10 Costs Defined. For purposes of this Article, architects’ and engineers’ fees, attorneys’ fees, costs and disbursements (other than those arising from a dispute of the parties hereunder, including, without limitation, any dispute that is submitted to Arbitration), consultants’ fees, the fees of the Certifying Professional, title insurance premiums and other similar costs and expenses relating to repair or restoration shall be included in the costs and expenses of any such repair or restoration.

8.11 Reallocation of Common Interest If, as a result of a Taking, the total square footage of the Retail Unit or the Hotel Unit or the Garage Unit, as applicable, changes, the Unit Owners shall promptly (x) adjust, as of the date of completion of the repairs and restoration required in connection with such Taking, the Unit Owners' respective Common Interests in the Condominium in accordance with the method of determination of Common Interest set forth in Article 12 of the Declaration, and (y) prepare and record in the City Register's Office an amendment to the Declaration and/or these By-Laws, as appropriate, confirming such reallocation. If the Unit Owner shall not agree on any of the matters referred to in the foregoing clauses (x) and (y) within ninety (90) days following completion of the repairs and restoration, they shall submit such issue to Arbitration.

8.12 Net Awards to Depositary. In connection with any Taking, the Depositary shall hold all Net Awards and shall be the disbursement agent for all Net Awards, which pertain to such Taking.

ARTICLE 9

RECORDS AND AUDITS

9.1 Records. The Condominium Board or the Condominium Managing Agent, if any, shall keep detailed records of the actions of the Condominium Board, minutes of the meetings of the Condominium Board, and financial records and books of account with respect to the activities of the Condominium Board, including a listing of all receipts and expenditures which shall be available for inspection and copying by Unit Owner's from time to time on three (3) days prior notice.

9.2 Audits. Within four months after the end of each fiscal year, an annual report of receipts and expenditures prepared and certified by an independent certified public accountant shall be submitted by the Condominium Board to all Unit Owners, and, if so requested, to any Recognized Mortgagee, as the case may be. The cost of such report shall be paid by the Unit Owners as a General Common Expense. Either Unit Owner shall have the right to have access to the certified public accountant to review positions and ask questions.

9.3 Availability of Documents. Copies of the Declaration, these By-Laws, and any rules and regulations adopted by the Condominium Board 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 by Recognized Mortgagees and their respective authorized agents during reasonable business hours.

ARTICLE 10

ARBITRATION

10.1 General Procedure. The Unit Owners shall seek to resolve all disputes by negotiation in good faith for a period of thirty (30) days after any Unit Owner shall determine that a dispute exists and notifies the other Unit Owners thereof, except to the extent these By-Laws specify a different negotiation period. If the Unit Owners are unable to resolve the dispute

through good faith negotiation within such 30-day period (or such other negotiation period specified in these By-Laws), the dispute shall be settled by binding arbitration conducted in accordance with the following provisions of this Article 10 (an "Arbitration"). The Arbitration shall take place in the City of New York, in the State of New York.

10.2 Qualification of Arbitrators If the Arbitration involves a determination of the relative fair market values of the Units or the Property, then each arbitrator shall have had at least ten years' experience in the sale or brokerage of, or as a consultant in connection with the sale or brokerage of similar hotel/retail/garage buildings located in Manhattan. If the Arbitration involves a determination of any other dispute required or permitted to be submitted to Arbitration under the Declaration or By-Laws, then each arbitrator shall have at least ten years' experience in the operation and management of or as a consultant in connection with the operation and management of similar hotel/retail/garage buildings located in Manhattan. Each Unit Owner who is party to the dispute shall select one arbitrator and a third (or fourth, as the case may be) arbitrator shall be selected by the 2 (or 3, as the case may be) arbitrators selected by the Unit Owners. If the selected arbitrators cannot agree on the selection of the third (or fourth as applicable) arbitrator, the third(or fourth, as applicable) arbitrator shall be selected as provided by the Commercial Arbitration Rules of the American Arbitration Associates as in effect on the date hereof. The decision of a majority of the arbitrators shall be binding on the parties.

10.2.1 In connection with any Arbitration proceeding hereunder, all of the arbitrators shall each have the following qualifications:

(i) Each arbitrator shall be neutral, unaffiliated and independent of Unit Owners, their affiliates and their consultants and advisors.

(ii) Each arbitrator shall not be affiliated with any Unit Owner's auditors.

(iii) In no event shall any arbitrator (a) have been employed or engaged by, or received any compensation from any Unit Owner, its affiliates or its consultants or advisors or (b) have a conflict of interest with (including, without limitation, any bias towards or against) any Unit Owner or its affiliates or its then current consultants or advisors. In order to ensure the neutrality of the arbitrator, neither the Unit Owners nor their affiliates will offer employment or any other compensation to the third (and fourth, as applicable) arbitrator for a period of twelve (12) months following completion of the Arbitration.

10.2.2 The decision of the arbitrators shall be accompanied by a statement of the reasons upon which the decision is based. The arbitrators shall not have the power or authority to modify the provisions of the By-Laws or the Declaration. The decision may not include, and the Unit Owners specifically waive, any award of attorney's fees. Accordingly, each Unit Owner shall bear its own attorneys fees, costs and disbursements incurred in connection with any Arbitration proceeding.

10.2.3 The parties to the Arbitration and the Condominium Board (if necessary) will cooperate in the exchange of documents relevant to the dispute. Deposition or interrogatory discovery may be conducted only by agreement of the parties or if ordered by the arbitrators. In

considering a request for such deposition or interrogatory discovery, the arbitrators shall take into account that the parties to the dispute are seeking to avoid protracted discovery in connection with any Arbitration proceeding hereunder.

10.3 Determination of Arbitrators. If the Arbitration involves a determination of the relative fair market values of the Units or the Property within ten (10) days following the appointment of the arbitrators (as selected below), each of the Unit Owners who are parties to the dispute shall submit to the arbitrators its written estimate of the fair market value(s) of the Units, as applicable, supported by any reasons therefor. If any Unit Owner fails (such party being herein referred to as the "Non-Submitting Unit Owner") to submit its proposed values within such ten (10) day period, the other Unit Owner(s) may deliver a notice (the "Value Notice") to the Non-Submitting Unit Owner stating in bold face type that it has a period of five (5) Business Days following receipt of such notice to submit is proposed to the arbitrators. If a Non-Submitting Unit Owner fails to submit its proposed values to the arbitrators within five (5) Business Days after receipt of the Value Notice, the values submitted by the other Unit Owners to the arbitrators shall be deemed correct, and the Arbitration shall be deemed concluded. The arbitrators shall arrange for a simultaneous exchange of the parties' positions. The arbitrators shall select which of the proposed positions most closely approximates their determination of the correct fair market value(s) and shall have no right to propose a middle ground or any modification of any of the proposed positions. The position the arbitrators choose as most closely approximating their determination shall constitute the decision of the arbitrators and be final and binding upon the parties. Judgment upon the decision entered by the arbitrators may be entered in any court having jurisdiction. In the event of a failure, refusal, or inability of any arbitrator to act, his successor shall be appointed by him, or, if he fails to do so within five (5) Business Days, by the remaining 2 (or 3, as the case may be) arbitrators. The arbitrators shall attempt to decide the issue within then (10) Business Days after their receipt of the proposed values, but must decide the issue within fifteen (15) Business Days of such receipt. The decision of the arbitrators shall be accompanied by a statement of the reasons upon which the decision is based. The arbitrators shall not have the power or authority to modify the provisions of these By-Laws or the Declaration. The decision may not include, and the parties specifically waive, any award of attorney's fees.

10.4 Costs and Expenses. The fees, costs and expenses of the arbitrators will be borne by the losing party in the Arbitration or, if the position of neither party to the dispute will be substantially upheld by the arbitrator, such fees, costs and expenses will be borne equally by the disputants. Accordingly, each disputing Unit Owner shall also bear the fees, costs, disbursements and expenses of its own attorneys, counsel and expert witnesses.

ARTICLE 11

MISCELLANEOUS

11.1 Waiver. No provision contained in these By-Laws or any rules and regulations adopted by the Condominium Board 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.

11.2 Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws nor the intent of any provision hereof.

11.3 Certain References.

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

11.3.2 The terms “herein,” “hereof” or “hereunder” or similar terms used in these By-Laws refer to these entire By-Laws and not to the particular provision in which the terms are used, unless the context otherwise requires.

11.3.3 Unless otherwise stated, all references herein to Articles, Sections or other provisions are references to Articles, Sections or other provisions of these By-Laws.

11.4 Severability. Subject to the provisions of the Declaration, if any provision of these By-Laws- is invalid or unenforceable as against any person, party or under certain circumstances, the remainder of these By-Laws and the applicability of such provision to other persons, parties or circumstances shall not be affected thereby. Each provision of these By-Laws shall, except as otherwise herein provided, be valid and enforced to the fullest extent permitted by Law. In the event any provision of these By-Laws or the Rules and Regulations conflicts with the provisions of the Declaration, the provisions of the Declaration shall control.

11.5 Depositary. The “Depositary” may be any insurance company, savings bank, savings and loan association, commercial bank or trust company having an office in the Borough of Manhattan with net assets or capital surplus and undivided profits of not less than \$500,000,000 having a long term credit rating from Standard & Poor’s Ratings Services of not less than “A”, as selected by the Condominium Board, with the reasonable approval of Recognized Mortgagees, if any, to the extent such consent is required under the applicable Recognized Mortgage or other loan documentation related thereto, and that agrees to perform the obligations of “Depositary” hereunder and apply any funds received as Depositary in accordance with these By-Laws and the Depositary Agreement.

11.6 Successors and Assigns. Except as set forth herein or in the Declaration to the contrary, the rights and/or obligations of the Unit Owners or their designees as set forth herein shall inure to the benefit of and be binding upon any successor or assign of the Unit Owners or their designees.

11.7 Covenant of Further Assurances. Any party which is subject to the terms of these By-Laws, whether such party is a Unit Owner, a lessee or sublessee of a Unit Owner, a Recognized Mortgagee or other mortgagee of a Unit Owner, occupant of a Unit, a member or officer of the Condominium Board, or otherwise, shall, upon prior reasonable written request at the expense of any such other party (that is subject to the terms of these By-laws) requesting the same, execute, acknowledge and deliver to such other party such instruments, in addition to those specifically provided for herein, and take such other action, as such other party may reasonably request to effectuate the provisions of these By-Laws or of any transaction

contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction (but without expanding the scope of any liability or obligation on the part of the cooperating party beyond that set forth in the Condominium Documents).

11.8 CPI Adjustments. Unless otherwise expressly provided hereunder, any dollar amount described in this document as “adjusted for inflation” or “subject to adjustment for inflation” (or words of similar import) shall be adjusted by multiplying such amount by a fraction, the numerator of which shall be the Consumer Price Index for the full calendar month immediately preceding the date of such adjustment, and the denominator of which shall be the Consumer Price Index for the calendar month June 2012. The “Consumer Price Index” shall mean the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor for New York, New York (or the smallest measured area including New York, New York), All Items (2011-2012), or any successor index thereto, appropriately adjusted. If the Consumer Price Index ceases to be published, and there is no successor thereto, such other reasonably similar index as is designated by the Condominium Board shall be substituted for the Consumer Price Index. If the Consumer Price Index is not immediately available, payments to be calculated in accordance with such Index shall be made based on a reasonable estimate of such Index, and any deficiency shall be paid, and any overpayment credited, against the next installment of funds due, immediately after such Index is available.

11.9 Consents; Requests for Actions. Any time any Unit Owner, the Condominium Board, a Recognized Mortgagee or other party subject to the terms of the Declaration or these By-Laws, as applicable, gives any consent or approval requested to be given hereunder, the other Unit Owners or the Condominium Board, as applicable, shall have the right to rely on such consent or approval and to presume that the party giving such consent or approval is authorized to give it and has obtained any and all approvals it may be required to obtain in connection with such consent or approval. Notwithstanding anything contained herein to the contrary, any time the consent of or other action by a Recognized Mortgagee is required pursuant to the Condominium Documents, if there is more than one Recognized Mortgagee with respect to any Unit, then as to such Unit, such consent or action shall only be required from the Recognized Mortgagee holding a first mortgage lien of record secured by the Unit, or any other Recognized Mortgagee with respect to such Unit designated from time to time (and until de-designated) by such first Recognized Mortgagee to give consent in place of the holder of the first Recognized Mortgagee. Any designation made pursuant to this Section 11.9 shall be effective within ten (10) days after notice thereof is given to the Condominium Board, the Unit Owners and the Depository. Notwithstanding the foregoing, all Recognized Mortgagees shall be entitled to receive all notices hereunder to be given to a Recognized Mortgagee (unless the Recognized Mortgagee stipulates that it does not require such notice).

11.9.1 Except as expressly set forth in this Section 11.9:

11.9.1.1 Any time a consent or approval is required from or a Required Action is required to be taken by a Unit Owner, the Condominium Board, a Recognized Mortgagee or any other party subject to the terms of the Declaration or these By-Laws under the terms of the Declaration or these By-Laws, and such party fails to respond to a request for such consent within fifteen (15) days after receipt thereof together with all documentation reasonably requested by such

party to make such determination of whether or not to provide such consent, such consent or approval shall be deemed given provided, that a second notice requesting such approval or consent is given which specifies in bold print: "THIS IS A SECOND AND FINAL REQUEST FOR YOU TO CONSENT OR APPROVE THE ACTIONS DESCRIBED IN THE ENCLOSED PRIOR REQUEST THEREFORE, WHICH IS REQUIRED UNDER THE TERMS OF THE CONDOMINIUM DECLARATION AND/OR BY-LAWS. IF YOU FAIL TO CONSENT OR OBJECT TO SUCH ACTION WITHIN FIVE (5) BUSINESS DAYS AFTER THE DATE HEREOF, YOUR CONSENT SHALL BE DEEMED GIVEN." and such party fails to respond to such second notice within five (5) Business Days following the date thereof, the provisions of Section 11.9.1.3 below shall apply.

11.9.1.2 If any Unit Owner, the Condominium Board, a Recognized Mortgagee or any other party subject to the terms of the Declaration or these By-Laws fails or refuses to execute, acknowledge or deliver any instrument or to take any Required Action pursuant to the provisions of the Declaration or these By-Laws within the period specified therein and after such party has received all supporting documentation reasonably requested by such party in order to perform such Required Action and a second request is given (which second request shall be accompanied by a copy of the original request and any supporting materials) which states in bold print: "THIS IS A SECOND AND FINAL REQUEST FOR YOU TO EXECUTE, ACKNOWLEDGE AND/OR DELIVER THE DOCUMENTS, OR TO TAKE THE ACTIONS, DESCRIBED IN THE ENCLOSED PRIOR REQUEST THEREFORE, WHICH IS REQUIRED UNDER THE TERMS OF THE CONDOMINIUM DECLARATION AND/OR BY-LAWS. YOUR FAILURE TO EXECUTE, ACKNOWLEDGE AND/OR DELIVER THE DOCUMENTS, OR TO TAKE THE ACTIONS, AS THE CASE MAY BE, WITHIN FIVE (5) BUSINESS DAYS AFTER THE DATE HEREOF SHALL ENTITLE THE CONDOMINIUM BOARD TO DO SO ON YOUR BEHALF." and such party fails to respond to such second request within five (5) Business Days following the date thereof, the provisions of Section 11.9.1.3 below shall apply.

11.9.1.3 In the event either subsection 11.9.1.1 or 11.9.1.2 above applies and the party whose consent or other action is requested fails to respond to the second request within five (5) Business Days following the date thereof, then the Condominium Board is hereby authorized, as attorney-in-fact, coupled with an interest, for such Unit Owner or other party, to execute, acknowledge and deliver any such instrument or take such action in the name of such Unit Owner or other party, and such instrument or action shall be binding on such Unit Owner or other party, as the case may be. Any dispute with respect to this Section 11.9 (including, without limitation, any objection by the party as to whether or not a request pursuant to subsections 11.9.1.1 or 11.9.1.2 involves a "Required Action") shall be subject to Arbitration, provided that the Person refusing to execute, acknowledge or deliver any such instrument or refusing to take any such action, expressly renders such refusal in writing (together with its rationale for such refusal) within the time period(s) provided in this Section 11.9.

ARTICLE 12

AMENDMENT TO BY-LAWS

12.1 Amendments by Unit Owners. The provisions of Article 18 of the Declaration are incorporated herein in their entirety and, except as otherwise expressly set forth herein, the

provisions thereof shall govern the amendment and/or modification of any of the provisions of the By-Laws.

12.2 Amendments Affecting Recognized Mortgagees. Notwithstanding any provision contained herein to the contrary, but subject to Sections 11.9 and Section 12.1 hereof, no Unit Owner or member of the Condominium Board, as applicable, entitled to vote on any modification, addition, amendment or deletion of or to the Declaration or these By-Laws shall be permitted to grant its approval thereto unless the Recognized Mortgagee, if any, of the Unit Owner or the Unit Owner that appointed such Condominium Board member, as applicable, has given its prior written consent thereto, which consent shall not be unreasonably withheld or delayed except as otherwise expressly set forth in the applicable Recognized Mortgage or the other loan documentation related thereto. Any such amendment that is adopted without the prior written consent of the applicable Recognized Mortgagee shall be deemed null and void ab initio.

EXHIBIT E
BUDGET ALLOCATIONS

(On following pages)

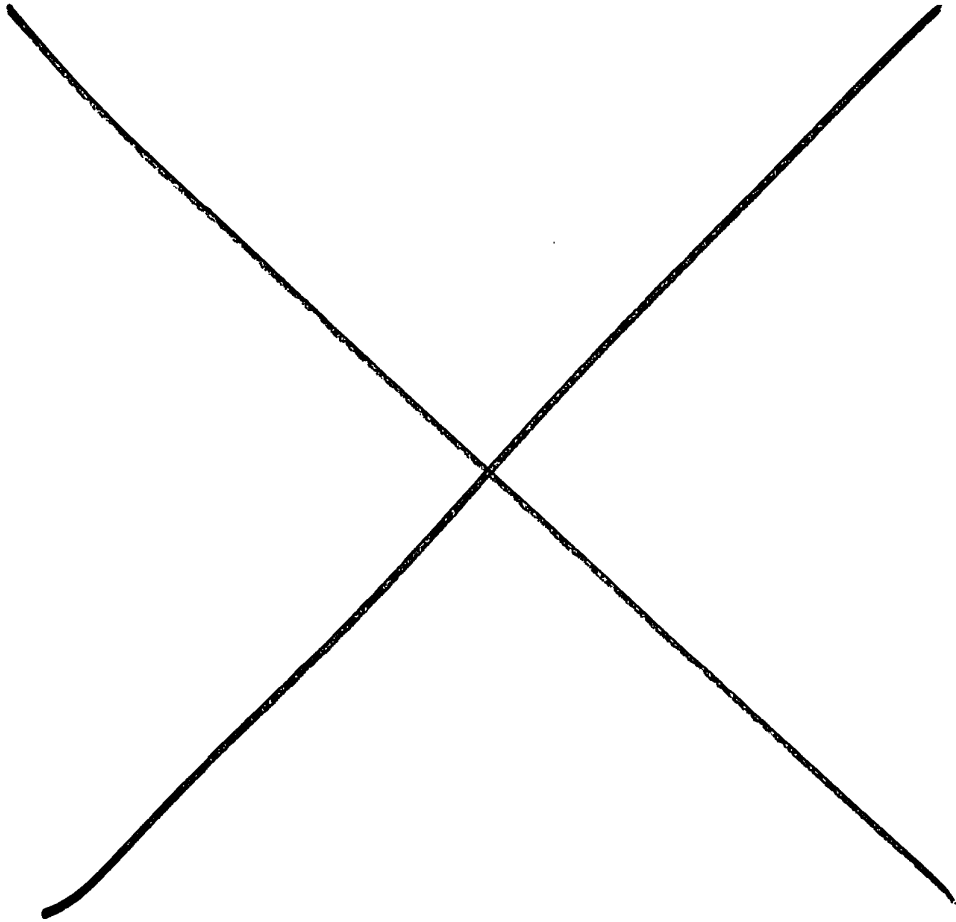


EXHIBIT F
SIGNAGE CRITERIA

All Signage shall satisfy the following criteria:

1. Consent Requirements.

a. The prior written consent of (i) the Hotel Unit Owner shall be required for the placement of any Signage on the Exterior Façade of the Building facing Orchard Street by the Retail Unit Owner (it being understood that no Retail Unit Signage may be placed on the Exterior Façade of the Building facing Ludlow Street); (ii) the Hotel Unit Owner shall be required prior to the placement of any Signage on the Exterior Façade of the Building facing Ludlow Street by the Garage Unit Owner (it being understood that no Garage Unit Signage may be placed on the Exterior Façade of the Building facing Orchard Street); and (iii) the Retail Unit Owner shall be required prior to the placement of any Signage on the Exterior Façade of the Building facing Orchard Street by the Hotel Unit Owner; provided however, the consent of the Retail Unit Owner shall not be required for either (x) the placement of any Signage on the Exterior Façade of the Building facing Ludlow Street by the Hotel Unit Owner or (y) the placement of any Signage on the Exterior Façade of the Building facing either Orchard Street or Ludlow Street, which discloses the identity, address and other information concerning the lender(s) providing construction financing for the Property or any portion thereof.

b. Notwithstanding the foregoing subparagraph 1(a)(ii),(A) the Hotel Unit Owner will consent to Garage Unit Signage consisting of no more than two (2) signs on the Exterior Façade of the Building facing Ludlow Street in conformity with the drawing annexed hereto as Exhibit F-1 and further specified as follows: (a) one horizontal "band" sign centered immediately above the opening of the vehicular entrance to the Garage Unit, with a maximum horizontal dimension no greater than approximately three-fourths (3/4) of the width of such vehicular entrance (i.e., approximately 18 feet wide), a maximum vertical dimension of approximately thirty (30) inches and a maximum depth (thickness) of six (6) inches; and finished with no more than one (1) base and two (2) additional colors; (b) one vertical "blade sign" no larger than twelve (12) square feet in size, located immediately south of the opening of the vehicular entrance, with its lowest edge no higher than the top of the opening of the vehicular entrance, with a maximum vertical dimension of approximately eight (8) feet, a maximum horizontal dimension of two (2) feet and a maximum depth (thickness) of six (6) inches; and finished with no more than one (1) base and two (2) additional colors; and (c) plaques required by Law (such as those disclosing parking rates, regulations, licensing information, etc.), located immediately within the opening of the vehicular entrance; and (B) the Hotel Unit Owner will not consent to any Garage Unit Signage located on the portion of the sidewalk on Ludlow Street consisting of the first 10 feet running from the Property line to the Building.

c. The Unit Owner wishing to place Signage on the Exterior Façade is referred to in this Exhibit F as the "Requesting Unit Owner," and the Unit Owner whose consent is required for such placement is referred to in this Exhibit F as the "Consenting Unit Owner." In the event the consent of another Unit Owner is required prior to the placement of Signage as set

forth in Paragraph 1(a) above, the Requesting Unit Owner shall provide the Consenting Unit Owner with a detailed description of such Signage at least thirty (30) days prior to the Requesting Unit Owner's installation of such Signage. The consent of the Consenting Unit Owner shall be expressly limited to confirming (in the commercially reasonable opinion of the Consenting Unit Owner, taking into consideration the location of the Building and similar mixed-use hotel/retail buildings with garages in the general vicinity of the Building) that such Signage in keeping with the general character of the Building, conforms to this Exhibit F (and Exhibit F-1, if applicable) and will not have an Adverse Effect on the Consenting Unit Owner or its Tenant(s). Notwithstanding the foregoing, the Consenting Unit Owner may not refuse to consent if the proposed Signage replaces existing Signage with Signage which is materially similar in size, materials and location to the Signage being replaced. Except as set forth in the immediately preceding sentence, in the event the Consenting Unit Owner does not provide the Requesting Unit Owner with detailed written objections to such request within thirty (30) days from the Consenting Unit Owner's receipt of such request, the consent of the Consenting Unit Owner shall be deemed granted and the Requesting Unit Owner may install such Signage. In the event the Consenting Unit Owner provides the Requesting Unit Owner with detailed written objections to such request within such thirty (30) day period, and the Requesting Party disputes such objections, such dispute shall be resolved by Arbitration.

2. A Unit Owner shall only permit (x) Signage in such Unit Owner's Unit and (y) exterior Signage on the portion of the Exterior Façade which comprises part of such Unit Owner's Unit which are consistent with Signage permitted in mixed use retail/hotel/garage buildings of similar size and location as the Building and do not detract from the character or appearance of the Building. A Unit Owner may not permit any Signage in front of the Unit Owner's Unit which is not in compliance with all laws, rules and regulations and the provisions hereof and of the Declaration.

3. No Unit Owner may place Signage on any General Common Elements.

4. No flashing or blinking Signage shall be visible from the outside of a Unit which are reasonably objectionable to any Unit Owner and no Unit Owner shall install, place or permit any lights, fixtures or decorations of any sort in any trees outside the Building

5. No posters, decals or promotional material or any other Signage or item shall be affixed to the interior or exterior of the windows or doors of a Unit other than Signage which specifically relate to such Unit Owner's business in the Unit and are consistent with similar Signage used in other hotel/retail/garage buildings of similar size and location as the Building

6. Except to the extent required by applicable Law, no decals or paper Signage of any kind (excluding permitted promotional decals and those indicating hours of operation, credit cards, security systems, products, or safe haven or as shall otherwise be consistent with similar Signage used in other hotel/retail/garage buildings of similar size and location as the Building) shall be permitted on the interior or exterior of the glass of a Unit except if such items are used in the ordinary course of business.

7. No lighting shall be permitted for exterior or interior Signage, that is not in compliance with applicable Law, code and regulations and with the provisions hereof and of the Condominium Declaration and By-Laws.

8. No neon Signage shall reflect into another Unit so as to be reasonably objectionable to the other Unit Owner or Permitted Users. Any interior neon Signage visible from the street shall be consistent with similar Signage used in other hotel/retail/garage buildings of similar size and location as the Building.

9. All Signage installed, including materials used must be UL listed and shall conform to local administrative codes and other applicable Law, including, without limitation, local building codes.

10. All Signage attachment devices, wiring, clips, transformers, lamps, tubes, and other mechanisms required for all Signage shall be concealed to the extent commercially reasonably possible.

11. No loudspeakers or other noise or music-producing equipment may be utilized on or in connection with any exterior Signage, and no Unit Owner shall use or permit to be used any loudspeaker or other sound system or advertising device which may be heard outside the Unit such that it causes an unreasonable disturbance to another Unit Owner or its occupants or permittees or otherwise causes an Adverse Effect with respect to such other Unit Owner or its occupants or permittees.

12. The Hotel Unit Owner shall be permitted to install and Maintain Signage in accordance with the brand standards of the hotel operated within the Hotel Unit, as such brand standards may change from time to time, provided such Signage is in compliance with Paragraphs 2 through 12 of this Exhibit F.

13. Notwithstanding anything to the contrary in this Exhibit F, the Retail Unit Owner shall not be permitted to install Signage identifying, advertising or promoting a competitor of the Hotel Unit Owner or its affiliates or the hotel brand or flag being operated in the Hotel Unit.

EXHIBIT F-1
RENDERING OF SAMPLE GARAGE UNIT SIGNAGE
(On following page)

