



May 22, 2015

**VIA ELECTRONIC FILING**

Hon. Kathleen H. Burgess  
Secretary to the Commission  
New York State Public Service Commission  
3 Empire State Plaza  
Albany, NY 12223-1350

**Re: Notice of Intent to Submeter Electricity at 250 West Street, New York, New York 10013, Located in the Territory of Consolidated Edison Company of New York, Inc.**

Dear Secretary Burgess:

250 West Street Condominium (the “Owner”)<sup>1</sup> owns the above-referenced property (the “Building”). Pursuant to 16 NYCRR § 96.4, the Owner submits this Notice of Intent to Submeter (the “Notice”) retroactive to July 2013 the 104 condominium units<sup>2</sup> in the Building,<sup>3</sup> which is located within the service territory of Consolidated Edison Company of New York, Inc. (“Con Edison”).

The Building was converted to a condominium in 2011. As part of this conversion, a submetering system was installed in the Building in or about June 2012. The fact that the condominium units were going to be individually submetered was clearly disclosed to residents—both owners and renters—prior to purchase or renting.<sup>4</sup> Submetered billing of residents began in July 2013.

Recently, the Owner changed the Building’s property manager to FirstService Residential. During this change in property managers, the Owner was advised of the need for submetering approval by the Public Service Commission (the “Commission”). Although the Owner now recognizes that it should have received Commission approval at

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<sup>1</sup> The Declaration of Condominium is attached as Exhibit 1.

<sup>2</sup> Of the 104 condominium units, 16 are currently rented.

<sup>3</sup> Pursuant to 16 NYCRR 96.3 (c) (1), the Owner provided all residents with notice that it intended to file this Notice of Intent on May 20, 2015. An affidavit confirming its delivery on all residents along with the notice letter is attached as Exhibit 2.

<sup>4</sup> See e.g. Third Amendment to Condominium Offering Plan for 250 West Street Condominium, at 21; By-Laws of 250 West Street Condominium § 6.15; Standard Form of Condominium Apartment Lease, at 2 and accompanying Rider to Lease Agreement. Excerpts of the relevant pages of these documents are attached as Exhibit 3.

the outset, the failure to do so did not result in any significant harm to the residents.<sup>5</sup> As an initial matter and as discussed further below, the Building is *not* an “electric heat property.”<sup>6</sup> Further, since the Building is a condominium as opposed to a rental apartment building, even without Commission approval, the residents would have borne the electricity charges as a common expense allocated to each unit. By submetering, residents were at least aware of their electricity usage and were thus able to respond to price signals and control their use of electricity effectively.<sup>7</sup> Additionally, upon information and belief, no resident has ever filed a complaint with the Commission concerning the Building during the period in which submetering was conducted without authorization.

As set forth in detail below, the Owner’s submetering plan satisfies the requirements of 16 NYCRR Part 96 and is in the public interest and consistent with the provision of safe and adequate electric service to residents. Accordingly, the Owner respectfully requests that the Commission retroactively approve the Notice to July 2013.

**A. Description of the type of submetering system to be installed:**

Quadlogic’s MiniCloset-5 (“MC-5”) submetering system was installed in the Building in or about June 2012.<sup>8</sup> Since installation occurred *prior* to October 1, 2014, the submetering system did not yet need to be Commission approved.<sup>9</sup> Indeed, the Commission has previously determined that, for submetering system installed prior to

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<sup>5</sup> See Case 14-E-0484, *In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, in Relation to Complaint Procedures—Appeal by Complaining Submetered Tenants of the Informal Decision Rendered in Favor of Riverview Redevelopment Co., L.P. (918395)*, Commission Determination (Apr. 21, 2015), at 19-21 (declining to apply a penalty to a submeterer based on admitted failure to comply with 16 NYCRR Parts 11 and 12 because, although unfortunate, it “does not appear in this case to have caused *significant* harm, since the building is not electrically heated and there is evidence that, indeed, tenants have overall been able to conserve electricity in response to having a price signal indicating how much service they are using.” (emphasis added)).

<sup>6</sup> 16 NYCRR § 96.1 (f).

<sup>7</sup> Case 14-E-0484, *In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, in Relation to Complaint Procedures—Appeal by Complaining Submetered Tenants of the Informal Decision Rendered in Favor of Riverview Redevelopment Co., L.P. (918395)*, Commission Determination (Apr. 21, 2015), at 20 (“Despite these blemishes, submetering is a desirable replacement for master metering where, as here, it enables tenants to control their use of electricity effectively.”).

<sup>8</sup> This type of system was installed in many Commission-approved submetered buildings in this time period. See e.g. Case 14-E-0154, *Lafayette Development, LLC, Notice of Intent to Submeter Electricity at 2239 Adam Clayton Powell Jr. Boulevard, New York, New York, Located in the Territory of Consolidated Edison Company of New York, Inc.*, Order Authorizing Submetering (Sept. 10, 2014); Case 14-E-0145, *Riverwalk 7, LLC, Notice of Intent to Submeter Electricity at 480 Main Street, New York, New York, Located in the Territory of Consolidated Edison Company of New York, Inc.*, Order Authorizing Submetering (Sept. 10, 2014); Case 12-E-0009, *Petition of Banner Apartments LLC to Submeter Electricity at 1125 Banner Avenue and 2750 East 12th Street, Brooklyn, New York, Located in the Territory of Consolidated Edison Company of New York, Inc.*, Order Authorizing Submetering (June 20, 2012).

<sup>9</sup> See 16 NYCRR § 96.7 (a) (1). See also Case 11-M-0710, *In the Matter of Reviewing and Amending the Electric Submetering Regulations, 16 NYCRR Part 96*, Order Granting, In Part, the Joint Petition for a Temporary Waiver of 16 NYCRR §96.7 (a) (1) and the Joint Petition for a Temporary Waiver of 16 NYCRR §96.7 (b) (Nov. 20, 2013) (providing a temporary waiver of 16 NYCRR § 96.7 (a) (1) from January 1, 2014 until October 1, 2014).

October 1, 2014, “the requirement in 16 NYCRR §96.7 regarding the initial installation of only Commission-approved meters does not apply.”<sup>10</sup>

**B. Description of the methods to be used to calculate bills for individual residents:**

The rate calculation used is the Con Edison Service Classification SC-1 for direct metered service. Specifically, a resident’s kilowatt hour (“kWh”) usage is multiplied by the Con Edison Service Classification SC-1 rate for a billing period.<sup>11</sup> The Con Edison Service Classification SC-1 rate is a combination of various items, including, but not limited to:

- Basic Customer Charge: This is a charge for basic system infrastructure and customer-related services, including customer accounting, meter reading, and meter maintenance.
- kWh Cost: This energy charge is broken down into several components, including market supply, monthly adjustment, and delivery (transmission and distribution).
- Systems Benefit Charge (“SBC”)/Renewable Portfolio Standard (“RPS”): This is an additional charge per kWh.
- Fuel Adjustment: The sum of Market Supply Charge (“MSC”) and Monthly Adjustment Charge (“MAC”) adjustment factors.
- Utility Tax: The sum of Commodity Gross Receipt Tax and Full Service Gross Receipt Tax.
- Sales Tax: The current New York State (“NYS”) sales tax.

The following is a nonexclusive example of the formula that is used to derive a resident’s electricity charges based on the current Con Edison Service Classification SC-1 rate and a monthly use of 250 kWh:

<b>Type of Charge</b>	<b>Calculation</b>	<b>Total</b>
Basic Charge		\$YY.YY
kWh	.XXXXX times 250 kWh	\$YY.YY
Systems Benefit Charge	.XXXXX times 250 kWh	\$ Y.YY
Fuel Adjustment Charge	.XXXXX times 250 kWh	\$ Y.YY
<b>Subtotal</b>		<b>\$YY.YY</b>
Utility Tax	.XXXXX times Subtotal YY.YY	\$ Y.YY
<b>New Subtotal</b>		<b>\$YY.YY</b>
Sales Tax	New Subtotal YY.YY times .045000	\$ T.TT
New Subtotal YY.YY plus T.TT		\$ZZ.ZZ
<b>Resident Cost</b>		<b>\$ZZ.ZZ</b>

<sup>10</sup> Case 14-E-0126, *Petition of EBNB 70 Pine Owner LLC to Submeter Electricity at 70 Pine Street, New York, NY, Located in the Territory of Consolidated Edison Company of New York, Inc.*, Order Authorizing Submetering (Jan. 14, 2015), at 3-4.

<sup>11</sup> A sample bill from Quadlogic is attached as Exhibit 4.

All Con Edison rates by classification are available on its website ([www.coned.com](http://www.coned.com)) under Rates and Tariffs. The electric Rates and Tariffs are listed under the heading “P.S.C. No. 10 – Electricity.”

In no event will the total rate for a billing period (including any monthly administrative charge) exceed the rates and charges of the distribution utility for delivery and commodity in that billing period to similarly-situated, direct-metered residential customers.<sup>12</sup>

The Owner or its third-party billing company will read the meters and process a bill based on the resident’s actual consumption. The meter reading data and billing calculations will be documented and maintained for a 6-year period for each unit.<sup>13</sup>

**C. Plan for complying with the provisions of the Home Energy Fair Practices Act (“HEFPA”):**

The Building’s HEFPA compliance plan is attached.<sup>14</sup> The Notification of Rights and Procedures and Special Protections Registration Form will be provided to residents upon Commission approval of this Notice.

**D. Submetering Identification Form:**

The Owner’s completed Submetering Identification Form is attached.<sup>15</sup>

**E. Description of the method to be used to back out electric charges from rent:**

Since the Building is a condominium, this provision is not applicable to the Building.

**F. Certification concerning content of leases or agreements governing the premises to be submetered:**

The Owner, by the undersigned, hereby certifies that the submetering complaint procedures, HEFPA rights and responsibilities of residents, and a provision stating that submetering refunds will be credited to submetered residents affected by the submeterer’s actions that led to such refunds, provided that the submeterer has such contact information for such resident, shall be included in plain language in all leases or agreements governing the submetered premises.<sup>16</sup>

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<sup>12</sup> See 16 NYCRR § 96.1 (i).

<sup>13</sup> See 16 NYCRR § 96.6 (j).

<sup>14</sup> See Exhibit 5.

<sup>15</sup> See Exhibit 6.

<sup>16</sup> A copy of the Rules and Regulations regarding submetering for those units that are owner occupied is attached as Exhibit 7. A copy of the submetering lease rider for those units that are rented is attached as Exhibit 8. These documents will be provided to these respective residents upon Commission approval of this Notice.

**G. Proof of service that this Notice was sent to the local utility company:**

See attached a copy of the letter that was sent by the Owner to Con Edison to which this Notice was attached.<sup>17</sup>

**H. Documentation regarding refrigerators in all rental dwelling units:**

Since the Building is a condominium, this provision is not applicable. Nevertheless, see Section I below.

**I. Description of the electric energy efficiency measures that have been or will be installed:**

The Building has several energy-efficiency measures installed on the premises. For example, all refrigerators, which were replaced in or about December 2012 as part of the conversion to a condominium, and clothing washers and dryers are ENERGY STAR® rated.

Additionally, the Building utilizes plate heat exchangers and cylindrical heat exchangers to increase the speed at which the Building is able to heat and cool itself, thus, the Building consumes less energy when heating or cooling. The heat exchangers are monitored by Variable Frequency Drives (“VFDs”), which allow the heat exchangers to run at slower speeds when necessary and turns them off when they are not needed.

Lastly, the Building is in the process of replacing the lighting in the Building to LED. Currently, about 10% of the Building has LED lighting, while the remainder of the Building has florescent lighting.

**J. Description of information and education programs to residents on how to reduce electric usage:**

Residents will be provided with certain energy-efficiency/conservation information upon Commission approval of this Notice.<sup>18</sup>

**K. Information if 20% or more of the residents receive income-based housing assistance:**

Since the Building is a condominium, this provision is not applicable.

**L. Information if building is an electric heat property:**

This provision is not applicable to the Building because the “proposed conversion” is not “addressed through a Petition to Submeter.”<sup>19</sup> Rather, because the Building is a condominium, the Owner submits this Notice of Intent to Submeter pursuant to 16 NYCRR § 96.4.

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<sup>17</sup> See Exhibit 9.

<sup>18</sup> See Exhibit 10.

<sup>19</sup> 16 NYCRR § 96.5 (l).

Nevertheless, the Building is *not* an “electric heat property.”<sup>20</sup> Heat in each unit is provided by a McQuay Water Source Heat Pump (“WSHP”), either the WVFC 1030 or WVFC 1036. WSHP systems are some of the most efficient and environmentally-friendly systems available for heating and cooling buildings. The Building specifically utilizes four natural gas-fired boilers to provide hot water to the WSHPs in each unit. Residents will only be responsible for the electricity needed to operate the WSHP’s compressor and fan.<sup>21</sup> Temperature in the units is controlled by programmable thermostats. The Commission has concluded in prior decisions that such arrangements do not qualify as “electric heat.”<sup>22</sup>

**M. Information if building is a conversion from direct metering:**

This provision is not applicable to the Building.

**N. Other information required by prior Commission Order:**

This provision is not applicable to the Building.

In sum, the Owner’s submetering plan satisfies the requirements of 16 NYCRR Part 96 and is in the public interest and consistent with the provision of safe and adequate electric service to residents. Accordingly, the Owner respectfully requests that the Commission retroactively approve this Notice to July 2013.

Thank you in advance for your attention in this matter. Please contact our attorney, John T. McManus of Harris Beach PLLC, at (518) 701-2734 or [jmcmanus@harrisbeach.com](mailto:jmcmanus@harrisbeach.com) with any questions about this Notice.

Sincerely,

250 WEST STREET CONDOMINIUM

/s/ Brooke Rosenthal

Signature

By: Brooke Rosenthal, Agent

Name (printed), Title

250 West Street Condominium

Company Name

Enclosures

cc: John T. McManus, Esq. (*via email only*)

<sup>20</sup> 16 NYCRR § 96.1 (f).

<sup>21</sup> See Case 14-E-0126, *Petition of EBNB 70 Pine Owner LLC to Submeter Electricity at 70 Pine Street, New York, NY, Located in the Territory of Consolidated Edison Company of New York, Inc.*, Order Authorizing Submetering (Jan. 14, 2015), at 2 n.2 (“Heating is provided via water source heat pumps. Thermal energy (hot water) is supplied by natural gas fired boilers, maintained by the building owner. *Tenants pay only for electricity to operate apartment unit compressors and fans.*” (emphasis added)).

<sup>22</sup> *Id.*

NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE

METHOD OF SERVICE FORM

This form should be filed with all new petitions and applications that require action by the Commission. It will allow us to serve you with the Commission decision using the method you select.

Name:	<u>Brooke Rosenthal</u>
Your Company/Organization:	<u>250 West Street Condominium</u>
Mailing Address:	<u>622 Third Avenue, 15<sup>th</sup> Floor</u> <u>New York, NY 10017</u>
Company/Organization you represent, if different from above:	_____
E-Mail Address:	<u>brooke.rosenthal@fsresidential.com</u>
Case/Matter # (if known)	<u>unknown (not yet assigned)</u>

If you consent to receive Commission-issued orders electronically, you will receive all Commission-issued documents electronically. If you do not consent to receive Commission-issued orders electronically, you will receive all Commission-issued documents by mail.

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B

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Signature: <u>/s/ Brooke Rosenthal</u>	Date: <u>May 22, 2015</u>
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Please note that this form applies to this filing only.

To the extent possible, please file this form in .pdf format.

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Case Title (short reference sufficient):

Notice of Intent to Submeter Electricity at 250 West Street, New York, New York 10013, Located in the Territory of Consolidated Edison Company of New York, Inc.

Name:	<u>John T. McManus</u>
Title:	<u>Attorney</u>
Company/Organization Name, If applicable:	<u>Harris Beach PLLC</u>
Representing Company/Organization/District, if applicable:	<u>250 West Street Condominium</u>
Representing Self:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Mailing Address:	<u>677 Broadway, Suite 1101</u> <u>Albany, NY 12207</u>
Telephone Number:	<u>518-701-2734</u>
E-mail Address:	<u>jmcmamus@harrisbeach.com</u>
Does your company have a regulatory mailbox for use to receive documents issued by the Secretary?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, please specify the e-mail to be used:	_____

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I do not have the ability to receive or send document(s) electronically and, therefore, wish that the DPS mail Commission-issued documents to me.	<input checked="" type="checkbox"/> No
Signature: <u>/s/ John T. McManus</u>	Date: <u>05/22/2015</u>

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I wish to be placed on the Service List for Case Number:

Not yet assigned

Case Title (short reference sufficient):

Notice of Intent to Submeter Electricity at 250 West Street, New York, New York 10013, Located in the Territory of Consolidated Edison Company of New York, Inc.

Name:	<u>James M. Cunningham</u>
Title:	<u>Attorney</u>
Company/Organization Name, If applicable:	<u>Harris Beach PLLC</u>
Representing Company/Organization/District, if applicable:	<u>250 West Street Condominium</u>
Representing Self:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Mailing Address:	<u>677 Broadway, Suite 1101</u> <u>Albany, NY 12207</u>
Telephone Number:	<u>518-701-2720</u>
E-mail Address:	<u>jcunningham@harrisbeach.com</u>
Does your company have a regulatory mailbox for use to receive documents issued by the Secretary?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, please specify the e-mail to be used:	_____

**SERVICE OF DOCUMENTS:**

- By providing your e-mail address, you are consenting to receive documents by e-mail only and you will be sent the issued document(s) immediately by e-mail and you will not receive paper copies. Please e-mail this form to [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)
- See below for provisions for those who cannot accept e-mail service

I do not have the ability to receive or send document(s) electronically and, therefore, wish that the DPS mail Commission-issued documents to me.	<input checked="" type="checkbox"/> No
Signature: <u>/s/ James M. Cunningham</u>	Date: <u>05/22/2015</u>

- If you are requesting mail service only, please mail this form to the Secretary, NYS Public Service Commission, Three Empire State Plaza, Albany, NY 12223-1350.

# **EXHIBIT 1**

**EXHIBIT 9**  
**DECLARATION OF CONDOMINIUM**



DECLARATION

Establishing a Plan for Condominium Ownership  
of the Premises known as 250 West Street  
New York, New York  
Pursuant to Article 9-B of the Real Property  
Law of the State of New York

Name

250 WEST STREET CONDOMINIUM

Sponsor

EL-AD 250 WEST LLC

Date of Declaration

\_\_\_\_\_, 201\_\_

Block 217

Lot 1

Borough of Manhattan

When Recorded, Return to:

Kramer Levin Naftalis & Frankel LLP  
Attorneys for Sponsor  
1177 Avenue of the Americas  
New York, New York 10036  
Attention: Jonathan H. Canter, Esq.



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**DECLARATION  
OF  
250 WEST STREET CONDOMINIUM**

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

EL-AD 250 WEST LLC, a Delaware limited liability company duly authorized to do business in the State of New York having an office at c/o El Ad US Holding, Inc., 575 Madison Avenue, 22<sup>nd</sup> Floor, New York, New York 10022 ("Sponsor" or "Fee Owner" or "Declarant"), does hereby declare as follows:

**ARTICLE 1**

**SUBMISSION OF THE PROPERTY; BY-LAWS**

1.1 Submission of Property. Sponsor hereby submits the Land and Building (each as hereinafter defined), all other improvements erected and to be erected thereon, all easements, rights and appurtenances belonging thereto and all other property, real, personal or mixed, intended for use in connection therewith (collectively, the "Property"), to the provisions of Article 9-B of the Real Property Law of the State of New York (as the same may be amended from time to time, the "New York Condominium Act") and pursuant thereto does hereby establish a condominium to be known (subject to the provisions of this Declaration) as "250 WEST STREET CONDOMINIUM" (the "Condominium").

1.2 Development Rights. Excluded from the Property is that portion of the unused floor area development rights that are now owned, subsequently acquired or that may become available under the Zoning Resolution of the City of New York (the "Development Rights") which shall be initially retained by Declarant, which Development Rights may be utilized by Declarant or any party acquiring the same from Declarant (the "Development Rights Purchaser") and merged into a zoning lot pursuant to the terms of a zoning lot development agreement or similar agreement or instrument (a "ZLDA").

1.3 By-Laws. Annexed to this Declaration as Schedule C and made a part hereof are the by-laws of 250 WEST STREET CONDOMINIUM which set forth detailed provisions governing the operation, use and occupancy of the Condominium (said by-laws, as they may be amended from time to time in accordance with the provisions hereof and thereof governing amendments, are hereinafter referred to as the "By-Laws"). All capitalized terms which are not separately defined herein shall have the meanings given to such terms in the By-Laws.

## ARTICLE 2

### THE LAND

Included in the Property described in Article 1 is all that certain tract, plot, piece and parcel of land described in Schedule A annexed hereto and made a part hereof (the "Land"), situate, lying and being in the City, County and State of New York. The Land is owned, as of the date hereof, by Sponsor in fee simple absolute and has an area of approximately 26,566 square feet.

## ARTICLE 3

### THE PROPERTY

3.1 Included in the Property described in Article 1 is a building (the "Building") containing, in addition to lobbies, hallways, corridors and other service, utility and mechanical areas: (i) 111 residential apartments (collectively, the "Units" and individually, a "Unit"), located on the Cellar Level through PH Level of the Building; and (ii) fifty-five (55) storage areas (collectively, the "Storage Areas" and individually, a "Storage Area")\*, comprised of five (5) storage bins ("Storage Bins") located in the Cellar Level, and forty-one (41) storage rooms ("Storage Rooms") located throughout the Building as follows: Floor 2 – two (2); Floor 3 – five (5); Floor 4 – five (5); Floor 5 – five (5); Floor 6 – five (5); Floor 7 – five (5); Floor 8 – five (5); Floor 9 – five (5); Floor 10 – two (2); and Floor 11 – two (2).

3.1.1 The owner of a Unit is herein called a "Unit Owner" and the owners of all Units are herein collectively called the "Unit Owners".

3.1.2 The licensee of a Storage Area is herein called a "Storage Area Licensee" and the owners of all Storage Areas are herein collectively called the "Storage Area Licensees".

3.2 The street address of the Property is 250 West Street, New York, New York 10013.

## ARTICLE 4

### THE BUILDING

The Building is constructed of a combination of concrete-encased, fireproofed steel beams, and concrete-encased cast iron columns on poured in place concrete footings. There is a one (1) story penthouse on top of the west side of the existing roof. This structure utilizes structural steel columns and beams, metal deck and concrete. The existing exterior walls are solid brick construction. The lower three (3) floors of the street facades have a stucco veneer or

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\* As shown on the Floor Plans to be filed with the City Register's Office upon the recording of this Declaration, the floors of the Building are designated as follows: Cellar (below grade); Floor 1 through 11, and PH Level (above grade). The lobby is on Floor 1.

painted coating. At various locations, terracotta is used as a decorative trim. The new facades at the PH Level are a window wall system, the solid portions of which are constructed of insulated metal panels. The new facades surrounding the east and west sides of the courtyard are constructed of a new brick cavity wall. The existing newly exposed façade on the south side of the courtyard has new solid masonry wall and faux windows.

## ARTICLE 5

### THE UNITS

5.1 The location of each Unit is shown on and is governed by the floor plans of the Building certified by Goldstein Hill & West Architects, LLP, intended to be filed in the New York County office of the Register of the City of New York (the "City Register's Office") simultaneously with the recording of this Declaration (as the same may be amended from time to time, the "Floor Plans"). Schedule B annexed hereto and made a part hereof sets forth the following supplementary data with respect to each Unit necessary for the further proper identification thereof: Unit designation; tax lot number; direction in which each Unit faces; approximate square foot area; number of rooms in the residential areas; the portions of the Common Elements (as hereinafter defined) to which the Unit has immediate access; and the proportionate undivided interest in fee simple absolute (expressed as a percentage) in the Common Elements (the "Common Interest") appurtenant to such Unit.

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

## ARTICLE 6

### DIMENSIONS OF UNITS

The approximate square foot area of each Unit has been measured horizontally on each of one or more floors from the exterior side of the exterior walls, at the Building line and/or Property line or at the exterior face of aluminum frames and aluminum panel to the midpoint of the interior walls and partitions separating one Unit from another Unit, or the midpoint of the interior walls and partitions separating a Unit from public corridors, stairs, elevators and other mechanical equipment spaces or any Common Elements, except for the PH Unit, for which the

approximate square foot area includes: (i) the private entrance to the PH Unit located on Floor 1 and entered from Hubert Street; (ii) the private parking area for the PH Unit located on Floor 1, with vehicular access from Hubert Street, and pedestrian access from both Floor 1 of the PH Unit, and the main lobby located on Floor 1 of the Building; and (iii) the private passenger elevator for the PH Unit (PE7), including the shaft, elevator equipment, elevator pit, entrances, appurtenant facilities, and the square footage dedicated to PE7 on Floor 1 and the PH Level (the shaft in the intervening floors is a Limited Common Element of such Unit). Columns and mechanical pipes and shafts (whether along the perimeter or within the Unit) were not deducted from the square foot area of the Units. Outdoor floor area of a Terrace appurtenant to a Unit was not included in the Unit's indoor floor area. Measured vertically, each Unit will consist of the volume from the top of the floor slab below (located under the finished flooring and sub-floor materials) to the underside of the floor slab above. Any Common Elements located within or appurtenant to any Unit shall not be considered as part of that Unit.

## ARTICLE 7

### COMMON ELEMENTS

7.1 The Common Elements of the Condominium (the "Common Elements") consist of the entire Property including the Land and all parts of the Building and improvements thereon other than the Units. The Common Elements include, but are not limited to, those rooms, areas, corridors, spaces and other parts of the Building and all facilities<sup>1</sup> located or contained therein for the common use of the Units and the Unit Owners (except for the Limited Common Elements, as described below) or which are necessary or convenient for the existence, maintenance, operation or safety of the Property. The Common Elements are comprised of the General Common Elements, and the Limited Common Elements, all of which are described in Sections 7.2 and 7.3 of this Article 7, respectively, subject in all events however to any specific designation for any portion of the Property as may be reflected on the Floor Plans (whether or not consistent with the general descriptions contained in this Article).

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<sup>1</sup> As used herein, the words "facility" and "facilities" include, but are not limited to, the following fixtures, apparatus, equipment, personalty, appurtenances, installations, systems and other items (grouped more or less functionally) which are set forth only for the purpose of illustrating the broad scope of those terms: convector, radiator, heater, convertor, heat exchanger, mechanism, device, machinery, induction unit, fan coil unit, motor, pump, control, tank or tank assembly, 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, siamese connection, hose, plumbing fixture, lighting fixture, other fixture, bulb, sign, telephone, meter, meter assembly, scaffolding, piping, line duct, conduit, cable, riser, main, shaft, soffit, pipe, pit, flue, lock or other hardware, rack, screen, strainer, trap, drain, catch basin, leader, filter, incinerator, canopy, closet, cabinet, door, railing, coping, step, furniture, mirror, furnishing, appurtenance, urn, carpeting, tile, marble or other floor covering, drapery, shade or other window covering, wallpaper or other wall covering, tree, shrubbery, flower or other plantings.

7.2 The General Common Elements include those portions of the Building that are designated as "General Common Elements" on the Floor Plans and, to the extent not specifically identified as part of the General Common Elements on the Floor Plans, all other parts of the Property (other than those areas and items specifically identified as part of a Unit and/or the Limited Common Elements) the common use of which is necessary or convenient for the existence, maintenance, operation or safety of the Property. More specifically, the General Common Elements consist of the following (whether or not covered by the preceding sentence):

7.2.1 The Land, together with all easements, rights and privileges appurtenant thereto (except as otherwise expressly provided in this Declaration).

7.2.2 All foundations, foundation walls, exterior walls, roofs (except as otherwise expressly provided in this Declaration), footings, columns, girders, beams, supports, interior load-bearing walls, floor slabs and ceilings.

7.2.3 The boiler and cooling tower and related support structure.

7.2.4 All passages and corridors, mechanical and other utility rooms, all fire staircases, landings and stairs, areas and spaces located in the Building, which are not Limited Common Elements or included in any Unit.

7.2.5 Any ventilation supply system consisting of motors, ductwork, fans and controls return piping, serving or benefiting the Building.

7.2.6 Hot water and condenser water systems.

7.2.7 All mechanical equipment and associated piping and controls serving or benefiting the Units.

7.2.8 All electrical risers, feeders, lines and equipment, including incoming service, main switchgear and distribution panelboards, conduits, wires, meters, transformers and panelboards serving or benefiting the Building, excluding, however, all such items located within a Unit and serving only that Unit.

7.2.9 All plumbing fixtures, equipment for distribution of cold water and equipment for producing and distributing hot and cold water, including pumps, valves, pressure reducers, meters and water heaters, excluding, however, all such items located within a Unit and serving only that Unit (e.g., the heat pumps located in the HVAC closet of certain Units, as indicated on the Floor Plans).

7.2.10 All storm and sanitary sewer equipment and pipes (including vent lines, ejectors, interceptors, filters and valves), excluding, however, all such items located within a Unit and serving only that Unit.

7.2.11 All electric service rooms, gas and water meter rooms, Building storage rooms, workrooms, locker rooms, telephone rooms and other service, mechanical and utility rooms serving or benefiting the Units.

7.2.12 All other facilities of the Building (including shafts, pipes, wires, ducts, vents, flues, cables, conduits and lines) which serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of the Building.

7.2.13 The Storage Areas located throughout the Building.

7.2.14 The lobby, entrances and exit located on Floor 1 and entered from either Hubert Street or Washington Street.

7.2.15 the four (4) passenger elevators (PE4, PE5, PE6 and PE8), the one (1) service elevator (SE2), and the one (1) freight elevator (FE1) in each case including the shafts, elevator equipment, elevator pits and entrances and appurtenant facilities (an additional elevator (PE7) is dedicated to serve the PH Unit, and as such is designated as part of the PH Unit, except for the elevator shaft, portions of which are designated as a Limited Common Element (as more specifically set forth on the Floor Plans)).

7.2.16 Smoke detection alarm system, telephone system and cable television system.

7.2.17 Bicycle Room, Amenity Space (including the Fitness Center and lap pool), Amenity Terrace, Upper Amenity Terrace, Children's Playroom, and lounge.

7.2.18 All security monitors and equipment and other security facilities serving or benefiting only the Units.

7.2.19 The laundry room located on Floor 2.

7.2.20 All passages, corridors, storage rooms, mechanical and other rooms, areas and spaces (including their respective floors, ceilings and enclosing walls) located in the Building which exclusively serve or benefit the Units and are not part of any Unit.

7.2.21 All other parts of the Property either existing for the common use of the Units, or their respective Unit Owners or that are necessary or convenient for the existence, maintenance, operation or safety of the Property.

7.2.22 Whether or not specifically identified as part of the General Common Elements (or identified at all) on the Floor Plans, all other parts of the Property and all Equipment existing in the Building or on the Property (other than those areas and items specifically identified on the Floor Plans as part of a Unit and/or Limited Common Elements) the common use of and/or benefit from which is necessary or convenient for the existence, maintenance, operation or safety of the Property.

7.3 The Limited Common Elements consist of those portions of the Property designated on the Floor Plans as Limited Common Elements; and also those Common Elements which serve or benefit exclusively a particular Unit or the Unit Owner whether or not designated as Limited Common Elements (or designated at all) on the Floor Plans (but excluding any items therein or in the Building which are not part of the Property, including, without limitation, any

equipment, wiring and devices owned by telecom providers). The Limited Common Elements include, without limitation, the following:

7.3.1 The Terrace either appurtenant or designated to any particular Unit (although the benefitted Unit Owner shall have the responsibilities with respect thereto as are set forth in the By-Laws).

7.3.2 The elevator shaft of the private passenger elevator for the PH Unit (PE7).

## ARTICLE 8

### USE OF UNITS AND COMMON AREA

#### 8.1 Use of the Units.

8.1.1 General. As more particularly set forth and described in the By-Laws, except as otherwise herein and in the By-Law expressly provided, Units may be used only for residential purposes and, subject to compliance with the By-Laws, for a lawful home occupation, as defined in the Zoning Resolution. Units may be owned or leased by an individual, corporation, partnership limited liability company, fiduciary or any other entity (including, but not limited to, embassies and consulates of foreign governments). Units may only be occupied by (i) any individual who is a Unit Owner or permitted lessee; (ii) any officer, director, shareholder or employee of any corporation which is a Unit Owner or permitted lessee; (iii) any partner or employee of any partnership, which is a Unit Owner or permitted lessee; (iv) any member or employee of any limited liability company, which is a Unit Owner or permitted lessee; (v) the fiduciary or beneficiary or employee of any fiduciary which is a Unit Owner or permitted lessee; (vi) any principal or employee of any other entity (including, but not limited to, embassies and consulates of foreign governments) which is a Unit Owner or permitted lessee; provided that in each instance in clauses (i) through (vi) above: (A) the individual, designated officer, director, shareholder, partner, member, fiduciary, beneficiary, principal or employee is designated as the primary occupant of the Unit and is not being designated to use the Unit on a transient basis or as other than the primary occupant; and (B) such use is not, in fact or in effect, part of or in furtherance of an Occupancy Plan; and (vii) family members, domestic partners, domestic employees and/or non-paying guests of any of the foregoing. Subject to the foregoing, Units may only be leased in accordance with the By-Laws and the Rules and Regulations. An "Occupancy Plan" means a program, plan, agreement or other arrangement for the use, occupancy, marketing, advertising or promotion of one or more Units under short-term, timeshare, fractional or shared ownership, interval exchange (whether the program is based on direct exchange of occupancy rights, cash payments, reward programs or other point or accrual systems) or other membership plans or arrangements through which a participant in the plan or arrangement acquires a direct or indirect ownership interest in the Unit(s) in question with attendant rights of periodic use and occupancy or acquires contract rights to such periodic use and occupancy of such Unit(s) or a portfolio of accommodations including such Unit(s).

8.1.2 Unsold Units. Notwithstanding the foregoing or anything contained herein, in the By-Laws or any Rules and Regulations to the contrary, Sponsor (and

their its designee) may, without the permission of the Board or any other Person use or grant permission for the use of any Unsold Unit for any lawful purpose, including, but not limited to, the use of any Unsold Units as models and sales and/or promotion offices in connection with the sale or rental of the Units or for any other purpose, subject only to compliance with applicable Laws. As used in the Condominium Documents, "Unsold Unit" refers to any Unit owned or retained, by way of lease or any other arrangement by which management and/or financial responsibility is retained, by Sponsor or any of their respective designees as the holder of one or more Unsold Unit(s); any Unit that is acquired, individually or collectively, by a principal of Sponsor or a group of which Sponsor or one or more of its principals is a member; or a Unit that is acquired, individually or collectively, by either the holder of a Permitted Mortgage given by Sponsor or the designee of a holder of such a Permitted Mortgage.

8.2 Notwithstanding the foregoing or anything contained herein, in the By-Laws or the Rules and Regulations to the contrary, Sponsor or its designee may, without the permission of the Board use or grant permission for the use of any Unsold Unit (as hereinafter defined) for any purpose, including, but not limited to, the use of any Unsold Units as models and sales and/or promotion offices in connection with the sale or rental of the Units or for any other purpose, subject only to compliance with applicable governmental laws and regulations as to any such use.

8.3 The Storage Areas may be used only by occupants of the Units and only for storage of the personal effects of the owners or tenants thereof, provided that no article or material that shall pose a threat to the health or safety of the Unit Owners or other occupants of the Building, or that shall cause the dissemination of noxious odors, dirt or other sanitary problems or otherwise create a nuisance, shall be permitted to be brought into or stored in any Storage Area. The use of thereof shall be further subject to the provisions of the By-Laws.

8.4 (a) Except as otherwise provided in the By-Laws: (i) the Common Elements may be used only for the furnishing of the services and facilities and for the other uses for which they are reasonably suited; and (ii) Terraces may be used only for purposes commensurate with the uses permitted of the Units to which they are appurtenant.

(b) Subject to any easements (exclusive or otherwise) and/or rights of access provided in this Declaration with respect to the Common Elements, neither the Board nor any Unit Owner shall impede the exercise of or encroach upon the rights of the other Unit Owners or anyone claiming, by, through or under them, including, but not limited to, the occupants of the Units and their respective invitees, to use the same.

(c) No nuisance shall be allowed in the Property nor shall any use or practice be allowed in the Property which interferes with the peaceful possession or proper use thereof by the Unit Owners or the occupants of their respective Units. No improper, offensive or unlawful use shall be made of the Property or any portion thereof. All Legal Requirements relating to any portion of the Property shall be complied with at the sole expense of whichever of the Unit Owners or the Board shall have the obligation pursuant to the By-Laws or this Declaration to maintain or repair such portion of the Property.

## ARTICLE 9

## CHANGES IN UNSOLD UNITS

9.1 Unsold Units. Notwithstanding anything to the contrary in Article 6 of the By-Laws, except to the extent prohibited by, or to the extent that the same will cause the Property or any portion thereof not to comply with, any applicable Laws, Sponsor and any other owner of an Unsold Unit shall have the right, at any time and from time to time, without the vote or consent of the Board, any Unit Owner or other Person, to: (a) make alterations, additions, improvements, replacements and/or repairs whether structural or non-structural, interior or exterior, ordinary or extraordinary, in, to and upon its Unsold Unit(s); (b) change the use (subject to compliance with all Laws, including, without limitation, the certificate of occupancy for such Unit) or layout of, or number of rooms in, any Unsold Unit(s) from time to time; (c) change the size and/or number of Unsold Unit(s) by subdividing one or more Unsold Units into two or more separate Units, combining separate Unsold Units (including those resulting from such subdivision or otherwise) into one or more Units, converting an Unsold Unit or any portion thereof to a Common Element, altering the boundary walls between any Unsold Units, or otherwise, including incorporating the use of any portion of the Limited Common Elements adjacent or appurtenant thereto (but only to the extent that such Limited Common Elements are not required to be maintained as Limited Common Elements based upon such alterations); (d) whether in respect of subdivisions or combinations of the Unsold Units or otherwise, designate all or any part of an Unsold Unit or a Common Element as part of a newly created or expanded Unsold Unit or Common Element; and (e) if appropriate, reapportion among the Units affected by such change in size, use or number pursuant to the preceding clauses (b), (c) and (d) their percentage interests in the Common Elements; provided, however, that: (i) such changes are in compliance with Section 339 of the New York Condominium Act; (ii) the Common Interest of any other Units (other than the Unsold Units (or other Units) owned by such person) shall not be changed by reason thereof unless the owners of such other Units shall consent thereto; and (iii) Sponsor or such other owner of an Unsold Unit, as the case may be, shall comply with all Laws of all governmental authorities having jurisdiction and shall agree to defend and hold the Board and all other Unit Owners harmless from any liability arising therefrom. Sponsor or such other owner of an Unsold Unit, as the case may be, shall have the right, without the consent of the Board, any Unit Owner or other Person to amend (and/or cause the Board to amend) the Declaration, the By-Laws and the Floor Plans and any other documentation to reflect the foregoing changes.

9.2 Units Generally. Subject to this Declaration (including, without limitation, Section 9.4 below) and the By-Laws, the Unit Owner(s) of one or more Units (other than Unsold Units), with the express written consent of the Board, which consent may be granted or withheld for any reason in such Board's sole discretion, any other Unit Owner may be given, with respect to its Unit(s), the same rights and be subject to the same limitations and conditions as are set forth in this Article with respect to Unsold Units, including, without limitation, the right to change, combine, subdivide and/or otherwise reconfigure two (2) or more adjacent Units owned by such Unit Owner.

9.3 Consents. Subject to the immediately succeeding sentence, the provisions of Sections 9.1, 9.3 and 9.4 of this Declaration may not be added to, amended, modified or

deleted without the prior written consent of Sponsor any other owner of an Unsold Unit. Wherever the consent, approval or satisfaction of Sponsor (as the owner of any Unsold Unit(s)) or the owner of any Unsold Unit(s) is required under this Declaration or the By-Laws, such consent, approval or satisfaction of such party shall not be required when such party no longer owns any Unsold Units.

9.4 Certification Regarding Common Interest Reallocation. Notwithstanding the other provisions of this Article 9, no reapportionment of the interests in the Common Elements appurtenant to any Unit shall be made unless there is first delivered to the Board a written certification stating, in each case with respect to the Unit(s) in question that the percentage interests of the affected Unit(s) in the Common Elements, immediately after such reapportionment, are consistent with the terms of this Declaration and in compliance with the terms of Section 339-i(1) of the Condominium Act. The certification referred to herein shall be delivered: (a) in the case of any Unsold Unit(s), at the election of Sponsor, by Sponsor, the managing agent of the Condominium or any other Person reasonably acceptable to the Board; and (b) in the case of any other Unit(s) by the managing agent of the Condominium or any other person reasonably acceptable to the Board.

## ARTICLE 10

### PERSON TO RECEIVE SERVICE

The Secretary of State of the State of New York (the "Secretary of State") is hereby designated to receive service of process in any action which may be brought against the Condominium or the Board. The Condominium and the Board shall each notify the Secretary of State of the address to which a copy of any process received should be mailed.

## ARTICLE 11

### DETERMINATION OF PERCENTAGE INTERESTS IN COMMON ELEMENTS

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

## ARTICLE 12

### ENCROACHMENTS

If (a) any portion of the Common Elements encroaches upon any Unit or upon any other Common Element, (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements, or (c) any encroachment shall hereafter occur as a result of (i) settling or

shifting of the Building, (ii) any alteration, repair or restoration made to the Common Elements in accordance with the terms of this Declaration and the By-Laws by, or with the consent (when required by the By-Laws), of the Board, or made by Sponsor or its designee, as the case may be, 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, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same as long as the Building shall stand (or during any period in which it is being rebuilt or restored, in accordance with the By-Laws, following any such fire or other casualty, taking or eminent domain proceeding); provided that in the case of any such encroachment described in subparagraph (c) (ii) or (iii) above, such encroachment does not unreasonably interfere with the use of any of the Units for their permitted purposes and/or the use of the Common Elements for their intended purposes.

### ARTICLE 13

#### FACILITIES AND ALL OTHER COMMON ELEMENTS

Except as may otherwise be expressly set forth herein or in the By-Laws, each Unit Owner shall have, and is hereby granted, in common with all other Unit Owners, an easement to use any and all General Common Elements located anywhere on the Property without hindering the exercise of or encroaching upon the rights of the other Unit Owners in respect of such easement, including, but not limited to, such easement as will be necessary to maintain, such Unit Owner's Unit.

Each Unit Owner will have, in common with all other Unit Owners, an easement for the use of the Limited Common Elements and any facilities located therein, including, but not limited to, such easement as will be necessary to operate and maintain as necessary, such Unit Owner's Unit, and the Board, on behalf of all Unit Owners, shall have an easement to maintain, and to make Repairs and Alterations to, the Limited Common Elements.

Each Unit shall be subject to an easement in favor of the Board, on behalf of all Unit Owners, to use, operate, maintain, repair, alter, rebuild, restore and replace all Common Elements located in such Unit or elsewhere on the Property. In addition, Sponsor (or its designee) and the Board shall have the right to erect scaffolding on or upon any of the Terraces for a temporary period of time in connection with maintenance and repairs of the Building and its Common Elements. The Board and any managing agent, manager and other persons authorized by the Board shall have a right of access to each Unit and any Limited Common Element appurtenant to such Unit, whether exclusive or not, (and such is hereby granted) to inspect the same or remove violations of governmental laws or regulations against any part of the Property; to cure defaults by the owner of such Unit under the By-Laws, this Declaration or the Rules of Regulations; to perform maintenance, installations, alterations, repairs or replacements to the mechanical, plumbing or electrical systems or other portions of the Common Elements (including, without limitation, all Limited Common Elements) contained therein or elsewhere in the Property; or correcting any conditions originating in any Unit and threatening another Unit or any Common Element; provided such right of access shall be exercised in such a manner as will not unreasonably interfere with the Units for their permitted purposes. Such entry shall be

permitted on not less than one day's notice, except that no notice will be necessary in the case of any "emergency" (i.e., a condition requiring repair or replacement immediately necessary for the preservation or safety of the Building or for the safety of occupants of the Building, or other persons, or required to avoid the suspension of any necessary service in the Building).

## ARTICLE 14

### EASEMENTS

14.1 Each Unit Owner shall have, in common with all other Unit Owners, and each Unit shall be subject to, an easement: (a) to install, operate, maintain, repair, alter, rebuild, restore and replace the Common Elements located in, over, under, through or upon any Unit, or any other Common Elements or elsewhere on the Property; and (b) to maintain any encroachment on any Unit or the Common Elements resulting from the repair, alteration, rebuilding, restoration or replacement of the Units or the Common Elements; provided that access to any Unit or the Common Elements in furtherance of such easement shall be exercised in such a manner as will not unreasonably interfere with the use of the Units for their permitted purposes. Such entry shall be permitted on not less than one day's notice, except that no notice will be necessary in the case of an emergency.

14.2 Each Unit Owner of a Unit with a Terrace shall have an easement for the exclusive use of such Terrace, which use shall be subject to the terms and conditions of this Declaration and the By-Laws. Each Terrace (and the Unit to which such Terrace is appurtenant or designated) shall be subject to the easement(s) in favor of Sponsor and the Board as set forth herein.

14.3 Each Unit Owner shall have, to the extent reasonably necessary, in common with all other Unit Owners, an easement for ingress and egress to and from its Unit, and, to the extent reasonably necessary, for the use of any Common Element (excluding all Limited Common Elements). The Units shall each be subject to such easement.

14.4 Each Unit Owner shall have, in common with all other Unit Owners, and each Unit shall be subject to, an easement: (a) to install, operate, maintain, repair, alter, rebuild, restore and replace the Common Elements located in, over, under, through or upon any Unit, or any other Common Elements or elsewhere on the Property; and (b) to maintain any encroachment on any Unit, the General Common Elements or any Limited Common Elements resulting from the repair, alteration, rebuilding, restoration or replacement of the Units or the Common Elements; provided that access to any Unit or the Common Elements in furtherance of such easement shall be exercised in such a manner as will not unreasonably interfere with the use of the Units or Storage Areas for their permitted purposes. Such entry shall be permitted on not less than one day's notice, except that no notice will be necessary in the case of an emergency.

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

14.6 Each Unit Owner (except as otherwise set forth below) grants an easement over its Unit and the Common Elements (including, without limitation, its appurtenant Limited Common Elements), and the Board grants an easement over and through the General Common Elements: (a) in the case of the Unit Owners, to the Board for the purpose of (and to the extent reasonably necessary for) maintaining, Repairing, Altering, preventing or minimizing damage to and causing to be in compliance with Laws and Insurance Requirements such granting Unit Owner's Unit, the Limited Common Elements, if any, appurtenant to its Unit; (b) in the case of the Board and the Unit Owners, to each Unit Owner, in common with each other Unit Owner, for the purpose of (but only in the absence of a commercially practicable alternative and only to the extent necessary for) maintaining, Repairing, Altering, preventing or minimizing damage to and causing to be in compliance with Laws and Insurance Requirements any portions of the grantee Unit Owner's Unit and its appurtenant Limited Common Elements; (c) to each Unit Owner, and to each Board, in common with each other, for the purpose of (but only in the absence of a commercially practicable alternative and only to the extent necessary for) installing, allowing to remain (and using for their respective intended purposes), maintaining, Repairing, Altering, preventing or minimizing damage to and causing to be in compliance with Laws and Insurance Requirements any Common Elements or other facilities located in or only readily accessible through such granting Unit Owner's Unit or Limited Common Elements, if any, which serve other Units (including, without limitation, reading, maintaining or replacing utility meters relating to the Common Elements, such Unit or any other Unit in the Building); (d) to the Board (only to the extent permitted under the other provisions of the Condominium Documents) for the purpose of (and to the extent reasonably necessary for) preventing or minimizing damage to such Unit or to any other portion of the Property; (e) to the Board for the purpose of (and only to the extent reasonably necessary for) making inspections of, or removing violations noted or issued by any governmental authority against, the Common Elements or any other part of the Property; and/or (f) to the Board for the purpose of (and only to the extent reasonably necessary for) curing defaults hereunder or under the By-Laws, or correcting any conditions originating in such Unit Owner's Unit or Limited Common Elements and threatening the health, safety and welfare of the occupants of, or the property located within, another Unit or all or any part of the Common Elements).

14.7 Sponsor (or its designee) and its successors and assigns, shall, to the extent permitted by law, have an easement to erect, maintain, repair and replace, from time to time, one or more signs, canopies, flags or awnings or other protrusions on the Property, including without limitation, on the exterior of the walls of the Building, for the purposes of advertising the sale or lease of any Unsold Unit, and/or the operation of any business of a tenant or occupant of all or any portion of any Unsold Units, as the case may be.

14.8 Each easement and other right granted under this Article 14 shall be deemed to permit the benefited party's/ies' contractors, subcontractors, agents, representatives, Occupants, employees and other designees (and, in the case of a grant to the Board, the Managing Agent), to use such easement or other right, as applicable, if such Unit Owner so elects.

14.9 Any grant of an easement "on", "over", "across" or "through" a given area shall be deemed to mean "on, over, across, through, and upon" such area, unless the context otherwise requires.

14.10 Sponsor and/or its designee (and their respective successors and assigns) shall have an easement for so long as the Condominium shall remain in existence: (i) to erect, use, lease, license, maintain, repair, replace and operate a platform and other facilities for the purpose of erecting, using, leasing, licensing, maintaining, repairing, replacing and operating antennae, satellite dishes and other communications equipment on any part of the roof of the Building that is not occupied as of the date hereof for any other Building installations; and (ii) to erect, use, lease, maintain, repair, replace and operate related electronic and other communications equipment in any portion of any mechanical equipment room that is not occupied as of the date hereof by any other Building installations, and the right to erect partitions separating such portion from the balance of such equipment room; in each case, without the consent of, or charge by, the Board or any other Unit Owners; provided, however, that Sponsor (or its designee) shall give prior notice to the Board of the type and location of any such equipment before installation. Any obligations of Sponsor and/or its designee under any lease, license or other right of use granted by Sponsor and/or its designee with respect to the roof or the aforesaid mechanical equipment room shall be the obligation solely of the owner of Sponsor and/or its designee and not of the Condominium and any rights of Sponsor and/or its designee, including, without limitation, the right to receive rent or other consideration for such lease, license or other right of use, shall be the right solely of Sponsor and/or its designee and not of the Condominium. In connection with such easements and related rights, Sponsor and/or its designee (and their respective successors and assigns) and the respective tenants and licensees shall each have, to the extent necessary or advisable for such erection, use, lease, maintenance, repair, replacement and operation, an easement in common with all Unit Owners for ingress, egress and the use of any Common Elements. The Units shall each be subject to such easement. The word "utility" or "utilities" as used in this Section 14.10 shall be deemed to include fiber optic cable and other communications liens, wires, cables and conduits.

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

14.12 Except as may otherwise be set forth in this Declaration, any easement created or granted hereunder shall be perpetual and irrevocable for so long as the Condominium shall remain in existence.

## **ARTICLE 15**

### **POWER OF ATTORNEY TO THE BOARD**

15.1 Each Unit Owner shall grant to the persons who shall from time to time constitute the Board, an irrevocable power of attorney, coupled with an interest (in such form and content as the Board shall determine): (a) to acquire or lease on behalf of all Unit Owners any Unit, together with its Appurtenant Interests (as hereinafter defined), from any Unit Owner desiring to sell, convey, transfer, assign or lease the same, upon such terms and conditions as shall be approved by the Board in its reasonable discretion; (b) to acquire on behalf of all Unit Owners any Unit, together with its Appurtenant Interests, whose Owner elects to surrender the same to the Condominium Board; (c) to acquire any Unit, together with its Appurtenant Interests,

which becomes the subject of a foreclosure or other similar sale, on such terms and at such price or rental as the case may be, as the attorneys-in-fact deem proper, in the name of the Board or its designee, corporate or otherwise, on behalf of all Unit Owners, and after any such acquisition or leasing, to convey, sell, lease, sublease, mortgage or otherwise deal with (but not vote the interest appurtenant thereto) any such Unit so acquired by them, or to sublease any Unit so leased by them without the necessity of further authorization by the Unit Owners, on such terms as the attorneys-in-fact may determine; and (d) to execute, acknowledge and deliver (i) any declaration or other instrument affecting the Condominium which the 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 Condominium, or (ii) any consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting the Condominium or the Common Elements which the Board, in its reasonable discretion, deems necessary or appropriate.

15.2 Each Unit Owner shall grant to Declarant a power of attorney to amend this Declaration and to effectuate the rights granted to Declarant under this Declaration and the By-Laws and the Offering Plan and to consent on behalf of each Unit Owner, as a party in interest, to any declaration or other agreement effecting a merger or division of the zoning lot in which the Property is located, with any other tax lots to form a single zoning lot (the "Merger") for the purpose of transferring to or from Declarant, or its successors or assigns, all or any portion of the Development Rights.

## ARTICLE 16

### ACQUISITIONS OF UNITS BY THE BOARD

16.1 If (a) any Unit Owner surrenders his or her Unit, together with (i) the undivided interest in the Common Elements appurtenant thereto, (ii) the interest of such Unit Owner in any other Units theretofore acquired by the Board or its designee, corporate or otherwise, on behalf of all Unit Owners, or the proceeds of the sale or lease thereof, if any, and (iii) the interest of such Unit Owner in the Common Elements and any other assets of the Condominium (such interests in (i), (ii) and (iii) being hereinafter collectively called the "Appurtenant Interests"), pursuant to the provisions of Section 339-x of the New York Condominium Act; (b) the Board, pursuant to Article 8 of the By-Laws, acquires or leases a Unit, together with its Appurtenant Interests; or (c) the Board purchases, at a foreclosure or other similar sale, a Unit, together with its Appurtenant Interests, then, in any such event, title to any such Unit, together with its Appurtenant Interests, shall be held by the Board or its designee, on behalf of all Unit Owners, in proportion to their respective interests in the Common Elements. The lease or sublease covering any Unit leased or subleased by the Board or its designee shall be held by the Board or its designee, corporate or otherwise, on behalf of all Unit Owners, in proportion to their respective interests in the Common Elements.

**ARTICLE 17****COVENANTS RUNNING WITH THE LAND**

17.1 All provisions of this Declaration, the By-Laws and the Rules and Regulations (true copies of which are annexed hereto and made a part hereof), including, without limitation, the provisions of this Article 17 and of any Rules and Regulations as may be adopted and amended from time to time, shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Unit Owners of all or any part thereof, or interest therein, and their heirs, executors, administrators, legal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future owners, tenants and occupants of Units shall be subject to and shall comply with the provisions of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time, are accepted and ratified by such owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease 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 New York 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 New York Condominium Act but shall nevertheless be valid and binding upon and inure to the benefit of the owners of the Property and their heirs, executors, administrators, legal representatives, successors and assigns, as covenants running with the Land and with every part thereof and interest therein under other applicable law to the extent permitted under such applicable law with the same force and effect as if, immediately after the recording of this Declaration and the By-Laws, all Unit Owners had signed and recorded an instrument agreeing to each such provision as a covenant running with the Land. If any provision which is necessary to cause this Declaration and the By-Laws to be sufficient to submit the Property to the provisions of the New York 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 New York Condominium Act.

17.3 Subject to the provisions of Section 17.2, if this Declaration and the By-Laws are insufficient to submit the Property to the provisions of the New York Condominium Act, the provisions of this Declaration and the By-Laws shall nevertheless be valid and binding upon and inure to the benefit of the owners of the Property, and their heirs, executors, administrators, legal representatives, successors and assigns, as covenants running with the Land and with every part thereof and interest therein under 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.

## **ARTICLE 18**

### **AMENDMENTS OF DECLARATION**

Article 13 of the By-Laws is incorporated herein in its entirety; and, except as otherwise expressly set forth herein, the provisions thereof shall govern the amendment and/or modification of, addition to and/or deletion of any of the provisions of this Declaration.

## **ARTICLE 19**

### **TERMINATION OF CONDOMINIUM**

19.1 The Condominium shall continue and the Property shall not be subject to an action for partition (unless the Condominium shall be terminated by casualty loss, condemnation or eminent domain as provided in the By-Laws) until such time, if any, as the Property shall be withdrawn from the provisions of the New York Condominium Act as a result of the vote to do so of at least eighty percent (80%) in both number and aggregate Common Interests of all Unit Owners as set forth in the Declaration and the By-Laws. Sponsor will not vote its interests appurtenant to Unsold Units in favor of such withdrawal unless at least eighty percent (80%) in number and aggregate Common Interests of all other Unit Owners elect to withdraw, at which time Sponsor may choose to vote its Common Interests either in favor of or against withdrawal from condominium ownership, as it sees fit.

19.2 In the event of withdrawal of the Property from condominium ownership, and only to the extent the waiver of the right of partition shall be inapplicable or unenforceable, the Property shall be subject to an action for partition by any Unit Owner or any lienor as if the Property were owned in common, in which event the net proceeds of the sale shall be divided among all Unit Owners in proportion to their respective Common Interests, after first applying the share of the net proceeds of such sale otherwise payable to any Unit Owner to the payment of any liens on his or her Unit, in the order of priority of such liens.

## **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 nor 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.

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 Sections 17.2 and 17.3, if any provision of this Declaration is invalid or unenforceable as against any person or under certain circumstances, the remainder of this Declaration and the applicability of such provision to other persons or circumstances shall not be affected thereby. Each provision of this Declaration shall, except as otherwise herein provided, be valid and enforceable to the fullest extent permitted by law.

**ARTICLE 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, an occupant of a Unit, a member or officer of the Board, or otherwise, shall, at the expense of any such other party (or the holder of a lien on its Unit) requesting the same, execute, acknowledge and deliver to such other party (or the holder of a lien on its Unit) such instruments, in addition to those specifically provided for herein, and take such other action, as such other party (or the holder of a lien on its Unit) may reasonably request to effectuate the provisions of this Declaration or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction. Without intending to limit the generality of the foregoing, the Board and each Unit Owner shall be required, upon the request of Declarant or the Development Rights Purchaser, to execute and deliver any documents or applications reasonably required in

connection with any Merger, any declaration of zoning lot restrictions, any ZLDA or the transfer of the Development Rights to the Development Rights Purchaser.

24.2 If any Unit Owner, the Board or any other party which is subject to the terms of this Declaration fails to execute, acknowledge or deliver any instrument, or fails or refuses, within ten (10) days after receipt of a written request therefor, to take any action which such Unit Owner or party is required to take pursuant to his Declaration and such failure continues for an additional ten (10) day period following receipt of a second written request therefor (together with written advice that the requesting party shall be entitled to take action upon the recipient's failure or refusal to perform) then the 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 If any Unit Owner, the Board or any other party which is subject to the terms of this Declaration fails to execute, acknowledge or deliver any instrument, or fails or refuses, within ten (10) days after receipt of a written request therefor, to take any action which the Board, Unit Owner or party is required to execute, acknowledge and deliver or to take pursuant to this Declaration at the request of Sponsor, then Sponsor is hereby authorized as attorney-in-fact for such Unit Owner, Board 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, Board or other party and such document or action shall be binding on such Unit Owner, Board or other party, as the case may be.

## ARTICLE 25

### NAME OF CONDOMINIUM AND BUILDING

The Condominium and the Building shall be designated and known as "250 West Street Condominium." Sponsor (or its designee) shall own and control all rights and interests, and shall be responsible for all obligations and liabilities, appurtenant to the name of the Condominium and/or the Building. Only Sponsor (or its designee) shall have the right to change or assign the name of the Condominium and/or the Building. In addition, Sponsor shall have the right, for so long as the Property is a condominium, to maintain a plaque identifying Sponsor (or its affiliate(s)) as the sponsor of the Condominium and/or development of the Property, together with such other information as Sponsor (or its designee) determines in its sole discretion.

## ARTICLE 26

### SUCCESSORS AND ASSIGNS

The rights and/or obligations of Sponsor or its designee as set forth herein shall inure to the benefit of and be binding upon any successor or assign of Sponsor or its designee or, with the consent of Sponsor or its designee, any transferee of some or all then Unsold Units. Subject to the foregoing, Sponsor or its designee shall have the right, at any time, in their sole discretion, to assign or otherwise transfer their respective interests herein, whether by merger, consolidation, sale, lease, assignment or otherwise. 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 successors or assigns of such Unit Owners or their designee(s).

IN WITNESS WHEREOF, Sponsor has caused this Declaration to be executed as of the \_\_\_\_ day of \_\_\_\_\_, 2011.

EL-AD 250 WEST LLC

By: \_\_\_\_\_

State of New York    )  
                                  ) ss.:  
County of New York )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2011 before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
(Signature and office of individual taking acknowledgment)

**SCHEDULE A TO DECLARATION ESTABLISHING  
CONDOMINIUM OWNERSHIP OF  
250 WEST STREET CONDOMINIUM**

**DESCRIPTION OF THE LAND**

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

**BEGINNING** at the corner formed by the intersection of the northerly side of Hubert Street and the easterly side of West Street;

**RUNNING THENCE** northerly along the side of West Street, 116 feet 6 1/2 inches to a point distant 62 feet 10 inches southerly from the corner formed by the intersection of the easterly side of West Street and the southerly side of Laight Street, measured along the easterly side of West Street;

**THENCE** easterly in a straight line and through a party wall or party walls, 226 feet 8 1/2 inches to the westerly side of Washington Street;

**THENCE** southerly along the westerly side of Washington Street, 116 feet 4 inches to the corner formed by the intersection of the northerly side of Hubert Street and the westerly side of Washington Street;

**THENCE** westerly along the northerly side of Hubert Street, 229 feet 8 1/4 inches to the easterly side of West Street to the corner, the point or place of **BEGINNING**.

**SCHEDULE B**

**DECLARATION ESTABLISHING CONDOMINIUM OWNERSHIP  
OF 250 WEST STREET, NEW YORK, NEW YORK**

**DESCRIPTION OF UNITS**

[DESCRIPTION OF UNITS AND STORAGE AREAS BEGINS ON THE FOLLOWING PAGE]



**SCHEDULE A**  
**250 West Street**  
**NEW YORK, NY**

OFFERING PRICES AND RELATED INFORMATION  
 PROJECTED COMMON CHARGES AND REAL ESTATE TAXES ARE FOR  
 ANTICIPATED FIRST YEAR OF CONDOMINIUM OPERATION - JULY 1ST, 2012 to JUNE 30, 2013\*

UNIT	NUMBER OF BRS/BATHS (1)	APPROX. UNIT INTERIOR SQUARE FOOTAGE (2)	APPROX. CELLAR/STORAGE SQUARE FOOTAGE (2A)	APPROX. TERRACE SQUARE FOOTAGE (2B)	OFFERING PRICE (3)	PERCENTAGE OF COMMON INTEREST (4)	PROJECTED MONTHLY COMMON CHARGES (5)	PROJECTED MONTHLY REAL ESTATE TAXES (6)	PROJECTED ANNUAL REAL ESTATE TAXES (FIRST YEAR) (6a)	TOTAL PROJECTED MONTHLY CARRYING CHARGES (7)	PROJECTED ANNUAL CARRYING CHARGES (FIRST YEAR) (8)
A	0/1A/D	1379	1097		\$ 1,950,000	0.7617%	\$ 1,136.14	\$ 1,922.80	\$23,073.62	\$ 3,058.94	\$ 36,707.29
B	0/1	1046			\$ 1,645,000	0.4703%	\$ 701.52	\$ 1,187.26	\$14,247.06	\$ 1,888.79	\$ 22,665.33
C	0/1A/D	1249	731		\$ 1,995,000	0.6731%	\$ 1,004.02	\$ 1,699.20	\$20,390.34	\$ 2,703.21	\$ 32,438.53
D	0/1	935			\$ 1,160,000	0.3903%	\$ 582.12	\$ 985.19	\$11,822.24	\$ 1,567.31	\$ 18,807.74
E	2/2/D	1739	1447		\$ 2,695,000	0.9928%	\$ 1,480.99	\$ 2,506.43	\$30,077.19	\$ 3,987.43	\$ 47,849.10
F	0/1	710			\$ 750,000	0.2836%	\$ 423.09	\$ 716.04	\$9,592.49	\$ 1,139.13	\$ 13,668.60
G	3/3/D	2143	527		\$ 2,995,000	1.0053%	\$ 1,499.63	\$ 2,537.97	\$30,455.69	\$ 4,037.60	\$ 48,451.25
H	1/1.5/A	1206			\$ 1,250,000	0.4795%	\$ 715.19	\$ 1,210.39	\$14,524.72	\$ 1,925.59	\$ 23,107.05
J	1/1.5/A	1383			\$ 1,475,000	0.5539%	\$ 826.18	\$ 1,398.22	\$16,778.63	\$ 2,224.39	\$ 26,692.74
3A	2/2.5/A	1973			\$ 2,065,000	0.7863%	\$ 1,172.95	\$ 1,985.09	\$23,821.12	\$ 3,158.04	\$ 37,896.47
4A	2/2.5/A	1973			\$ 2,090,000	0.7888%	\$ 1,178.57	\$ 1,991.22	\$23,894.64	\$ 3,167.79	\$ 38,013.43
5A	2/2.5/A	1973			\$ 2,115,000	0.7912%	\$ 1,180.19	\$ 1,997.35	\$23,968.16	\$ 3,177.53	\$ 38,130.40
6A	2/2.5/A	1973			\$ 2,140,000	0.7936%	\$ 1,183.81	\$ 2,003.47	\$24,041.68	\$ 3,187.28	\$ 38,247.36
7A	2/2.5/A	1893			\$ 2,165,000	0.7723%	\$ 1,151.99	\$ 1,949.63	\$23,395.56	\$ 3,101.62	\$ 37,219.45
8A	2/2.5/A	1890			\$ 2,250,000	0.7796%	\$ 1,162.97	\$ 1,968.21	\$23,618.54	\$ 3,131.18	\$ 37,574.20
9A	2/2.5/A	1873			\$ 2,500,000	0.7989%	\$ 1,191.64	\$ 2,016.74	\$24,200.83	\$ 3,208.38	\$ 38,500.54
10A	2/2.5/A	1873			\$ 2,600,000	0.8086%	\$ 1,206.12	\$ 2,041.24	\$24,494.91	\$ 3,247.37	\$ 38,968.39
11A	4/4.5/A/T	3768		325	\$ 10,000,000	2.1138%	\$ 3,153.05	\$ 5,336.22	\$64,034.68	\$ 8,489.28	\$ 101,871.30
2B	2/2.5/A	2299			\$ 2,995,000	0.9734%	\$ 1,452.01	\$ 2,457.39	\$29,488.66	\$ 3,909.40	\$ 46,912.84
3B	2/2.5/A	2317			\$ 3,100,000	0.9890%	\$ 1,475.19	\$ 2,496.61	\$29,959.37	\$ 3,971.81	\$ 47,661.68
4B	2/2.5/A	2317			\$ 3,150,000	0.9939%	\$ 1,482.43	\$ 2,508.87	\$30,106.41	\$ 3,991.30	\$ 47,895.60
5B	2/2.5/A	2317			\$ 3,200,000	0.9987%	\$ 1,489.67	\$ 2,521.12	\$30,253.46	\$ 4,010.79	\$ 48,129.53
6B	2/2.5/A	2317			\$ 3,250,000	1.0035%	\$ 1,496.91	\$ 2,533.37	\$30,400.50	\$ 4,030.29	\$ 48,363.45
7B	2/2.5/A	2212			\$ 3,300,000	0.9772%	\$ 1,457.54	\$ 2,466.92	\$29,603.01	\$ 3,924.56	\$ 47,094.74
8B	2/2.5/A	2208			\$ 3,750,000	1.0197%	\$ 1,521.04	\$ 2,574.20	\$30,890.40	\$ 4,095.24	\$ 49,142.83
9B	2/2.5/A	2225			\$ 3,825,000	1.0320%	\$ 1,539.43	\$ 2,605.32	\$31,263.89	\$ 4,144.75	\$ 49,737.01
10B	2/2.5/A	2225			\$ 3,900,000	1.0393%	\$ 1,550.29	\$ 2,623.70	\$31,484.46	\$ 4,173.99	\$ 50,087.90
11B	2/3/A	2357			\$ 4,250,000	1.1125%	\$ 1,659.44	\$ 2,808.43	\$33,701.17	\$ 4,467.87	\$ 53,614.41
2C	2/3/A	2322			\$ 2,995,000	0.9802%	\$ 1,462.20	\$ 2,474.63	\$29,695.56	\$ 3,936.83	\$ 47,241.99
3C	2/3/A	2322			\$ 3,100,000	0.9904%	\$ 1,477.41	\$ 2,500.36	\$30,004.35	\$ 3,977.77	\$ 47,733.23
4C	2/3/A	2322			\$ 3,175,000	0.9977%	\$ 1,488.27	\$ 2,518.74	\$30,224.91	\$ 4,007.01	\$ 48,084.12
5C	2/3/A	2322			\$ 3,225,000	1.0026%	\$ 1,495.51	\$ 2,531.00	\$30,371.96	\$ 4,026.50	\$ 48,318.05
6C	2/3/A	2322			\$ 3,275,000	1.0074%	\$ 1,502.75	\$ 2,543.25	\$30,519.00	\$ 4,046.00	\$ 48,551.97
7C	2/3/A	2322			\$ 3,325,000	1.0123%	\$ 1,509.99	\$ 2,555.50	\$30,666.04	\$ 4,065.49	\$ 48,785.90
8C	2/3/A	2322			\$ 3,375,000	1.0171%	\$ 1,517.23	\$ 2,567.76	\$30,813.08	\$ 4,084.99	\$ 49,019.82
9C	2/3/A	2322			\$ 3,425,000	1.0220%	\$ 1,524.47	\$ 2,580.01	\$30,960.12	\$ 4,104.48	\$ 49,253.75
10C	2/3/A	2322			\$ 3,475,000	1.0268%	\$ 1,531.71	\$ 2,592.26	\$31,107.17	\$ 4,123.97	\$ 49,487.68
11C	3/3.5/T	2505		315	\$ 4,950,000	1.2478%	\$ 1,861.24	\$ 3,149.96	\$37,799.51	\$ 5,011.20	\$ 60,134.37

**SCHEDULE A**  
**250 West Street**  
**NEW YORK, NY**

**OFFERING PRICES AND RELATED INFORMATION**  
**PROJECTED COMMON CHARGES AND REAL ESTATE TAXES ARE FOR**  
**ANTICIPATED FIRST YEAR OF CONDOMINIUM OPERATION - JULY 1ST, 2012 to JUNE 30, 2013\***

UNIT	NUMBER OF BRS/BATHS (1)	APPROX. UNIT INTERIOR SQUARE FOOTAGE (2)	APPROX. CELLAR/STORAGE SQUARE FOOTAGE (2A)	APPROX. TERRACE SQUARE FOOTAGE (2B)	OFFERING PRICE (3)	PERCENTAGE OF COMMON INTEREST (4)	PROJECTED MONTHLY COMMON CHARGES (5)	PROJECTED MONTHLY REAL ESTATE TAXES (6)	PROJECTED ANNUAL REAL ESTATE TAXES (FIRST YEAR) (6a)	TOTAL PROJECTED MONTHLY CARRYING CHARGES (7)	PROJECTED ANNUAL CARRYING CHARGES (FIRST YEAR) (8)
2D	3/3.5	2505			\$ 3,750,000	1.1079%	\$ 1,652.59	\$ 2,796.84	\$33,562.09	\$ 4,449.43	\$ 53,395.16
3D	3/3.5	2505			\$ 3,825,000	1.1152%	\$ 1,663.45	\$ 2,815.22	\$33,782.65	\$ 4,478.67	\$ 53,744.05
4D	3/3.5	2505			\$ 3,900,000	1.1224%	\$ 1,674.31	\$ 2,833.60	\$34,003.22	\$ 4,507.91	\$ 54,094.94
5D	3/3.5	2505			\$ 3,975,000	1.1297%	\$ 1,685.17	\$ 2,851.98	\$34,223.78	\$ 4,537.15	\$ 54,445.83
6D	3/3.5	2505			\$ 4,050,000	1.1370%	\$ 1,696.03	\$ 2,870.36	\$34,444.34	\$ 4,566.39	\$ 54,796.71
7D	3/3.5	2505			\$ 4,125,000	1.1443%	\$ 1,706.89	\$ 2,888.74	\$34,664.91	\$ 4,595.63	\$ 55,147.60
8D	3/3.5	2505			\$ 4,200,000	1.1516%	\$ 1,717.75	\$ 2,907.12	\$34,885.47	\$ 4,624.87	\$ 55,498.49
9D	3/3.5	2505			\$ 4,275,000	1.1588%	\$ 1,728.61	\$ 2,925.50	\$35,106.03	\$ 4,654.12	\$ 55,849.38
10D	3/3.5	2505			\$ 4,350,000	1.1661%	\$ 1,739.47	\$ 2,943.88	\$35,326.60	\$ 4,683.36	\$ 56,200.27
11D	2/2.5/A	1888			\$ 2,750,000	0.8276%	\$ 1,234.49	\$ 2,089.26	\$25,070.97	\$ 3,323.74	\$ 39,884.84
2E	2/2.5/A	1888			\$ 2,455,000	0.7990%	\$ 1,191.77	\$ 2,016.95	\$24,203.42	\$ 3,208.72	\$ 38,504.67
3E	2/2.5/A	1888			\$ 2,505,000	0.8038%	\$ 1,199.01	\$ 2,029.21	\$24,350.47	\$ 3,228.22	\$ 38,738.60
4E	2/2.5/A	1888			\$ 2,630,000	0.8062%	\$ 1,202.63	\$ 2,035.33	\$24,423.99	\$ 3,237.96	\$ 38,855.56
5E	2/2.5/A	1888			\$ 2,555,000	0.8087%	\$ 1,206.25	\$ 2,041.46	\$24,497.51	\$ 3,247.71	\$ 38,972.52
6E	2/2.5/A	1888			\$ 2,580,000	0.8111%	\$ 1,208.87	\$ 2,047.59	\$24,571.03	\$ 3,257.46	\$ 39,089.49
7E	2/2.5/A	1888			\$ 2,605,000	0.8135%	\$ 1,213.49	\$ 2,053.71	\$24,644.55	\$ 3,267.20	\$ 39,206.45
8E	2/2.5/A	1888			\$ 2,630,000	0.8159%	\$ 1,217.11	\$ 2,059.84	\$24,718.07	\$ 3,276.95	\$ 39,323.41
9E	2/2.5/A	1888			\$ 2,655,000	0.8184%	\$ 1,220.73	\$ 2,065.97	\$24,791.59	\$ 3,286.70	\$ 39,440.38
10E	2/2.5/A	1888			\$ 2,680,000	0.8208%	\$ 1,224.35	\$ 2,072.09	\$24,865.11	\$ 3,296.44	\$ 39,557.34
11E	2/3/A	1993			\$ 2,880,000	0.8714%	\$ 1,299.82	\$ 2,199.82	\$26,397.82	\$ 3,499.64	\$ 41,995.68
2F	2/3/A	1993			\$ 2,595,000	0.8428%	\$ 1,257.10	\$ 2,127.52	\$25,530.27	\$ 3,384.63	\$ 40,615.52
3F	2/3/A	1993			\$ 2,635,000	0.8476%	\$ 1,264.34	\$ 2,139.78	\$25,677.31	\$ 3,404.12	\$ 40,849.45
4F	2/3/A	1993			\$ 2,660,000	0.8500%	\$ 1,267.96	\$ 2,145.90	\$25,750.83	\$ 3,413.87	\$ 40,986.41
5F	2/3/A	1993			\$ 2,685,000	0.8525%	\$ 1,271.58	\$ 2,152.03	\$25,824.35	\$ 3,423.61	\$ 41,083.37
6F	2/3/A	1993			\$ 2,710,000	0.8549%	\$ 1,275.20	\$ 2,158.16	\$25,897.88	\$ 3,433.36	\$ 41,200.33
7F	2/3/A	1993			\$ 2,735,000	0.8573%	\$ 1,278.83	\$ 2,164.28	\$25,971.40	\$ 3,443.11	\$ 41,317.30
8F	2/3/A	1993			\$ 2,760,000	0.8597%	\$ 1,282.45	\$ 2,170.41	\$26,044.92	\$ 3,452.86	\$ 41,434.26
9F	2/3/A	1993			\$ 2,785,000	0.8622%	\$ 1,286.07	\$ 2,176.54	\$26,118.44	\$ 3,462.60	\$ 41,551.22
10F	2/3/A	1993			\$ 2,810,000	0.8646%	\$ 1,289.69	\$ 2,182.66	\$26,191.96	\$ 3,472.35	\$ 41,668.19
11F	3/3.5	1973			\$ 3,595,000	0.9349%	\$ 1,394.50	\$ 2,360.05	\$28,320.61	\$ 3,754.55	\$ 45,054.61
2G	3/3.5	1973			\$ 2,895,000	0.8669%	\$ 1,293.14	\$ 2,188.50	\$26,262.02	\$ 3,481.64	\$ 41,779.64
3G	3/3.5	1973			\$ 2,970,000	0.8742%	\$ 1,304.00	\$ 2,206.88	\$26,482.58	\$ 3,510.88	\$ 42,130.53
4G	3/3.5	1973			\$ 3,045,000	0.8815%	\$ 1,314.86	\$ 2,225.26	\$26,703.15	\$ 3,540.12	\$ 42,481.42
5G	3/3.5	1973			\$ 3,120,000	0.8887%	\$ 1,325.72	\$ 2,243.64	\$26,923.71	\$ 3,569.36	\$ 42,832.31
6G	3/3.5	1973			\$ 3,195,000	0.8960%	\$ 1,336.58	\$ 2,262.02	\$27,144.27	\$ 3,598.60	\$ 43,183.20
7G	3/3.5	1973			\$ 3,270,000	0.9033%	\$ 1,347.44	\$ 2,280.40	\$27,364.84	\$ 3,627.84	\$ 43,534.09
8G	3/3.5	1973			\$ 3,345,000	0.9106%	\$ 1,358.30	\$ 2,298.78	\$27,585.40	\$ 3,657.08	\$ 43,884.98
9G	3/3.5	1973			\$ 3,420,000	0.9179%	\$ 1,369.16	\$ 2,317.16	\$27,805.96	\$ 3,686.32	\$ 44,235.87
10G	3/3.5	1973			\$ 3,495,000	0.9252%	\$ 1,380.02	\$ 2,335.54	\$28,026.53	\$ 3,715.56	\$ 44,586.76
11G	2/2.5/A	1884			\$ 2,810,000	0.8322%	\$ 1,241.41	\$ 2,100.95	\$25,211.44	\$ 3,342.36	\$ 40,108.30

**SCHEDULE A**  
**250 West Street**  
**NEW YORK, NY**

**OFFERING PRICES AND RELATED INFORMATION**  
**PROJECTED COMMON CHARGES AND REAL ESTATE TAXES ARE FOR**  
**ANTICIPATED FIRST YEAR OF CONDOMINIUM OPERATION - JULY 1ST, 2012 to JUNE 30, 2013\***

UNIT	NUMBER OF BRS/BATHS (1)	APPROX. UNIT INTERIOR SQUARE FOOTAGE (2)	APPROX. CELLAR/STORAGE SQUARE FOOTAGE (2A)	APPROX. TERRACE SQUARE FOOTAGE (2B)	OFFERING PRICE (3)	PERCENTAGE OF COMMON INTEREST (4)	PROJECTED MONTHLY COMMON CHARGES (5)	PROJECTED MONTHLY REAL ESTATE TAXES (6)	PROJECTED ANNUAL REAL ESTATE TAXES (FIRST YEAR) (6a)	TOTAL PROJECTED MONTHLY CARRYING CHARGES (7)	PROJECTED ANNUAL CARRYING CHARGES (FIRST YEAR) (8)
2H	2/2.5/A	1884			\$ 2,175,000	0.7706%	\$ 1,149.45	\$ 1,945.33	\$23,344.00	\$ 3,094.79	\$ 37,137.44
3H	2/2.5/A	1884			\$ 2,225,000	0.7754%	\$ 1,156.69	\$ 1,957.59	\$23,491.05	\$ 3,114.28	\$ 37,371.37
4H	2/2.5/A	1884			\$ 2,275,000	0.7803%	\$ 1,163.93	\$ 1,969.84	\$23,638.09	\$ 3,133.77	\$ 37,605.29
5H	2/2.5/A	1884			\$ 2,325,000	0.7851%	\$ 1,171.17	\$ 1,982.09	\$23,785.13	\$ 3,153.27	\$ 37,839.22
6H	2/2.5/A	1884			\$ 2,375,000	0.7900%	\$ 1,178.41	\$ 1,994.35	\$23,932.17	\$ 3,172.76	\$ 38,073.15
7H	2/2.5/A	1884			\$ 2,425,000	0.7949%	\$ 1,185.65	\$ 2,006.60	\$24,079.22	\$ 3,192.26	\$ 38,307.07
8H	2/2.5/A	1884			\$ 2,475,000	0.7997%	\$ 1,192.89	\$ 2,018.85	\$24,226.26	\$ 3,211.75	\$ 38,541.00
9H	2/2.5/A	1884			\$ 2,525,000	0.8046%	\$ 1,200.14	\$ 2,031.11	\$24,373.30	\$ 3,231.24	\$ 38,774.92
10H	2/2.5/A	1884			\$ 2,575,000	0.8094%	\$ 1,207.38	\$ 2,043.36	\$24,520.34	\$ 3,250.74	\$ 39,008.85
11H	3/3.5/A	4018		325	\$ 9,000,000	2.0908%	\$ 3,118.98	\$ 5,278.56	\$63,342.73	\$ 8,397.54	\$ 100,770.49
2J	1/1.5/A	1211			\$ 1,295,000	0.4853%	\$ 723.92	\$ 1,225.17	\$14,702.04	\$ 1,949.09	\$ 23,389.13
3J	1/1.5/A	1211			\$ 1,320,000	0.4877%	\$ 727.54	\$ 1,231.30	\$14,775.56	\$ 1,958.84	\$ 23,506.10
4J	1/1.5/A	1211			\$ 1,345,000	0.4902%	\$ 731.17	\$ 1,237.42	\$14,849.08	\$ 1,968.59	\$ 23,623.06
5J	1/1.5/A	1211			\$ 1,370,000	0.4928%	\$ 734.79	\$ 1,243.55	\$14,922.60	\$ 1,978.34	\$ 23,740.02
6J	1/1.5/A	1211			\$ 1,395,000	0.4950%	\$ 738.41	\$ 1,249.69	\$14,996.12	\$ 1,988.08	\$ 23,856.99
7J	2/3/A	2246			\$ 2,850,000	0.9436%	\$ 1,407.54	\$ 2,382.12	\$28,585.47	\$ 3,789.66	\$ 45,475.97
8J	2/3/A	2241			\$ 3,025,000	0.9591%	\$ 1,430.67	\$ 2,421.26	\$29,055.14	\$ 3,851.93	\$ 46,223.16
9J	2/3/A	2241			\$ 3,300,000	0.9858%	\$ 1,470.49	\$ 2,488.66	\$29,963.88	\$ 3,959.15	\$ 47,509.76
10J	2/3/A	2241			\$ 3,400,000	0.9955%	\$ 1,484.97	\$ 2,513.16	\$30,157.96	\$ 3,998.13	\$ 47,977.61
2K	0/1	1035			\$ 1,150,000	0.4190%	\$ 624.97	\$ 1,057.70	\$12,692.39	\$ 1,682.67	\$ 20,192.04
3K	0/1	1035			\$ 1,175,000	0.4214%	\$ 628.59	\$ 1,063.83	\$12,765.91	\$ 1,692.42	\$ 20,309.00
4K	0/1	1035			\$ 1,200,000	0.4238%	\$ 632.21	\$ 1,069.95	\$12,839.44	\$ 1,702.16	\$ 20,425.96
5K	0/1	1035			\$ 1,225,000	0.4263%	\$ 635.83	\$ 1,076.08	\$12,912.96	\$ 1,711.91	\$ 20,542.93
6K	0/1	1035			\$ 1,250,000	0.4287%	\$ 639.45	\$ 1,082.21	\$12,986.48	\$ 1,721.66	\$ 20,659.89
7K	1/2/A	1553			\$ 1,595,000	0.6160%	\$ 918.85	\$ 1,555.06	\$18,660.78	\$ 2,473.92	\$ 29,687.00
8K	1/2/A	1549			\$ 1,695,000	0.6245%	\$ 931.56	\$ 1,576.57	\$18,918.88	\$ 2,508.13	\$ 30,097.61
9K	1/2/A	1549			\$ 1,795,000	0.6342%	\$ 946.04	\$ 1,601.08	\$19,212.97	\$ 2,547.12	\$ 30,565.47
10K	1/2/A	1549			\$ 1,950,000	0.6493%	\$ 968.49	\$ 1,639.07	\$19,668.80	\$ 2,607.55	\$ 31,290.84
3L	1/2/A	1636			\$ 1,495,000	0.6309%	\$ 941.14	\$ 1,592.78	\$19,113.33	\$ 2,533.91	\$ 30,406.95
4L	1/2/A	1636			\$ 1,520,000	0.6334%	\$ 944.76	\$ 1,598.90	\$19,186.85	\$ 2,543.66	\$ 30,523.92
5L	1/2/A	1636			\$ 1,545,000	0.6358%	\$ 948.38	\$ 1,605.03	\$19,260.37	\$ 2,553.41	\$ 30,640.88
6L	1/2/A	1636			\$ 1,570,000	0.6382%	\$ 952.00	\$ 1,611.16	\$19,333.89	\$ 2,563.15	\$ 30,757.84
PH	4/4.5/T	7218		4,351	\$ 36,850,000	6.0436%	\$ 9,015.07	\$ 15,257.10	\$183,085.18	\$ 24,272.17	\$ 291,266.01
<b>Building Totals</b>		<b>221,280</b>	<b>3,802</b>	<b>5,316</b>	<b>\$ 343,370,000</b>	<b>100.0000%</b>	<b>\$ 149,166.66</b>	<b>\$ 252,449.58</b>	<b>\$3,029,395.00</b>	<b>\$ 401,616.24</b>	<b>\$ 4,819,394.92</b>

D = Duplex  
A = Accessory  
T = Terrace

**SCHEDULE A**  
**250 West Street**  
**NEW YORK, NY**

OFFERING PRICES AND RELATED INFORMATION  
 PROJECTED COMMON CHARGES AND REAL ESTATE TAXES ARE FOR  
 ANTICIPATED FIRST YEAR OF CONDOMINIUM OPERATION - JULY 1ST, 2012 to JUNE 30, 2013\*

UNIT	NUMBER OF BRS/BATHS (1)	APPROX. UNIT INTERIOR SQUARE FOOTAGE (2)	APPROX. CELLAR/STORAGE SQUARE FOOTAGE (2A)	APPROX. TERRACE SQUARE FOOTAGE (2B)	OFFERING PRICE (3)	PERCENTAGE OF COMMON INTEREST (4)	PROJECTED MONTHLY COMMON CHARGES (5)	PROJECTED MONTHLY REAL ESTATE TAXES (6)	PROJECTED ANNUAL REAL ESTATE TAXES (FIRST YEAR) (6a)	TOTAL PROJECTED MONTHLY CARRYING CHARGES (7)	PROJECTED ANNUAL CARRYING CHARGES (FIRST YEAR) (8)
<b>Individual Storage Rooms</b>											
3A		101			\$ 101,000.		\$ 101.00				
3B		147			\$ 147,000.		\$ 147.00				
3C		122			\$ 122,000.		\$ 122.00				
3D		162			\$ 162,000.		\$ 162.00				
3E		120			\$ 120,000.		\$ 120.00				
3F		41			\$ 41,000.		\$ 41.00				
4A		101			\$ 101,000.		\$ 101.00				
4B		147			\$ 147,000.		\$ 147.00				
4C		122			\$ 122,000.		\$ 122.00				
4D		162			\$ 162,000.		\$ 162.00				
4E		120			\$ 120,000.		\$ 120.00				
5A		101			\$ 101,000.		\$ 101.00				
5B		147			\$ 147,000.		\$ 147.00				
5C		122			\$ 122,000.		\$ 122.00				
5D		162			\$ 162,000.		\$ 162.00				
5E		120			\$ 120,000.		\$ 120.00				
5F		41			\$ 41,000.		\$ 41.00				
6A		101			\$ 101,000.		\$ 101.00				
6B		147			\$ 147,000.		\$ 147.00				
6C		122			\$ 122,000.		\$ 122.00				
6D		162			\$ 162,000.		\$ 162.00				
6E		120			\$ 120,000.		\$ 120.00				
6F		41			\$ 41,000.		\$ 41.00				
7A		101			\$ 101,000.		\$ 101.00				
7B		147			\$ 147,000.		\$ 147.00				
7C		122			\$ 122,000.		\$ 122.00				
7D		156			\$ 156,000.		\$ 156.00				
7E		120			\$ 120,000.		\$ 120.00				
8A		101			\$ 101,000.		\$ 101.00				
8B		147			\$ 147,000.		\$ 147.00				
8C		122			\$ 122,000.		\$ 122.00				
8D		156			\$ 156,000.		\$ 156.00				
8E		85			\$ 85,000.		\$ 85.00				
8F		41			\$ 41,000.		\$ 41.00				

**SCHEDULE A**  
**250 West Street**  
**NEW YORK, NY**

OFFERING PRICES AND RELATED INFORMATION  
 PROJECTED COMMON CHARGES AND REAL ESTATE TAXES ARE FOR  
 ANTICIPATED FIRST YEAR OF CONDOMINIUM OPERATION - JULY 1ST, 2012 to JUNE 30, 2013\*

UNIT	NUMBER OF BRS/BATHS (1)	APPROX. UNIT INTERIOR SQUARE FOOTAGE (2)	APPROX. CELLAR/STORAGE SQUARE FOOTAGE (2A)	APPROX. TERRACE SQUARE FOOTAGE (2B)	OFFERING PRICE (3)	PERCENTAGE OF COMMON INTEREST (4)	PROJECTED MONTHLY COMMON CHARGES (5)	PROJECTED MONTHLY REAL ESTATE TAXES (6)	PROJECTED ANNUAL REAL ESTATE TAXES (FIRST YEAR) (6x)	TOTAL PROJECTED MONTHLY CARRYING CHARGES (7)	PROJECTED ANNUAL CARRYING CHARGES (FIRST YEAR) (8)
9A		101			\$ 101,000		\$ 101.00				
9B		147			\$ 147,000		\$ 147.00				
9C		122			\$ 122,000		\$ 122.00				
9D		156			\$ 156,000		\$ 156.00				
9E		120			\$ 120,000		\$ 120.00				
9F		41			\$ 41,000		\$ 41.00				
10A		88			\$ 88,000		\$ 88.00				
10B		125			\$ 125,000		\$ 125.00				
10C		126			\$ 126,000		\$ 126.00				
10D		120			\$ 120,000		\$ 120.00				
11A		88			\$ 88,000		\$ 88.00				
11B		128			\$ 128,000		\$ 128.00				
11C		121			\$ 121,000		\$ 121.00				
11D		251			\$ 251,000		\$ 251.00				
11E		41			\$ 41,000		\$ 41.00				
<b>Storage Room</b>											
<b>Totals</b>		<b>5804</b>			<b>\$ 5,804,000</b>		<b>\$ 5,804.00</b>				
<b>Individual Storage Bins</b>											
A		30			\$ 15,000		\$ 30.00				
B		30			\$ 15,000		\$ 30.00				
C		30			\$ 15,000		\$ 30.00				
D		30			\$ 15,000		\$ 30.00				
E		28			\$ 14,000		\$ 28.00				
F		28			\$ 14,000		\$ 28.00				
G		55			\$ 27,500		\$ 55.00				
H		35			\$ 17,500		\$ 35.00				
J		35			\$ 17,500		\$ 35.00				
K		35			\$ 17,500		\$ 35.00				
L		35			\$ 17,500		\$ 35.00				
M		68			\$ 34,000		\$ 68.00				
N		68			\$ 34,000		\$ 68.00				
P		28			\$ 14,000		\$ 28.00				
R		28			\$ 14,000		\$ 28.00				
S		28			\$ 14,000		\$ 28.00				
T		20			\$ 10,000		\$ 20.00				
U		46			\$ 23,000		\$ 46.00				
V		148			\$ 74,000		\$ 148.00				
<b>Storage Bin Totals</b>		<b>8510</b>			<b>\$ 402,500</b>		<b>\$ 805.00</b>				



**SCHEDULE C**

[By-Laws attached on the following page.]



# **EXHIBIT 2**



# **EXHIBIT A**



May 20, 2015

Dear Resident,

As you know, the condominium units are submetered for electricity, meaning that residents pay their electric bills to 250 West Street Condominium based on their actual electricity usage on a monthly basis. In connection with this arrangement and pursuant to New York State regulations, 250 West Street Condominium will file with the New York State Public Service Commission (the "PSC") a Notice of Intent to Submeter Electricity (the "Notice") on May 22, 2015. Please note that the filing of the Notice will not alter the current submetering arrangement.

Beginning tomorrow, a copy of the Notice will be available for your review in the Management Office during the hours of 10:00 a.m. to 4:00 p.m. Alternatively, you may request a copy of the Notice by contacting the Management Office by telephone at (212) 634-8909 or by mail at FirstService Residential, c/o 250 West Street Condominium, 622 Third Avenue, New York, New York 10013. We will keep you apprised of this application process at the PSC.

If you have any questions about this letter or submetering in general, please contact the Management Office.

Thank you,

250 West Street Condominium

# **EXHIBIT 3**

# **THIRD AMENDMENT TO OFFERING PLAN**

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**THIRD AMENDMENT  
TO  
CONDOMINIUM OFFERING PLAN  
FOR  
250 WEST STREET CONDOMINIUM**

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This Third Amendment (this "Amendment") modifies and supplements the terms of the Condominium Offering Plan for the premises known as 250 West Street Condominium, 250 West Street, New York, New York 10013, first accepted for filing on July 5, 2011 (and as previously amended, the "Plan") and is incorporated into and should be read in conjunction with the Plan. The terms of this Amendment are as follows:

1. **Purpose of Amendment**

The purpose of this Amendment is to: (i) disclose certain information regarding Unit combinations; (ii) make certain disclosures with respect to the Interstate Land Sales Full Disclosure Act ("ILSA"), 15 U.S.C.A. § 1701 *et seq.*; and (iii) set forth certain revisions made to the Description of Property and Building Conditions (Exhibit 5 in Part II of the Plan) and the forms of Unit Purchase Agreement and Unit Deed (Exhibits 1 and 3, respectively, in Part II of the Plan).

2. **Combinations of Units and Changes in Certain Purchase Prices**

The Floor Plans for Units 6A, 7A, 8A, 9A and 10A have been modified to reflect the combinations of Units 6A and 6B into a modified Unit 6A, Units 7A and 7B into a modified Unit 7A, Units 8A and 8B into a modified Unit 8A, Units 9A and 9B into a modified Unit 9A, and Units 10A and 10B into a modified Unit 10A (the "Combined Units"). There will no longer be Units designated as 6B, 7B, 8B, 9B and 10B. Further, the amount of interior total square footage for Units 3A, 4A and 5A has increased. Accordingly, the individual component Floor Plans set forth in Exhibit 8 in Part II of the Plan for the Combined Units, as well as Units 3A, 4A and 5A, are hereby replaced by the revised Floor Plans set forth in Exhibit A annexed hereto.

Schedule A of the Plan is hereby amended to reflect the combination of such Units and to include the new prices and other financial information for the Combined Units, as well as the updated amount of interior total square footage for Units 3A, 4A and 5A, listed thereon. The amended Schedule A is annexed hereto as Exhibit B. Sponsor reserves the right to revise further the Purchase Prices and other terms of sale of the Units in accordance with the Plan, except that no such change shall affect any Unit for which an Agreement for purchase is then in effect without the consent of the Purchaser thereof.

All references in the Plan and all exhibits thereto to the number of Units in the Condominium are hereby modified to reflect the change from 111 Units to 106 Units.

3. **Revised Property Description**

The Description of Property and Building Conditions (Exhibit 5 in Part II of the Plan) is hereby amended by include the following:

- (a) Updated narrative information for the Combined Units;
- (b) Modified whole-floor plans for Floors 3 – 10;

(c) The report on the Building's compliance with E-designation sound transmission requirements (as discussed in Section (D)(3) of the Description of Property) will now be prepared by Flemming Shue Associates instead of Cerami & Associates, Inc. A copy of this report will be available in the Sales Office upon completion thereof.

The amended Description of Property and Building Conditions is annexed hereto as Exhibit C, and an updated Certification of Sponsor's Architect dated August 22, 2011, signed by Alan Goldstein of Goldstein Hill & West Architects, LLP is annexed hereto as Exhibit D.

4. **Interstate Land Sales Full Disclosure Act**

Pursuant to ILSA, Sponsor has submitted a proposed statement of record ("Statement of Record") to the U.S. Consumer Financial Protection Bureau ("CFPB") disclosing the offering of the Units and Storage Licenses in the Condominium. The Statement of Record has been assigned OILSR 32578. Sponsor believes it will be in compliance with its ILSA filing obligations upon CFPB's approval of the Statement of Record. The Attorney General has not verified or approved the content of the Statement of Record.

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

5. **Revised Purchase Agreement**

The form of Purchase Agreement is amended as set forth in Exhibit E annexed hereto, marked to indicate the changes thereto that have been made by this Amendment.

6. **Revised Form of Unit Deed**

The form of Unit Deed is amended as set forth in Exhibit F annexed hereto, marked to indicate the changes thereto that have been made by this Amendment.

7. **Definitions**

Except as herein defined, all capitalized terms used in this Amendment which are defined in the Plan shall have the respective meanings ascribed to such terms in the Plan.

8. **Incorporation of the Plan**

The Plan, as modified and supplemented by this Amendment, is incorporated herein by reference with the same force and effect as if set forth at length.

9. **No Material Changes in the Plan**

There have been no material changes in the Plan except as set forth in this Amendment. The Plan, as hereby amended, does not knowingly omit any material fact.

Dated: September 27, 2011

SPONSOR:

EL-AD 250 WEST LLC

Certain kitchens will be provided with a central exhaust system where required by NYC Code. Kitchens will be provided with re-circulating range hoods. Kitchen of Penthouse apartment will be provided with range hood mechanically exhausted to the outside.

Dryers located in the units shall be electric vent-less type. Electric dryer in the Penthouse apartment, as well as the gas dryers in 2<sup>nd</sup> floor Laundry Room, will be vented to the outside.

Corridor ventilation will be provided by a 100% outside air rooftop unit providing supply air to the corridor at a rate exceeding 0.05 CFM/sq. ft, as required by the NYC Mechanical Code.

Accessory Spaces will be provided with conditioned outside air directly via ductwork from 100% outside air rooftop units.

M. Electrical Systems:

The building will be served by the two existing Con Edison service entrances from Washington Street, each having 4000 amps capacity at 208 volts, three phase.

The existing service switchboards will be cleaned, adjusted and reused. The existing secondary distribution equipment including busway risers and distribution panels will be cleaned, adjusted and reused.

Each service will be Con Edison metered. Each apartment will be individually sub-metered and charged by the management company. All common spaces will be metered for energy charges.

The typical apartment will have 36 – 42 circuits, including air conditioning, small appliance circuits, dedicated circuits for large appliances such as refrigerator, dishwasher, washer & dryer, etc., general lighting and convenience receptacle circuits as required by the Code.

Apartments are to have ceiling mounted entry light, corridor lights, kitchen and bathroom lights.

Cellar areas to be lit by means of standard fluorescent industrial type exposed surface or recessed mounted lights. The fixtures will be wired to a common space metered distribution system.

Individual Storage Rooms on each of the floors 3 through 11 will be provided with lights and an electrical outlet wired to common space metered distribution system.

UNIT	Panel Current Capacity (Amps)	Panel Phases (1 or 3)	# of Circuits
A	200	1	36
B	200	1	36
C	200	1	36
D	200	1	36
E	225	1	42
F	200	1	36
G	225	1	42
H	200	1	36
J	200	1	36
3-5A	200	1	36
6-10A	175	3	42
2-5B	225	1	42
2-10C	225	1	42
2-10D	225	1	42
2-10E	200	1	36
2-10F	200	1	36
2-10G	225	1	42
2-10H	200	1	36
2-6J	200	1	36
7-10J	225	1	42
2-6K	200	1	36
7-10K	200	1	36
3-6L	200	1	36
11A	175	3	42
11B	225	1	42
11C	225	1	42
11D	225	1	42
11E	225	1	42
11F	225	1	42

UNIT	Panel Current Capacity (Amps)	Panel Phases (1 or 3)	# of Circuits
11G	225	1	42
11H	175	3	42
PH (PH Level)	300	3	60
PH (Elevator PE7)	150	3	1
PH (1 <sup>st</sup> Floor Lobby)	100	1	24

**N. Intercommunication and/or Door Signal Systems:**

The building will be equipped with an intercom system which enables two-way telephone communication between the lobby concierge desk and the residential units. The intercom system shall use the telephone system and the kitchen telephone shall be provided in each unit to provide for the intercom system.

**O. Telephone and Television:**

Telecommunications closets will be located centrally on the floors as needed and will be provided with through-the-floor sleeves for telecommunications riser installation by a telecommunication service provider.

Fiber optic and coaxial cable shall be provided from each telecommunications closet to each Residential Unit, terminating at a network interface device (NID) box.

The apartment telephone outlet boxes will be pre-wired for telephone services. Each apartment is to have a telephone outlet in each bedroom, living room and kitchen. The telephone wire will end in the NID box for future connection by the telecommunication services provider.

The apartment cable television (CATV) outlet boxes will be pre-wired for cable television services. Each apartment is to have a CATV connection in the living room and in each bedroom. The CATV wire will end

# **BY-LAWS**

**BY-LAWS  
OF  
250 WEST STREET CONDOMINIUM**



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**BY-LAWS**  
**OF**  
**250 WEST STREET CONDOMINIUM**

**ARTICLE 1**

**GENERAL**

1.1 Purpose. The purpose of these by-laws (the “By-Laws”) is to set forth the rules and procedures concerning the conduct of the affairs of 250 West Street Condominium (the “Condominium”). The Condominium covers the property (the “Property”) consisting of approximately 26,566 square feet of land (the “Land”) which forms a part of Block 217 on the Tax Map of the Borough of Manhattan, City, County and State of New York, the building and other improvements now or hereafter constructed thereon or therein, as the case may be (hereinafter collectively called the “Building”), including, without limitation, the Units, the Common Elements, and all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, intended for use in connection therewith; the Condominium and these By-Laws shall be subject to the provisions of a Declaration (which, as the same may be amended from time to time, is herein called the “Declaration”), which will be recorded in the New York County office of the Register of the City of New York (the “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.

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 Unit Owners, mortgagees, lessees, sublessees and occupants of Units and their respective employees, invitees and guests, as well as all other persons who may use the facilities located on, or forming a part of, the Property, are and shall be subject to the Declaration, these By-Laws and the Rules and Regulations (as hereinafter defined). The acceptance of a deed or conveyance, or the succeeding to title to, or the execution of a lease, sublease or license for, or the act of occupancy of, all or any portion of a Unit shall constitute an agreement that the provisions of these By-Laws, the Rules and Regulations and the Declaration, as the same may be amended from time to time, are accepted, ratified, and will be complied with.

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

**ARTICLE 2**

**BOARD OF MANAGERS**

2.1 General Description of the Board.

2.1.1 As more particularly set forth in Section 2.2, the affairs of the Condominium shall be governed by a board of managers of the Condominium (the “Board”).

From and after the First Annual Meeting of Unit Owners (as hereinafter defined), as provided in Section 3.1, the Board shall consist of five (5) persons.

2.1.2 Each member of the Board, except for the First Board (as hereinafter defined), as provided in Section 2.3 and except as otherwise provided herein, shall be elected at an annual meeting of the Unit Owners and shall serve until the expiration of their term in office on the next regularly scheduled annual meeting thereafter. Notwithstanding the expiration of the term of office of a member of the Board, each member shall serve until a successor for such member has been elected and qualified.

2.1.3 Except for any Member designated by Sponsor or its designee, all members of the Board must be: (i) individual Unit Owners or Permitted Mortgagees (as hereinafter defined) of Units; (ii) partners or employees of a partnership owning or holding a mortgage encumbering a Unit; (iii) officers, directors, stockholders or employees of corporate owners or corporate Permitted Mortgagees of Units; (iv) members or employees of a limited liability company owning or holding a Permitted Mortgage; (v) fiduciaries or beneficiaries who are Unit Owners or Permitted Mortgagees of Units (or directors, officers, stockholders or employees of corporate fiduciaries or partners or employees of partnership fiduciaries); (vi) adult family members (as defined in Section 8.7) or spouses of any of the foregoing individuals; or (vii) individuals designated by a sovereign government, consulate or other similar entity that is a Unit Owner or a Permitted Mortgagee of a Unit. Other than Board members designated by Sponsor or its designee, no Board member shall continue to serve after he or she ceases to be qualified as set forth above. As used herein, the term "Permitted Mortgagee" means the holder of any mortgage ("Permitted Mortgage") of a Unit or Units which is permitted to be placed thereon in accordance with these By-Laws.

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

## 2.2 Powers and Duties of Board.

2.2.1 The 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 Board by the Unit Owners).

2.2.2 Subject to the provisions of subsection 2.2.1 and without limiting the generality thereof, (and in addition to all other powers and duties granted to the Board by law, the Declaration or these By-Laws) the Board shall be entitled to make determinations with respect to all matters relating to the operation and the affairs of the Condominium including, without limitation, the following:

(a) Operation, care, upkeep, maintenance, repair, restoration, addition and improvement to, and alteration and replacement of the Common Elements, in the condition and otherwise in such a manner that maintains standards of quality, service and appearance which are appropriate for a luxury condominium.

(b) The amount of Common Charges and any assessments.

(c) Collection of Common Charges and any assessments from Unit Owners.

(d) Employment and dismissal of the personnel necessary for the maintenance and operation of the Common Elements, and the provision of the Building services.

(e) Adoption of, and amendments and additions to, the Rules and Regulations (as such term is hereinafter defined).

(f) Purchasing, leasing and otherwise acquiring, in the name of the Board or its designee, on behalf of all Unit Owners, those Units offered for sale or lease by, or Units surrendered by, the owners of such Units to the Board, or those Units with respect to which liens for real estate taxes are being sold.

(g) Purchasing Units at foreclosure or other similar sales (including, without limitation, in connection with the enforcement of the Board's lien for unpaid Common Charges), in the name of the Board or its designee, on behalf of all Unit Owners.

(h) Selling, leasing, mortgaging, refinancing and otherwise dealing with (but not voting the interests appurtenant to) Units acquired by, and subleasing Units leased by, the Board or its designee, on behalf of all Unit Owners; and, subject to the rights of Declarant with respect to same, preparing, executing and administering Storage Licenses and assignments and assumptions thereof.

(i) Making repairs, restorations, additions and improvement to, and alterations and replacements of, the Common Elements.

(j) Making repairs, restorations, additions and improvements to, and alterations and replacements of, the Property or parts thereof damaged or destroyed by fire or other casualty or necessitated as a result of condemnation or eminent domain proceedings, all in accordance with the terms of these By-Laws.

(k) Enforcing obligations of Unit Owners.

(l) Levying fines against Unit Owners for violations of the Rules and Regulations (which fines shall constitute Common Charges payable by the Unit Owners against whom they are levied); provided, however, that no fine for any single infraction shall exceed \$500 (but every day that an infraction continues shall be considered a separate infraction subject to fine).

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

(n) Adjusting and settling insurance claims (and executing and delivering releases in connection therewith), if the loss is to be adjusted by the Board, as provided in Article 6 Hereof.

(o) Borrowing money, at any time, on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of, or the making of repairs, replacements, restorations, additions or improvements to, or alterations or replacements of, the Common Elements; provided, however, that: (A) except as provided in Section 8.6, the consent of at least sixty-six and two-thirds (66-2/3%) in common interest of all Unit Owners, shall be required for any borrowings for such purposes with respect to the Common Elements, if such borrowings are in excess of \$100,000 (subject to increase by the CPI Increase Factor) in total any one fiscal year or \$250,000 (subject to increase by the CPI Increase Factor) in the aggregate (including borrowings from prior periods) at any one time; and (B) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the Common Elements (except to the extent permitted by applicable law) without the prior written consent of the owner of such Unit. In addition to the debt described above, the Board, without approval of the Unit Owners may, at any time, incur, or refinance, debt from time secured by a lien on the Resident Manager's Unit or any other Unit acquired by the Board pursuant to the Declaration and/or By-Laws; provided, however, that no such financing or refinancing may be secured by an encumbrance or hypothecation of any portion of the Property other than the Unit to be purchased together with its appurtenant interest in the Common Elements. If any sum borrowed by the Board pursuant to the authority contained in this subparagraph 2.2.2(o) is not repaid by the Board, a Unit Owner who pays to the creditor such proportion thereof as his or her interest in the Common Elements bears to the interest of all Unit Owners in the Common Elements shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor has filed or has the right to file against such Unit Owner's Unit, and all loan documentation entered into by or on behalf of the Board shall specifically so provide. The dollar amounts set forth in this subsection 2.2.2(o), and all other dollar amounts referenced elsewhere in these By-laws, shall be adjusted to reflect any increase in the cost of living, as reflected by an increase in the CPI Increase Factor.

(p) Organizing corporations, limited liability companies and/or other entities to act as designees of the Board with respect to such matters as the Board may determine, including, without limitation, in connection with the acquisition of title to, or the leasing or subleasing of, Units acquired or leased by the Board on behalf of the Unit Owners.

(q) Execution, acknowledgment and delivery of, without limitation: (i) any consent, agreement, document, covenant, restriction, easement, declaration or other instrument, or any amendment thereto, affecting the Property or the Condominium which the Board deems necessary or appropriate to comply with the Legal Requirements applicable to the maintenance, demolition, construction, alteration, repair or restoration of the Property or the Condominium; or (ii) any consent, agreement, document, covenant, restriction, easement, declaration or other instrument, or any amendment thereto, affecting (x) the Property or the Condominium which the

Board deems necessary or appropriate, or (y) a Unit, if the owner of such Unit requests, or under the Declaration or these By-Laws is required to request, that the Board take such action, and (except as otherwise provided in the Declaration or these By-Laws) the Board determines that taking such action is appropriate.

(r) Execution, acknowledgment and delivery of any documents or other instruments necessary to commence, pursue, compromise or settle certiorari proceedings to obtain reduced real estate tax assessments, or in connection with any real estate tax exemption or abatement, with respect to all Units for the benefit and on behalf of the Unit Owners; and provided, in each case, that all such Unit Owners indemnify the Board from and against all claims, costs and expenses (including, without limitation, reasonable attorneys' fees) resulting from such proceedings.

(s) Commencing, prosecuting and settling litigation.

(t) Obtaining and reviewing insurance for the Property, including the Units, pursuant to the provisions of Section 6.4.

(u) Imposition, increase, decrease or elimination of move-in fees and charges, and transfer fees and/or "flip taxes" payable to the Managing Agent and/or the Condominium, in connection with the sale or lease of a Unit, provided that no such fees or charges or any other conditions of transfer or lease may be imposed upon Sponsor or its designee or any Units bought, sold or leased by the Board.

(v) Establishing, changing and otherwise making determinations with respect to reserves, including, without limitation, a general operating reserve or a reserve for working capital or for replacements with respect to the Common Elements.

2.2.3 Any action required or permitted to be taken pursuant to the provisions of these By-Laws or the Declaration by the Board shall be done or performed by the Board or shall be done on its behalf and at its direction by the agents, employees or designees of the Board, and the Board may employ one or more managing agents and/or managers (individually and/or collectively, the "Managing Agent"), at a compensation established by the Board, to perform such duties and services as the Board shall authorize. The Board may delegate to such Managing Agent or manager any powers granted to the Board by these By-Laws, except the powers set forth in subparagraphs 2.2.2(b), (e), (f), (g), (h) (k), (l), and (n) through (v).

Notwithstanding anything to the contrary contained in these By-Laws, (including, without limitation, in Section 2.2.2 above) for a period (the "Initial Control Period") which shall end upon the later to occur of: (a) the fifth anniversary of the First Closing of title to any Unit, by the Sponsor, pursuant to an Agreement (as the terms "Sponsor" and "Agreement" are defined in that certain Offering Plan, dated as of \_\_\_\_\_, 20\_\_, for the sale of Units at the Condominium (the "Offering Plan" or "Plan")); or (b) the closing of title by Sponsor to Units representing more than 75% in number and in aggregate Common Interests of all Units, the Board may not, without the prior written consent of Sponsor: (i) make any addition, alteration or improvement to the Common Elements or any Unit (unless required by any applicable Legal Requirements); (ii) assess any Common Charges for the creation of, addition to or replacement

of all or any reserve, contingency or surplus fund; (iii) increase or decrease the number of, or change the kind of, employees initially hired for the Building, as provided for in Schedule B - "Projected Budget for First Year of Condominium Operation" set forth in the Plan; (iv) enter into any service or maintenance contract for work not covered by contracts in existence on the date of the First Closing or otherwise provide services in excess of those referred to in the Plan, except as is required to reflect normal annual increases in operating services; (v) borrow money on behalf of the Condominium (other than the indebtedness in connection with the Resident Manager's Unit (as defined below) or unless any such borrowing is approved by the owners of Units representing at least seventy-five percent (75%) both in number and aggregate Common Interests of all Units); or (vi) exercise any right of first refusal to lease or purchase a Unit. However, the Board may perform any function or take any action enumerated in subsections (i) through (v) hereinabove without the consent of Sponsor if, and only if, the performance of such function or the carrying out of such action is necessary, and no other alternative is available, either to enable the Board to comply with any Legal Requirements, or to remedy any notice of violation entered against the Condominium, or to comply with any proper work order by an insurer of the Building, or for the health and safety (but not the general comfort or welfare) of the occupants of the Building. Sponsor may not exercise veto power over expenses described in Schedule B, or over expenses required to comply with any Legal Requirements applicable to the Building, or to remedy any notice of violation entered against the Building or to comply with any proper work order by an insurer of the Building. Sponsor may, however, exercise veto power over expenses other than those described in the preceding sentence, to the extent provided in the Plan, for a period ending not more than five (5) years after the First Closing or whenever the Unsold Units constitute less than twenty-five percent (25%) of the Common Interest whichever is sooner.

### 2.3 Number and Terms of Office of Members of the Board.

2.3.1 Until the First Annual Meeting held by the Unit Owners pursuant to the terms of Section 3.1 hereof, the Board (the "First Board") shall consist of three (3) persons designated by Sponsor from time to time. Prior to the First Annual Meeting, the terms of each member of the First Board shall expire annually (however, each such designee shall continue to serve until a successor is designated by Sponsor) and, subject to the other provisions of this Section, Sponsor shall have the right in its sole discretion to designate the replacement for each such member, even though such replacement may be the same person. In accordance with the provisions of and within the time periods set forth in Section 3.1, the First Board shall cause the President of the Condominium to call the First Annual Meeting of Unit Owners. The term of office of the three (3) members of the First Board so designated by Sponsor shall expire when the five (5) members are installed at the First Annual Meeting.

2.3.2 From and after the First Annual Meeting, the Board shall consist of five (5) members elected by the Unit Owners (including Sponsor) subject to the right of Sponsor to designate members as set forth in subsection 2.4.3 below. For so long as Sponsor is entitled to designate one (1) member, as provided for in subsection 2.4.3 hereof, the Board may not be expanded beyond five (5) members without the prior consent of Sponsor.

2.3.3 The term of office of each of the five (5) members comprising the Board elected or designated at the First Annual Meeting shall be fixed at such meeting as

follows: (a) two (2) of such members will serve for a term of approximately three (3) years; (b) two (2) of such members will serve for a term of approximately two (2) years; and (c) one (1) of such members will serve for a term of approximately one (1) year. Those members of the first five (5) member Board who receive the highest number of votes will serve for the longest terms of office, but except as set forth in subsection 2.4.4 hereof, any members designated by Sponsor or its designee as the owner of Unsold Units shall serve for the shortest terms of office. At each annual meeting of Unit Owners subsequent to the first such meeting, the Unit Owners shall elect Board members to replace the Board members whose terms of office are then expiring, each to serve a term of office fixed at three (3) years. Notwithstanding the expiration of the term of office of a member of the Board or anything contained herein to the contrary, each member of the Board (including any member designated by Sponsor or its designee as the owner of Unsold Units) shall serve until a successor has been elected and qualified. There shall be no limit on the number of terms of office, successive or otherwise, that a Board member (including any member of the Board designated by the Sponsor) may serve.

#### 2.4 Election of Board Members; Rights of Sponsor.

2.4.1 Subject to the terms of subsections 2.4.2, 2.4.3 and 2.4.4, all Members of the Board shall be determined by plurality of the votes cast by the Unit Owners (including Sponsor or its designee, for so long as Sponsor or such designee owns at least one Unit) who are present (in person or by proxy) and voting at a meeting at which a quorum of all Unit Owners is present or not required.

2.4.2 When voting for members of the Board, the voting shall be by ballot and each ballot shall state the name of the Unit Owner voting, the Units owned by such Unit Owner and the percentage of Common Interest attributable to each Unit owned by such Unit Owner, and in addition, the name of the proxy if such ballot is cast by a proxy. Nothing contained in these By-Laws shall be deemed to permit cumulative voting.

2.4.3 Notwithstanding any other provision of this Section 2.4 or of these By-Laws or otherwise to the contrary, at the First Annual Meeting and at all times thereafter, Sponsor and/or its designee and/or any owner of Unsold Units shall be able to vote in accordance with its/their ownership of Units and thus may be able to elect members of the Board by virtue of its/their ownership of Units. In addition: (a) at elections of members to the Board held before the expiration of the Initial Control Period, (i) Sponsor will have the right to designate three (3) of the five (5) members of the Board, and (ii) the Sponsor, its designee, and all other Unit Owners shall have the right to elect the remaining two (2) members of the Board; and (b) at elections of members to the Board held after the expiration of the Initial Control Period but while Sponsor and/or its designee still owns at least one (1) Unit, Sponsor and/or its designee shall have the right to designate one (1) member of the Board, who may be related to or affiliated with Sponsor, such designee or other Unsold Unit Owner; and Sponsor, such designee and all other Unit Owners shall have the right to elect the remaining members of the Board.

There is no restriction on the right of Sponsor and its designee(s) or any Unsold Unit Owner to vote for members of the Board who are not related to or affiliated with Sponsor or such designee or Unsold Unit Owner; however, after the expiration of the Initial Control Period, neither Sponsor nor its designee will designate a majority of the Members.

2.4.4 In the event that after notice of an annual meeting of Unit Owners is given to all Unit Owners in the manner prescribed by Section 3.4 of these By-Laws, the Unit Owners present in person or by proxy at such annual meeting constitute less than a quorum, and consequently new members of the Board to replace those whose terms expire as of such annual meeting cannot be elected, the remaining Members of the Board shall fill any resulting vacancies at a special meeting of the Board held for that purpose promptly thereafter, even though the members of the Board present at such meeting may themselves constitute less than a quorum. The Board shall request the Unit Owners present (in person or by proxy) at the annual meeting to express their preferences for the Board members to have been elected at such annual meeting, but such expression of preferences shall be non-binding on the Board. Any person so elected by the Board shall be a member of the Board until the next annual meeting of Unit Owners, when a successor shall be elected for the remainder of the term.

## 2.5 Resignation and Removal.

2.5.1 Any member of the Board may resign at any time by written notice given in accordance with the terms of Section 5.1 of these By-Laws to the President or Secretary of the Condominium and, with respect to members of the Board designated as such or elected by Sponsor (or its designee), by also giving such written notice to such party. Any such resignation shall take effect at the time specified in such notice and, unless specifically requested by the resigning member, acceptance of such resignation shall not be necessary for the effectiveness thereof.

2.5.2 Subject to the provisions of Sections 2.3 and 2.4, and except as provided in the following sentence, any Member elected by the Board pursuant to the terms of Sections 2.4 or 2.6 hereof, respectively, may be removed from office, with or without cause, by a Majority of Unit Owners (as hereinafter defined.) Any Member who was designated or elected as such by Sponsor (or its designee), in Sponsor's capacity as a Unit Owner pursuant to the terms of Sections 2.4 or 2.6, may be removed from office (x) for cause, by a Majority of Unit Owners and (y) without cause, only by Sponsor (or its designee). In the event of any removal described in the previous sentence, whether with or without cause, Sponsor (or its designee) shall have the sole right to designate the replacement of the member which had been designated or elected by Sponsor (or its designee). Any Board member whose removal for cause has been proposed shall be given an opportunity to be heard at the meeting of Unit Owners at which such removal is to be considered.

2.6 Vacancies on Board. Subject to the provisions of Sections 2.3, 2.4 and 2.5, any vacancy on the Board for whatever reason shall be filled by the members of the Board then in office, at a special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy even though the members present at such meeting may constitute less than a quorum, and any person so elected shall be a member of the Board until the next annual meeting of Unit Owners when a successor shall be elected for the remainder of the term of the member creating such vacancy. However, any vacancy on the Board created by the resignation, removal or any other reason of any Board member designated as such by Sponsor (or its designee) shall be filled only by Sponsor (or its designee, as the case may be).

2.7 Organizational Meetings of Board. The first meeting of the Board following each annual meeting of Unit Owners shall be held within ninety (90) days after such annual meeting at such time and place in the Borough of Manhattan as shall be fixed by a majority of the Members thereof, and no notice shall be necessary to the Board Members in order to legally constitute such meeting, provided that a majority of the members of the Board shall be present thereat.

2.8 Regular Meetings of Board. Regular meetings of the Board may be held at such time and place in the Borough of Manhattan as shall be determined from time to time by a majority of the members thereof, provided that at least two (2) such meetings shall be held during each fiscal year of the Condominium. Notice of regular meetings shall be given to each member thereof, by personal delivery, nationally recognized overnight courier, electronic mail or facsimile, at least five (5) business days prior to the day named for such meeting.

2.9 Special Meetings of Board. Special meetings of the Board may be called by the President or Vice President of the Condominium by giving at least five (5) business days' prior written notice to each member of the Board, by personal delivery, nationally recognized overnight courier, electronic mail or facsimile, which notice shall state the time, place (in the Borough of Manhattan) and purpose of the meeting. In addition, the President shall call a special meeting upon the written request of two (2) or more members of the Board.

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

2.11 Determinations by Board; Quorums.

2.11.1 Except as otherwise set forth in subsections 2.4.4, 2.6 and 2.11.3, all determinations of the Board shall be made at a meeting of the Board at which a quorum thereof is present. At any Board meeting, the presence in person or by proxy of more than thirty percent (30%) of the Common Interests attributable to all Units shall constitute a quorum, except as may otherwise be provided herein, and the votes of a majority of such members present shall constitute the decision of the Board.

2.11.2 If at any Board meeting there is less than a quorum present, a majority of those present may adjourn the meeting from time to time until a quorum exists or may reconvene the meeting to a time (specified on at least three (3) business days' notice, by personal delivery, nationally recognized overnight courier or telecopy, to the absent members) when no quorum requirement shall apply. At any such adjourned meeting at which a quorum is present or is not required, any business which might have been transacted at the meeting originally called may be transacted without further notice.

2.11.3 Members of the Board may participate in a meeting thereof by means of a conference telephone call or similar communications equipment by means of which all persons participating in such meeting can hear each other and such participation shall constitute

presence at such meeting. Notwithstanding anything to the contrary contained herein, action permitted or required to be taken at a meeting of the Board may be taken without a meeting if all members of the Board consent thereto in writing.

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

2.13 Liability of Board and Unit Owners.

2.13.1 To the extent permitted by applicable law, no member of the Board shall have any personal liability with respect to any contract, act or omission of the Board or of the Managing Agent, building engineer or superintendent in connection with the affairs or operation of the Condominium (except in its or their capacities as Unit Owners), and the liability of any Unit Owner with respect thereto shall be limited as hereinafter set forth. Every contract made by the Board or by the Managing Agent shall state that it is made by the Board or the Managing Agent only as agent for all Unit Owners, and that the Board members or the Managing Agent shall have no personal liability thereon (except in its or their capacities as Unit Owners) and may also state the applicable limitations of liability of the Unit Owners provided for in the next sentence; however, the absence of such statement or statements in any such contract shall not be deemed to imply any personal liability on the part of the Board or the Managing Agent or any greater liability on the part of any Unit Owner than as provided in the next sentence. The liability of any Unit Owner for any contract, act or omission with respect to the Condominium shall be limited to such proportionate share of the total liability as the Common Interest of such Unit Owner bears to the aggregate Common Interests of all Unit Owners; and in each case, to the extent permitted by applicable law, the liability of any Unit Owner shall be limited to such Unit Owner's interest in its Unit and its appurtenant Common Interest, so that such Unit Owner shall have no personal liability for any such contract, act or omission.

2.13.2 Nothing in the preceding section shall limit a Unit Owner's liability for the payment of Common Charges. To the extent permitted by applicable law, Board members shall have no liability to Unit Owners except that a Board member shall be liable for its or his or her own bad faith, willful misconduct, illegal acts, fraud or gross negligence. All Unit Owners shall severally, to the extent of their respective interests in their Units and their appurtenant Common Interests, indemnify each Board member against any liability or claim except those arising out of such Board member's own bad faith, willful misconduct, illegal acts, fraud or gross negligence. The Board may contract or effect any other transaction with any member of the Board, any Unit Owner, Sponsor, Sponsor's designee or any affiliate of any of them without incurring any liability for self-dealing, except in cases of bad faith or willful misconduct.

2.13.3 Neither the Board nor any member thereof shall be liable for either (i) any failure or interruption of any utility or other services to be provided or obtained by, or on behalf of, the 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, willful misconduct, illegal acts, fraud or gross negligence of the Board or such member thereof, as the case may be; or (ii) any injury, loss or damage to any individual or property, occurring in or upon either a Unit or any Common Element, which is either: (a) caused by the elements, by any Unit Owner or by any other

individual, (b) resulting from electricity, or from water, snow or ice that may leak or flow from a Unit or any portion of any Common Element, or (c) arising out of theft or otherwise; except in each case when caused by the acts of bad faith, willful misconduct, illegal acts, fraud or gross negligence of the Board or such member thereof.

2.14 Crime Insurance/Fidelity Bonds. All officers, Board members and employees of the Building will be covered by crime insurance or fidelity bonds (or similar insurance or bonds) at all times from and after the First Closing, and the premiums on such insurance or bonds shall constitute Common Expenses.

2.15 Committees. The Board may, subject to such limitations and exceptions as the Board may prescribe, appoint such committees as the Board may deem appropriate, each to consist of two or more members of the Board. Each such committee, to the extent provided in the resolution which creates it, shall have and may exercise all the powers designated to it by the Board during the intervals between the meetings of the Board insofar as may be permitted by law. For so long as Sponsor is entitled to designate members to the Board, any committee appointed by the Board shall have as at least one (1) of its members a member of the Board appointed by Sponsor.

2.16 Status of Board. In addition to the status conferred upon the Board under or pursuant to the provisions of the New York Condominium Act, the Board shall, to the extent permitted by applicable law, be deemed to constitute a separate unincorporated association for all purposes under and pursuant to the provisions of the General Associations Law of the State of New York. In the event of the incorporation or organization of the Board pursuant to the provisions of Section 2.17, the provisions of this Section 2.16 shall no longer be applicable to the Board.

2.17 Incorporation and Organization of Board. To the extent and in the manner provided in the New York Condominium Act, the Board may, by action of the Board as provided in this Article 2, be organized as a limited liability company or incorporated under the applicable statutes of the State of New York. In the event that the Board so organizes or incorporates, it shall have, to the extent permitted by applicable law, the status conferred upon it under such statutes in addition to the status conferred upon the Board under or pursuant to the provisions of the New York Condominium Act. The certificate of incorporation and by-laws of any such resulting corporation or the articles of organization and operating agreement of such resulting limited liability company, as the case may be, shall conform as closely as practicable to the provisions of the Declaration and these By-Laws; and the provisions of the Declaration and these By-Laws shall control in the event of any inconsistency or conflict between the provisions thereof and the provisions of such certificate of incorporation and by-laws or articles of organization and operating agreement.

2.18 Board as Agent of Unit Owners. In exercising its powers and performing its duties under the Declaration and these By-Laws, the Board shall act as, and shall be, the agent of the Unit Owners, subject to and in accordance with the provisions of the Declaration and these By-Laws.

2.19 Prohibited Transactions. Each member of the Board shall perform his or her duties, and shall exercise his or her powers, in good faith and with a view to the interests of the Condominium. To the extent permitted by applicable law, no contract or other transaction between the Board and either: (i) any of its members; or (ii) any corporation, partnership, fiduciary, firm, limited liability company, association or other entity in which any of the members of the Board are officers, directors, shareholders, employees, partners, fiduciaries, beneficiaries, members or principals, or are otherwise interested, pecuniary or otherwise, shall be deemed either void or voidable because either: (a) any such member of the Board was present at the meeting or meetings of the Board during which such contract or transaction was discussed, authorized, approved or ratified, or (b) the vote of any such member was counted for such purpose; provided, however, that either: (1) the fact thereof is disclosed to, or known by, the Board or a majority of the members thereof and noted in the minutes thereof, and the Board shall authorize, approve or ratify such contract or transaction in good faith by a vote of a majority of the entire Board, less the number of such members involved in such contract or transaction; or (2) the fact thereof is disclosed to, or known by, a majority of Unit Owners and a majority of Unit Owners, present at a duly constituted meeting, shall in good faith authorize, approve or ratify such contract or transaction less the number of such Unit Owners who are also such members involved in such contract or transaction; and (3) the contract or transaction is commercially reasonable to the Board at the time the same is authorized, approved, ratified, executed or otherwise consummated. Any such members of the Board may be counted in determining the presence of a quorum of any meeting of the Board or of the Unit Owners which authorizes, approves or ratifies any such contract or transaction, but no such member shall be entitled to vote thereat in order to authorize, approve or ratify such contract or transaction.

2.20 Principal Office of Board. The principal office of the Board shall be located either within the Property or at such other place in the Borough of Manhattan, as may be designated from time to time by the Board.

### ARTICLE 3

#### UNIT OWNERS

3.1 Annual Meetings. The first annual meeting of Unit Owners (the "First Annual Meeting") shall be held not later than thirty (30) days following the later to occur of: (a) the second anniversary of the First Closing; or (b) the closing of title to Units representing at least fifty percent (50%) both in number and aggregate Common Interests of all Units, to Purchasers (as defined in the Offering Plan). At such meeting, a new Board shall be installed consisting of five (5) persons and the First Board shall resign. Thereafter, annual meetings of Unit Owners shall be held within approximately four (4) weeks after the anniversary of such first meeting in each succeeding year on a date to be set by the Board. At such meetings, the Unit Owners shall elect, or designate, as the case may be, successors to the members of the Board whose terms of office are due to expire on or about the day of such meeting or have already expired and there shall also be transacted such other business as may properly come before such meeting.

3.2 Place of Meetings. Meetings of Unit Owners shall be held at the principal office of the Condominium or at such other place in the Borough of Manhattan as may be designated from time to time by the Board.

**ARTICLE 6****OPERATION OF THE CONDOMINIUM****6.1 Determination of Common Expenses and Fixing of Common Charges**

6.1.1 The Board shall, from time to time, but at least annually, prepare or cause to be prepared a budget setting forth its projections of the costs and expenses associated with the repair, maintenance, replacement, restoration, care, upkeep and operation of, and any alteration, addition or improvement to, the Common Elements, the provision of services to Unit Owners and the business and affairs of the Condominium (the "Common Expenses") for the next fiscal year and will allocate and assess charges (such charges, together with all such other amounts denominated or payable as common charges in or under the Declaration or these By-Laws, being collectively, the "Common Charges") between the Units. Unit Owners will be assessed Common Charges to meet the Units' allocated share of Common Expenses and the Common Charges payable by each Unit Owner will be in proportion to such Unit's percentage Common Interest compared to the total of all Units. The Board shall advise all Unit Owners promptly in writing of the amount of Common Charges payable by each of them and shall furnish copies of each budget on which such Common Charges are based to all Unit Owners and, if requested, to Permitted Mortgagees thereof.

6.1.2 The Board may, in its sole discretion, from time to time increase or decrease the amount of Common Charges allocated to the Units and payable by the Unit Owners, and may modify its prior determination of the Common Expenses for any fiscal year so as to increase or decrease the amount of Common Charges payable for such fiscal year or portion thereof; however, no such revised determination of Common Expenses shall have a retroactive effect on the amount of Common Charges payable by Unit Owners for any period prior to the date of such new determination. However, a prior period's deficit may be included in Common Charges for a subsequent period or levied from a special assessment levied against all Unit Owners.

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

6.1.4 In addition to the foregoing duty to determine the amount of and to assess Common Charges, the Board shall have the right to levy special assessments to meet the Common Expenses (or a prior period's deficit, in accordance with subsection 6.1.2). All special assessments shall be levied against all Unit Owners in proportion to their respective Common Interests. The 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, perfecting a lien against the defaulting Unit).

6.1.5 The excess of all rents, profits and revenues derived from the rental or use of any space or facility forming part of or included in any General Common Element remaining after the deduction of any non-capital expenses paid or incurred in connection therewith shall be collected by the Board, as agent for and on behalf of all Unit Owners, and shall constitute income of the Unit Owners. Notwithstanding any provision contained in these By-Laws or in the Declaration to the contrary, in no event shall any rent, profit or revenue derived from the rental, licensing or use of any space in the Building be deemed to be derived from the rental, licensing or use of any floor slabs, ceilings or walls delineating or enclosing such space or the incidental use of any portion of any Common Elements appurtenant to such space.

6.1.6 Subject to the terms of this Article 6, the Common Expenses shall initially be allocated between the Units, as set forth in the footnotes to Schedule B in the Plan. The Common Charges payable by each Unit Owner will be in proportion to such Unit's percentage Common Interests, except as indicated in Section 6.1.3 above. The Board shall periodically, but not less than once per year, review the Common Expenses to determine whether each Unit Owner is paying its fair share of the Common Expenses. If, as a result of a regular review, a redetermination based upon changed circumstances, or a redetermination requested by Unit Owners, such Unit Owners and the Board cannot agree upon any decision or determination to be made, the same shall be submitted for arbitration in accordance with the terms of Article 11 of these By-Laws. Pending the resolution of the dispute, the Unit Owners in question shall continue to pay Common Charges upon the allocations theretofore in force, and any variation in such Common Charges based upon such resolution shall be retroactive to the date of the review, redetermination, or request for redetermination, as the case may be. In addition to basing allocations of Common Expenses on Common Interests, the Board may also make allocations and assessments of Common Expenses based upon submetering, contract allocations and usage (both projected and actual) so long as such allocations are reasonable under the circumstances and are in accordance with applicable provisions of the law.

## 6.2 Payment of Common Charges.

6.2.1 All Unit Owners shall be obligated to pay to the Board Common Charges assessed by the Board pursuant to the provisions of Section 6.1 at such time or times as the Board determines. Unless otherwise determined by the Board, Common Charges shall be payable monthly, in advance, on the first day of each month.

6.2.2 No Unit Owner shall be liable for the payment of any part of the Common Charges assessed against such Unit Owner's Unit subsequent to a permissible sale, transfer or other conveyance by it (made in accordance with these By-Laws) of such Unit, together with its appurtenant Common Interest, except as expressly provided herein. Any Unit Owner may, subject to the terms and conditions of these By-Laws, convey its Unit, together with its appurtenant Common Interest, without consideration, to the Board or its designee, on behalf of all Unit Owners, and in such event (except as hereinafter set forth), be exempt from Common Charges thereafter accruing, provided that: (a) such Unit is free and clear of liens and encumbrances other than the statutory lien for unpaid Common Charges (provided that no

amounts are owing under any such lien); and (b) no violation of any provision of the Declaration, these By-Laws or the Rules and Regulations then exists with respect to such Unit. However, in no event may a Unit Owner exempt itself from liability for Common Charges by waiving use of any of the Common Elements or by abandoning its Unit. A purchaser of a Unit shall be liable for the payment of Common Charges accrued and unpaid against such Unit prior to its acquisition thereof, except that, to the extent permitted by law, a Permitted Mortgagee acquiring title to a Unit at a foreclosure sale shall not be liable for, and such Unit shall not be subject to, a lien for the payment of Common Charges assessed against such Unit subsequent to the recording of such Permitted Mortgage and prior to the acquisition of title to such Unit by such mortgagee; the foregoing is subject to the provisions of the last sentence of subsection 6.3.1 hereof. However, in the event of a foreclosure of a Unit by a Permitted Mortgagee (whether by sale, deed in lieu of foreclosure or otherwise) or by the Board of its lien on any Unit for unpaid Common Charges, if the net proceeds of the foreclosure sale actually received (after deduction of all legal fees, advertising costs, brokerage commissions and other costs and expenses incurred by such Permitted Mortgagee in connection therewith) are insufficient to satisfy the defaulting Unit Owner's obligations, or if a Unit is acquired by a mortgagee or purchaser in foreclosure, the owner of such Unit prior to the foreclosure sale shall remain liable for the payment of all unpaid Common Charges which accrued prior to such sale, as provided in these By-Laws.

6.2.3 Notwithstanding the provisions of subsection 6.2.1 any Unit Owner that is a foreign government, a resident representative of a foreign government or such other person or entity otherwise entitled to the immunities from suit enjoyed by any foreign government (i.e. diplomatic or sovereign immunity) shall deposit with the Board an amount equal to the Common Charges for such Unit for a period of two (2) years as security for the faithful observance by such Unit Owner of the terms, provisions and conditions of these By-Laws. In the event that such Unit Owner defaults in respect of the terms, provisions and conditions of these By-Laws, the Board may use, apply, or retain the whole or any part of the security so deposited to the extent required for the payment of any Common Charges or any other sum as to which Unit Owner is in default.

6.2.4 Sponsor reserves the right, in its sole and absolute discretion, to waive the collection of Common Charges from Purchasers under the Offering Plan for a period of time prior to full occupancy of the Building (the "Waiver Period"); provided, however, that Sponsor shall be solely responsible for payment of all expenses to operate the Building during the Waiver Period (the "Operating Expenses"). All Operating Expenses paid by Sponsor during the Waiver Period are based on the actual cost of operating the Building and not on estimates set forth in Schedule B – "Projected Budget for First Year of Condominium Operation". Purchasers should note that Schedule B will not be in effect until the expiration of the Waiver Period. Notwithstanding anything to the contrary set forth above, the Operating Expenses shall not include real estate taxes regardless of whether the Unit has been separately assessed. In all instances the Unit Owners will remain responsible for the payment of the real estate taxes. In addition, each Purchaser shall be responsible for payment of its allocable share of the property insurance premium attributable to its respective Unit during the Waiver Period, which expenses shall be separately assessed to each Purchaser in proportion to their respective Common Interest. Sponsor, in its sole and absolute discretion, may upon thirty (30) days prior written notice to Unit Owners terminate the Waiver Period.

6.3 Default in Payment of Common Charges; Lien for Unpaid Common Charges; Other Remedies.

6.3.1 Except to the extent prohibited by law, the Board, on behalf of all Unit Owners, shall have a lien for Common Charges unpaid by any Unit Owner, together with interest thereon, on all Units owned by such Unit Owner. Such lien for Common Charges shall be subordinate only to liens for real estate taxes and, to the extent required by applicable law, to prior recorded Permitted Mortgages on such Units, which are first mortgages of record.

6.3.2 In the event any Unit Owner fails to make payment of Common Charges when due, such Unit Owner shall be obligated to pay: (a) a "late charge" of \$.04 for each dollar of such amounts which remain unpaid for more than 10 days from their due date (although nothing herein shall be deemed to extend the period within which such amounts are to be paid); and (b) interest at the rate of one and one-quarter percent (1.25%) per month (but in no event in excess of the maximum rate permitted by law) on such unpaid amounts (exclusive of any "late charges" theretofore assessed on such amounts) computed from the due date thereof, together with all expenses, including, without limitation, attorneys' fees and expenses paid or incurred by the Board or by the Managing Agent in any proceeding brought to collect such unpaid Common Charges or in an action to foreclose the lien on such Unit arising from said unpaid Common Charges, whether as provided in Section 339-z of the New York Condominium Act, in the manner provided in Section 339-aa thereof or in any other manner permitted by law. In addition, if the Board shall bring an action to foreclose such lien because of unpaid Common Charges, the defaulting Unit Owner shall be required to pay a reasonable fee for the use and occupancy of its Unit and the plaintiff in such foreclosure action shall be entitled to the appointment, without notice, of a receiver to collect the same. All such "late charges", interest, expenses and fees shall be added to and shall constitute Common Charges payable by such Unit Owner; and the lien for unpaid Common Charges shall also secure the payment of such additional sums. A suit to recover a money judgment for unpaid Common Charges shall be maintainable without foreclosing or waiving the lien securing such charges.

6.3.3 In any action brought by the Board to foreclose a lien on a Unit because of unpaid Common Charges, the Board, acting on behalf of all Unit Owners, shall have the power (but shall not be obligated) to purchase any such Unit at the foreclosure sale thereof, and to acquire, hold, lease, mortgage, convey or otherwise deal with such Unit (but not to vote the interests appurtenant thereto). In the event the net proceeds received on a foreclosure sale (after deduction of all legal fees, advertising costs, brokerage commissions and other costs and expenses incurred in connection therewith) are insufficient to satisfy the defaulting Unit Owner's obligations, such Unit Owner shall remain liable for the deficit, as provided in these By-Laws.

6.3.4 For the purposes of this subsection 6.3.4, "non-occupying owner" shall mean a Unit Owner who or which does not occupy its Unit.

(a) If a non-occupying owner rents any Unit to a rental tenant and then fails to make payments due for Common Charges or any other amounts payable by such Unit Owner to the Board, including, without limitation, assessments and/or late fees (all of the foregoing, collectively, "Payments") for such Unit within sixty (60) days of the expiration of any grace

period after the same are due, upon notice in accordance with subdivision (b) of this subsection, all rental payments from the tenant shall be directly payable to the Board.

(b) If the Payments for any Unit have not been paid in full within sixty (60) days after the expiration of any grace period of the earliest due date, the Board shall provide written notice to the tenant and the non-occupying owner providing that, commencing immediately and until such time as all Payments are made current, all rental payments due subsequent to the issuance of such notice are to be made payable to the Board at the address listed on the notice. Where a majority of the Board has been elected by and from the Unit Owners who are in occupancy, the Board may elect not to require that rental payments be made payable to the Board. At such time as Payments from the non-occupying owner are once again current, notice of such fact shall be given within three business days to the rental tenant and non-occupying owner. Thereafter all rental payments shall be made payable to the non-occupying owner or a designated agent. A non-occupying owner who disputes the Board's claim to rental payments pursuant to this subsection shall be entitled to present facts supporting such Unit Owner's position at the next scheduled meeting of the Board, which must be held within 30 days of the date that such Board receives notice that such owner seeks to dispute such claim.

(c) Nothing in this subsection shall limit any rights of any Unit Owner or the Board existing under any other law or agreement.

(d) Payment by a rental tenant to the Board made in connection with this subsection shall relieve that rental tenant from the obligation to pay such rent to the non-occupying owner and shall be an absolute defense in any non-payment proceeding commenced by such non-occupying owner against such tenant for such rent.

#### 6.4 Insurance.

6.4.1 The Board shall be required to obtain and maintain, to the extent obtainable at commercially reasonable rates, and to the extent determined by the Board to be appropriate, the following insurance:

(a) All risk property insurance with common coverage extensions insuring the entire Building (including each Unit, but excluding fixtures, furniture, furnishings, decorations, appliances or other personal property not constituting a part of such Unit), together with all service machinery contained therein, and covering the interests of the Condominium, the Board and all Unit Owners and Permitted Mortgagees, as their respective interests may appear, in an amount equal to the 100% replacement cost value of the Building (exclusive of foundation and footings), without deduction for depreciation. Such insurance shall include coverage for plate glass to the extent if any determined by the Board, as well as flood (including sewer backup) and earth movement coverage (which may contain a sublimit per occurrence and in the annual aggregate). Such insurance policy shall not include a co-insurance provision.

(b) Boiler and machinery insurance on a replacement cost basis with limits of not less than \$20,000,000 for all mechanical and electrical equipment against physical damage and rent loss, covering the interests of the Condominium, the Board, Unit Owners and Permitted

Mortgagees, as their respective interests may appear. Such insurance policy shall not include a co-insurance provision;

(c) Commercial general liability insurance against claims for personal injury, death or property damage as well as owned, hired and non-owned automobile liability occurring upon, in or about the Property, in such amounts as from time to time are carried by prudent owners of comparable properties in the City of New York, and in such limits as the Board, from time to time, may determine, and including products and completed operations liability coverage all covering: (i) the Board, the Managing Agent, each Board member, each officer and employee of the Condominium, and (ii) each Unit Owner and their agents and Permitted Mortgagees, if any, except that such policy will not cover liability of a Unit Owner arising from occurrences within or about its own Unit or within or about the Common Elements, if any, exclusive to its Unit. The Board shall review such limits once each year. Until the first meeting of the Board following the first annual meeting of Unit Owners, such liability insurance shall be at least \$1,000,000 with respect to any occurrence and \$2,000,000 annual aggregate for this location, with umbrella liability coverage of at least \$200,000,000 and at no time and in no event during this time period shall such general liability insurance afford protection to the limit of less than such amounts;

(d) Workers' compensation and New York State disability benefits insurance as required by applicable law; provided, however, that if the Board does not have any direct employees, such insurance may be purchased if the Board so determines on an "if any" basis;

(e) Crime or fidelity insurance covering all officers, Board members, directors and employees of the Condominium and of the Managing Agent who handle funds of any of the foregoing with limits of not less than \$3,000,000 and with such deductible as is commercially reasonable and maintained by owners of properties similar in type, location and quality as the Building;

(f) Directors' and officers' liability coverage with limits of not less than \$5,000,000 and with such deductible as is commercially reasonable and maintained by owners of properties similar in type, location and quality as the Building;

(g) Terrorism coverage; and

(h) Such other insurance as the Board may determine advisable or necessary from time to time. The Board shall review the insurance being carried and limits thereof at least once each year.

6.4.2 Each of said policies shall contain a Condominium Property Endorsement and a New York standard mortgagee clause in favor of each Permitted Mortgagee which shall provide that the loss, if any, thereunder shall be payable to such Permitted Mortgagee, as its interest may appear, subject, however, to the loss payment provisions hereinafter set forth. The premiums for all insurance referred to above and for the liability insurance referred to below shall be a Common Expense and shall be allocated among the Units on the basis of Common Interests. In the event that assessing insurance premiums on the basis of Common Interests does not substantially reflect the premium charges for actual coverage for any

of the Units, and the Board fails to agree on a manner to accurately allocate the premiums, the matter shall be determined by Arbitration.

6.4.3 To the extent obtainable at commercially reasonable premiums, all fire, casualty and general liability insurance policies which the Board is required to maintain must provide that each Unit Owner is an additional insured party, to the extent of their respective interests, and 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 cancelled or substantially modified without at least thirty (30) days' prior written notice to all of the insureds, including the Board, all Unit Owners and Permitted Mortgagees, who have requested the same from the Board in writing. Duplicate originals or certificates of insurance of all policies of insurance and of all renewals thereof, if obtainable, together with proof of payment of premiums, shall be delivered to all Unit Owners and Permitted Mortgagees who have requested the same from the Board in writing. Renewals shall be obtained at least ten (10) days prior to the expiration of the then current policies.

6.4.4 Insurance proceeds with respect to any loss shall be payable to the Board or Unit Owners entitled to adjust such loss, as aforesaid, except that the proceeds of all policies of physical damage insurance, if in excess of \$2,500,000, shall be payable to a New York City bank or trust company designated by the Board as Insurance Trustee (as hereinafter defined) pursuant to the provisions of Section 12.7. Any dispute between the Board and the Unit Owners under this subsection 6.4.3 shall be determined by Arbitration.

6.4.5 The amount of fire insurance and all risk property insurance with common coverage extensions to be maintained with respect to the Condominium (including each Unit, but excluding such items noted in subsection 6.4.1 to be excluded) until the first Board meeting following the First Annual Meeting of Unit Owners shall be 100% of the full replacement cost of the Property.

6.4.6 All policies of physical damage insurance shall provide that such policies may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to all of the insureds, including all Unit Owners and Permitted Mortgagees, who have requested the same from the Board in writing. Duplicate originals or certificates of insurance of all policies of physical damage insurance and of all renewals thereof, if obtainable, together with proof of payment of premiums, shall be delivered to all Unit Owners and Permitted Mortgagees who have requested the same from the Board in writing.

6.4.7 Any insurance maintained by the Board may provide for such deductible amounts as the Board determines, taking into account market conditions and/or any such conditions that may be required by the holder of a mortgage covering the Building.

6.4.8 If the use of any Unit causes an increase in the premium for the insurance which the Board is required to obtain and maintain, as set forth herein or otherwise, then the owner of such Unit shall be obligated to pay to the Board a sum equal to the amount of such increase attributable to such use.

6.4.9 The Board is not required to obtain or maintain any insurance with respect to any personal property contained in a Unit or any liability with respect to occurrences within or about a Unit or the Common Elements, if any, exclusive and/or appurtenant thereto. Consequently, all Unit Owners are required to obtain and maintain insurance covering personal property and other property and improvements in such Unit, as well as commercial general public liability insurance against claims for personal injury, death or property damage occurring in, on or about such Unit Owner's Unit or the Common Elements, if any, exclusive to his or her Unit, affording protection of at least \$1,000,000 per occurrence plus at least \$3,000,000 umbrella liability coverage which shall be issued by an insurance company qualified to do business in the State of New York and approved by the Board, acting reasonably; and the Board, the Managing Agent and Sponsor shall be named as additional insureds on such insurance policies. Subject to the requirements herein, Unit Owners shall not be prohibited from carrying other insurance for their own benefit, at their own expense and the Board shall not be prohibited from carrying additional insurance; provided, however, all policies of insurance obtained by any Unit Owner with respect to occurrences within or about a Unit or the Common Elements appurtenant thereto shall contain a waiver of the insurer's rights of subrogation against the Board. The liability of the carriers issuing insurance obtained by the Board shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner. To the extent any party is insured, or required to be insured for loss or damage to property hereunder, each party will look to its own insurance policies for recovery.

6.4.10 All insurance policies required or permitted to be maintained by Unit Owners hereunder shall be primary with respect to the risks insured thereunder and shall contain waivers of subrogation, if available, and further provide that the liability of the carriers issuing insurance obtained by the Unit Owner shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner. Further, as a result of current fluctuations in the insurance market, the Board will not be required to obtain or maintain terrorism or mold coverage but may do so, and in such event, the cost thereof shall be a Common Expense. On or prior to the date upon which any given Unit Owner acquires title to its Unit, each such party shall deliver to the Board certificates evidencing the insurance required to be maintained by such Unit Owner hereunder. Evidence of each renewal or replacement of a policy shall be delivered by Unit Owner to the Board at least ten (10) days prior to the expiration of such policy.

6.4.11 Any insurance coverage(s) required to be obtained by the Board may be satisfied by any so-called builder's risk policy obtained by Sponsor in connection with the construction of the Building, provided the limits and terms of such policy are adequate to meet the terms and conditions set forth in this Article 6. To the extent any such policy obtained and paid for by Sponsor shall satisfy the insurance requirements of the Board for the Condominium in respect of any period following the First Closing, the Board shall reimburse Sponsor for its prorated share of the cost of such coverage.

6.4.12 Until payment of the debt under the mortgage securing Sponsor's Construction Loan (the "Construction Mortgage") is made in full or until such mortgage is assigned by Construction Lender to Sponsor's designee, whichever occurs first, the Board must comply with the obligations the Construction Mortgage (which provisions set forth the Board's obligations with respect to the maintenance of insurance during such period).

## 6.5 Repair or Reconstruction after Fire or Other Casualty.

6.5.1 In the event that the Building or any part thereof is damaged or destroyed by fire or other casualty (unless three-fourths or more of the Building is destroyed or substantially damaged and seventy-five percent (75%) or more in Common Interest of all Unit Owners do not duly and promptly resolve to proceed with repair or restoration), the Board will arrange for the prompt repair and restoration thereof (including each Unit, but excluding appliances, improvements, betterments, equipment, furniture, furnishings or other personal property in any such Unit) and the Board or the Insurance Trustee (as defined in Section 12.7 below), as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. If only the Units and/or the Limited Common Elements are damaged or destroyed by fire or other casualty and the insurance proceeds are insufficient to cover, or exceed, the cost of repairs and restoration, the deficit or surplus, as the case may be, will be shared by all Unit Owners in proportion to their respective Common Interests. If said damage or destruction by fire or other casualty affects the General Common Elements, or any combination of the Units, then any deficit or surplus in insurance proceeds shall be borne or shared by all Unit Owners, or by the Unit Owners of the affected portions of the Building, as appropriate, in proportion to their respective Common Interests. Any surplus payable to any Unit Owner pursuant to this subsection 6.5.1 shall be lessened by such amounts as may be required to discharge unpaid liens (other than mortgages which are not Permitted Mortgages) on any such Unit in the order of priority of such liens.

6.5.2 If three-fourths or more of the Building is destroyed or substantially damaged and if seventy-five percent (75%) or more in Common Interest of all Unit Owners do not duly resolve within sixty (60) days from the date of such damage or destruction to proceed with the repair or restoration thereof, the Building will not be repaired and shall be subject to an action for partition instituted by any Unit Owner or lienor, as if the Building were owned in common, in which case the net proceeds of sale, together with the net proceeds of insurance policies, shall be divided among all Unit Owners in proportion to the respective Common Interests of such Units; provided, however, that no payment shall be made to a Unit Owner until there has first been paid out of his or her share of such funds, such amounts as may be necessary to discharge all unpaid liens on his or her Unit (other than mortgages which are not Permitted Mortgages) in the order of the priority of such liens.

6.5.3 As used in this Section 6.5, the words "promptly resolve" shall mean not more than 60 days after the date of the damage or destruction in question occurs.

6.5.4 Any dispute between the Board and a Unit Owner under this Section 6.5 shall be settled by Arbitration (as provided in Article 11).

## 6.6 Maintenance and Repairs.

6.6.1 Except as otherwise provided in the Declaration or these By-Laws: (a) all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, ordinary or extraordinary, and all maintenance, repairs and replacements of all plumbing, heating and lighting fixtures, heating and air-conditioning units and appliances (i) in or to any Unit (other than, in general, to the Common Elements included therein) will be made

by the Owner of such Unit at his or her expense; (ii) in or to the General Common Elements will be made by the Board and the expense thereof will be charged to the Unit Owners as a Common Expense; or (iii) in or to the Limited Common Elements will be made by the Board and the expense thereof will be charged to all Unit Owners in the proportion that their respective Common Interests bear to the aggregate Common Interests of all Unit Owners; provided, however, that a Unit Owner having use of a terrace appurtenant to a Unit (each a "Terrace," and collectively, "Terraces") shall be responsible for ordinary maintenance and cleaning thereof; (b) a Unit Owner shall not be responsible for the cost of painting, decorating, maintenance, repairs or replacements on or to any Unit other than to its own Unit (and any Limited Common Elements included in or appurtenant to any such Unit), except to the extent otherwise provided herein; and (c) each Unit and all portions of the Common Elements shall be kept in a clean and sanitary condition, and in good working order (and all portions thereof exposed to public view shall be kept in a neat appearance and in first-class condition in accordance with the high quality, character and dignity of the Building), in each case, by the Unit Owner or the Board, whichever is responsible, under the By-Laws, for the maintenance thereof. In the event that any Unit Owner fails to keep his or her Unit in such condition, the Board, at the expense of such Unit Owner, may enter such Unit and perform such acts as are necessary to cure such default. Without limiting the foregoing, Unit Owners shall be responsible for all maintenance, repairs and replacements of all plumbing, appliances and lighting fixtures, and heating, ventilation and air conditioning units in their respective Units. Notwithstanding the foregoing, each Unit Owner shall be responsible for all ordinary maintenance and cleaning of each Terrace appurtenant to its Unit; however, the costs and expenses of any repairs or replacements, structural or otherwise with respect to each such Terrace (unless caused by or attributable to the applicable Unit Owner), shall be charged to all Unit Owners as a Common Expense.

6.6.2 Notwithstanding the provisions of subsection 6.6.1:

(a) In the event that any painting, decorating, maintenance, repairs or replacements to the Property or any part thereof (including, without limitation, any Unit) is necessitated by or attributable to the negligence, misuse, neglect or abuse of (i) any one or more Unit Owner(s) or its or their tenants, agents, invitees, licensees or guests, the entire cost thereof shall be borne entirely by such Unit Owner, or (ii) the Board or its tenants, agents, invitees, licensees or guests, the entire cost thereof shall be charged to all Unit Owners as a Common Expense, except to the extent in any case that such cost is covered by the proceeds of any insurance maintained pursuant to the provisions hereof.

(b) Except as may otherwise be expressly provided herein, no Unit Owner may install, inscribe or expose any signage on or at any window or any other part of the Common Elements. Additionally, notwithstanding the foregoing, Sponsor and any holder of Unsold Units and the Board shall have an easement to erect, maintain, repair and replace signs, notices, advertisements and illuminations on portions of the Property, including, without limitation, on the exterior of the Building, on or at windows and in interior public spaces of the Building (but in no event within the interior of or on the exterior of the Unit owned by any other party), for the purposes of advertising the availability of Units for sale or lease by Sponsor or its designee and/or, in the case of the Board, for any other valid business purpose.

(c) The Building does not feature a window washing rig and accordingly the washing and cleaning of the interior and exterior glass surfaces of all windows in the Units shall be the responsibility of the respective Unit Owners. All window interiors shall be cleaned a minimum of two (2) times per calendar year. The washing of window exteriors shall be performed by an insured window washing professional. The Board may from time to time enforce the responsibility of Unit Owners to wash and clean the interior and exterior surfaces of windows located in their respective Units and charge the defaulting Unit Owner therefor. Unit Owners are prohibited from cleaning or allowing to be cleaned any window from the outside in violation of Section 202 of the New York State Labor Law, any other applicable Legal Requirements, any insurance policy or requirement or otherwise.

In the event that, under applicable Legal Requirements, any exterior windows in the Units must be reduced in size or closed, the owner of the affected Unit shall solely bear the costs relating to such reduction or closure and, in the event that closure is required, such windows will be enclosed by the Board, at the sole cost of the affected Unit Owner.

(d) Except as otherwise provided in Section 6.6.1, all normal maintenance, repairs and replacements of any Limited Common Element appurtenant to a Unit shall be made by the Unit Owner having exclusive access thereto, at its own cost and expense; any structural or extraordinary repairs or replacements thereto (including, without limitation, leaks) shall be made by the Board and the cost and expense thereof shall be charged to all Unit Owners as a Common Expense, unless due to the negligence, misuse, neglect or abuse of such Unit Owner or its tenant, agent, invitee, licensee or guest, in which event such Unit Owner shall bear the entire cost thereof, and the same shall, for all purposes hereunder, constitute part of the Common Charges payable by such Unit Owner. Unit Owners are prohibited from cleaning or allowing to be cleaned any window from the outside in violation of Section 202 of the New York State Labor Law, any other applicable Legal Requirements, any insurance policy or requirement or otherwise.

(e) Except as otherwise provided in Section 6.6.1, in the event that any portion of the glass of a Unit's window is broken from the interior of such Unit (or otherwise due to the actions of such Unit Owner), the replacement and/or repair of such glass will be made by the Owner of such Unit at his or her expense; and, in the event that any portion of the glass of a Unit's window is broken from the outside of such Unit, the replacement and/or repair of such glass will be made by the Board and the expense thereof will be charged to the Unit Owners as a Common Expense.

6.6.3 Each Unit and all portions of the Common Elements shall be kept in the condition and otherwise in such manner that standards of quality and appearance are maintained which are appropriate for a luxury residential condominium project (and with respect to any roof or other part of the Property exposed to the elements, free of snow, ice and accumulation of water) by the Unit Owner or the Board, whichever is responsible for the maintenance thereof under the Declaration or these By-Laws, and such Unit Owner or the Board shall promptly make or perform, or cause to be made or performed, all maintenance work, repairs and replacements necessary in connection therewith. In addition, the public areas of the Building and those areas which are exposed to public view shall be kept in good appearance, in conformity with the dignity and character of the Building, by: (a) the Board, with respect to such

parts of the Building it is required to maintain under the Declaration or these By-Laws; and (b) each Unit Owner, with respect to the windows and window shades, venetian or other blinds, drapes, curtains or other window decorations in or appurtenant to its Unit, as well as those other areas of such Unit and its appurtenant Limited Common Elements (if any) which are exposed to public view. In order to promote a consistent appearance of the Building from the outside, unless waived by the Board, each Unit Owner will be required to install and maintain window treatments having a neutral colored backing on the sides facing the windows in his or her Unit, which window treatments and backings must conform to any specifications (including a new color) established from time to time by the Board. Neither the interior nor the exterior glass surfaces of any windows located in any Unit may be altered, colored or painted.

6.6.4 In the event that any Unit Owner, after receipt of written notice from the Board, fails or neglects in any way to perform any of its obligations with respect to the maintenance, repair or replacement in or to its Unit as provided in this Article 6 or of any Common Element for which such Unit Owner is responsible under the Declaration or these By-Laws, the Board may perform or cause to be performed such maintenance, repair or replacement unless such Unit Owner, within ten (10) days after receiving notice of such default by the Board, (except in the event of an “emergency”, i.e., a condition requiring repairs, replacements or installations immediately necessary for the preservation or safety of all or any portion of the Property or for the safety of occupants of the Building or other persons, or required to avoid the suspension of any necessary service in the Building or with respect to all or any portion of the Property), cures such default, or in the case of a default not reasonably susceptible to cure within such period, commences (within such ten (10) day period) and thereafter prosecutes to completion, with due diligence, the curing of such default. All sums expended and all costs and expenses incurred by the Board in connection with the making of any such maintenance, repair or replacement in or to such Unit Owner’s Unit or to any such Common Element for which such Unit Owner is responsible as aforesaid, together with interest thereon at the rate of one and one-half percent (1.5%) per month (but in no event in excess of the maximum rate permitted by law), shall be immediately payable by such Unit Owner to the Board and shall, for all purposes hereunder, constitute Common Charges payable by such Unit Owner.

## 6.7 Alterations of Units.

6.7.1 Except as otherwise provided in the Declaration or these By-Laws:

(a) No Unit Owner (other than Sponsor or its designee as the owner of Unsold Units) shall make any alterations, additions, installations, improvements, replacements or repairs (all of the foregoing being, collectively, “Alterations”) in or to its Unit which affects the structure or systems of the Building (including, without limitation, the mechanical, electrical, plumbing, heating, ventilating and/or air-conditioning systems thereof), without obtaining the prior written consent of the Board thereto. Prior to, and as a condition of, the granting of its consent to the making of any such Alteration in or to a Unit, the Board, at its option, may require any Unit Owner to execute an agreement, in form and substance satisfactory to the Board, setting forth the terms and conditions under which such Alteration (as defined below) may be made. Any Unit Owner seeking to perform such work requiring the consent of the Board shall be liable for all costs and expenses incurred by the Board in obtaining such consent.

(b) All repairs which would affect the structure or systems of the Building (including, without limitation, the mechanical, electrical, plumbing, heating, ventilating and/or air-conditioning system thereof, but excepting any system which exclusively serves the Unit in question) and all Alterations to any Unit shall be made in accordance with plans and specifications, which plans and specifications shall be subject to review and approval by the Board.

(c) The Board may impose fees upon any Unit Owner to reimburse the Condominium for costs incurred by the Board in connection with the review and supervision of such Unit Owner's work.

6.7.2 All Alterations by a Unit Owner shall be performed:

(a) at the Unit Owner's sole cost and expense (which shall include, without limitation, the reasonable costs of the Board incurred in reviewing and approving such Unit Owner's submission for approval (if such approval is required under these By-Laws) and in monitoring such Unit Owner's compliance with the provisions of this Section 6.7);

(b) in a manner which will not interfere with, or cause any labor disturbances or stoppages in, the work of Condominium employees or other contractors or subcontractors employed in the Units or the Building;

(c) only during only such days and hours as may be specified by the Board in its reasonable judgment;

(d) only after obtaining such insurance, naming the Board, the Managing Agent and Sponsor as additional insureds, as the Board or the Managing Agent may require and indemnifying the Board, all other Unit Owners and the Managing Agent against any liability arising from the work;

(e) employing such architects, engineers, contractors, subcontractors, workers, suppliers and other laborers who are on the Managing Agent's then approved list, as such list may change from time to time, in the sole discretion of the Board or the Managing Agent; and

(f) in compliance with the Declaration, these By-Laws, the Rules and Regulations, the overall Building standards and all applicable laws, ordinances, orders, rules, regulations and requirements of all governmental and quasi-governmental authorities, including, without limitation, the requirements of the New York City Department of Buildings and the boards of fire underwriters having jurisdiction thereof (all such laws, ordinances, orders, rules, regulations and requirements being sometimes hereinafter collectively referred to as "Legal Requirements"), including, without limitation, Legal Requirements relating to licensing of contractors, obtaining of all necessary governmental permits, authorization, certificate and licenses for the commencement and completion of any Alterations and obtaining of any amendment to the Certificate of Occupancy for such Unit, if necessary.

6.7.3 In addition to the requirements set forth above in this Section 6.7, the Board shall have the right to impose certain requirements in connection with Alterations, including but not limited to:

(a) the Unit Owner shall deposit with the Board an amount equal to ten percent (10%) of the cost of completing the Alteration submitted for the Board's approval;

(b) the Unit Owner shall be required to complete any Alterations within a reasonable amount of time as determined by the Board;

(c) the Unit Owner shall obtain all necessary or required signoffs from the applicable governmental authority for any Alterations performed within thirty (30) days of completion of such Alterations; and

(d) the Board may impose a limit on the number of Units in the Building undergoing Alterations at the same time.

6.7.4 The Unit Owner performing, causing, permitting or suffering such Alterations to be performed shall, if required by the Board, pay the cost of: (i) any amendment of the Declaration and the floor plans of the Condominium, if required by the Board or by any applicable Legal Requirements, to reflect any such Alterations, (ii) obtaining all necessary governmental permits, authorizations, certificates and licenses for the commencement and completion of any Alterations (copies of which shall be delivered to the Board promptly after the issuance thereof and prior to the commencement of any Alterations), and obtaining any amendment to the Certificate of Occupancy for such Unit, if necessary; provided that no work or change by or on behalf of a Unit Owner will be permitted without the consent of the Board (which consent may be withheld or conditioned in the sole discretion of such Board) if such work or change would result in a delay in obtaining a temporary or permanent Certificate of Occupancy for the Building, or any amendment to, or extension of, the same if theretofore issued; and (iii) any reasonable architectural, engineering and legal fees incurred by the Board in connection with such work. Neither the Board nor any Unit Owner (other than the Unit Owner making, permitting or suffering any Alterations to be made in or to its Unit) shall incur any liability, cost or expense either: (A) in connection with the preparation, execution or submission of the applications referred to above; (B) to any contractor, subcontractor, supplier, architect, engineer or laborer on account of any Alterations made or permitted or caused to be made by any Unit Owner; (C) to any person or entity asserting any claim for personal injury or property damage arising therefrom; or (D) arising out of a Unit Owner's failure to obtain any permit, authorization, certificate or license, or to comply with the Declaration, these By-Laws, the Rules and Regulations and the provisions of any Legal Requirements insofar as the same relates to Alterations. A Unit Owner making or causing, permitting or suffering any tenant or occupant to make, any Alteration shall be deemed to have agreed to indemnify, defend and hold the Board, the Managing Agent and all other Unit Owners harmless from and against any liability, loss, cost, or expense arising therefrom, and from and against any and all loss, cost, expense (including, but not limited to, attorneys' fees and disbursements), damage, injury or liability, whether direct, indirect or consequential, resulting from, arising out of, or in any way connected with, any of the foregoing.

6.7.5 Any application to any department of the City of New York or to any other governmental authority having jurisdiction thereof for a permit to make an Alteration in or to any Unit shall, if and to the extent required by law or such department or authority, be executed by the Board, in the case of any Alteration which such party has approved (or for which its approval is not required), provided that the Board shall not incur any liability, cost or expense in connection with or by reason of executing such application.

6.7.6 Notwithstanding anything to the contrary contained in this Section 6.7 (but subject to all Legal Requirements), however, Sponsor and its designees shall each have the right pursuant (and subject) to the terms of the Declaration, without the approval of the Board (i) to make any Alterations in or to any Unsold Units, whether structural or non-structural, interior or exterior, ordinary or extraordinary (including, without limitation, those required under the Offering Plan, any Purchase Agreement or otherwise); and (ii) to subdivide, combine and change the boundary walls of Unsold Units. Additionally, any initial purchaser of any Unsold Unit shall have the right, without approval of the Board, to make any Alterations in or to its Unit, provided that Sponsor or its designee has consented to the same in writing at or prior to the closing of title to such Unit (which consent may be withheld or conditioned in Sponsor's sole discretion), that such purchaser obtains all necessary approvals required by law, and that such purchaser complies with all of the other requirements of this Section 6.7.

6.7.7 In addition to the requirements set forth above in this Section 6.7, until a permanent Certificate of Occupancy is obtained for the Building, no Unit Owner shall make any Alterations in or to its Unit without first notifying Sponsor of the same in writing and complying with Sponsor's requirements with respect to the same. Such requirements may include, without limitation, the following:

- (a) such work not include any change that would result in a delay in obtaining a temporary or permanent Certificate of Occupancy for the Building, or any amendment to, or extension of, the same if theretofore issued;
- (b) such Unit Owner post a bond or other similar security that is reasonably acceptable to Sponsor in an amount sufficient (in Sponsor's reasonable judgment) to ensure the diligent completion of the work and the filing of any required notices or certificates with respect to such work and the completion of the same with all governmental authorities having jurisdiction;
- (c) such work not be commenced until such Unit Owner causes all required plans, specifications, notices and/or certifications to be filed with all governmental authorities having jurisdiction, procures all required permits and licenses with respect to the same, and delivers copies of all such plans, specifications, notices, certifications, permits and licenses to Sponsor;
- (d) such work be diligently prosecuted to completion in compliance with all plans, specifications, notices and/or certifications and in conformity with all permits and licenses;

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

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

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

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

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

6.8 Alterations to Common Elements. Except as otherwise provided in the Declaration or these By-Laws, all alterations, additions or improvements in or to the Common Elements will be made by the Board. Except as otherwise expressly provided in these By-Laws, the costs of alterations, additions or improvements to the General Common Elements will be charged to all Unit Owners as a Common Expense. Whenever, in the judgment of the Board, the Common Elements require additions, alterations, improvements, or repairs which are capital in nature and would cost more than \$250,000 (subject to increase by the CPI Increase Factor), in the aggregate, in any calendar year, such additions, alterations, improvements or repairs may not be made unless the same have been approved by the Unit Owners owning a majority of the Common Interests of all Units liable for the cost thereof pursuant to the preceding sentence,

including Sponsor, if it then owns any Unit, at a duly constituted meeting of Unit Owners and by the representatives of institutional mortgagees of Units, if any, appointed pursuant to the By-Laws (the "Mortgagee Representatives"), or unless the same is a non-capital repair or necessary to comply with applicable Legal Requirements, to remedy any violation imposed against the Property, to comply with a proper work order of an insurer of the Property, or for the health or safety (but not the general comfort or welfare) of the residents or occupants of the Property. In any such event, the Board may, in its discretion, assess each Unit Owner liable therefor for his or her pro-rata share of the cost of such additions, alterations, or improvements, according to his or her Common Interest, as part of the Common Charges. Any additions, alterations, or improvements costing \$250,000 (subject to increase by the CPI Increase Factor) or less, in the aggregate, in any calendar year or which is a non-capital repair may be made by the Board without the approval of the Unit Owners.

6.9 Use of Units. A Unit may be used only as a residence and, subject to compliance with these By-Laws, for a lawful home occupation. A Unit may only be occupied by: (i) any individual who is a Unit Owner or permitted lessee; (ii) any officer, director, shareholder or employee of any corporation which is a Unit Owner or permitted lessee; (iii) any partner or employee of any partnership which is a Unit Owner or permitted lessee; (iv) any member or employee of any limited liability company which is a Unit Owner or permitted lessee; (v) the fiduciary or beneficiary or employee of any fiduciary which is a Unit Owner or permitted lessee; (vi) any principal or employee of any other entity (including, but not limited to, embassies and consulates of foreign governments) which is a Unit Owner or permitted lessee, provided that in each instance in clauses (ii) through (vi) above: (A) the designated officer, director, shareholder, partner, member, fiduciary, beneficiary, principal or employee is designated as the primary occupant of the Unit and is not being designated to use the Unit on a transient basis or as other than the primary occupant; and (B) such use is not, in fact or in effect, part of or furtherance of a program, plan, entity, agreement or other arrangement providing for short-term, fractional or shared use and/or ownership of such Unit; and (vii) family members, domestic employees and/or non-paying guests of any of the foregoing. Enclosed residential spaces below the design flood elevation shall be usable for storage only (the flood plane is more particularly described in Exhibit 5 to Part II of the Offering Plan).

#### 6.10 Licensing and Use of Storage Areas.

##### 6.10.1 Permitted Licensees; Transfer.

(a) To help protect the security of the Building, the holder of a Storage License (other than Sponsor) must at all times be a Unit Owner; provided, however, that the foregoing restriction shall not apply: (i) to Sponsor or its designee; or (ii) to the Board or its designees. If the Board terminates a Storage License or a Unit Owner surrenders a Storage License without assigning such license to another Unit Owner, the Board shall have the right to issue a new Storage License for the corresponding Storage Area upon terms and conditions determined in its sole discretion. If at any time the licensee of a Storage Area sells its Unit, it shall simultaneously assign its license of the Storage Area to another owner of a Unit (or the purchaser of such Unit), and if it fails to do so, the Board shall have the right to terminate the license of the Storage Area and take possession of the same, without compensation to the licensee.

(b) Upon the issuance of a Storage License to a Unit Owner, such Unit Owner may freely assign such license without the consent of the Board; provided such assignee is also a Unit Owner; and provided further that the Board is provided written notice of such assignment. Neither Sponsor nor the Board shall have any liability or obligation with respect to a private assignment of a Storage License.

(c) The Board has the authority to promulgate additional rules regarding the use of and access to the Storage Areas and the procedures for assigning such Storage Licenses. If the Board terminates a Storage License or a Unit Owner surrenders a Storage License without assigning such license to another Unit Owner, the Board shall have the right to issue a new Storage License for the corresponding Storage Area upon terms and conditions determined in its sole discretion.

6.10.2 Storage Areas may only be used for storage purposes, provided that no materials which pose a health or safety threat or which otherwise create a nuisance may be stored therein. Notwithstanding the foregoing, Sponsor or its designee shall have the right to use any unlicensed Storage Areas for any lawful purpose or to change the permitted use of any unlicensed Storage Areas, subject, however, to the provisions of the Declaration.

\* 6.10.3 Holders of Storage Licenses, excluding Sponsor with respect to unsold Storage Licenses, will be required to pay a license fee to the Condominium in an amount equal to \$1 per month per square foot of such Storage Area, which amount shall, following the First Closing, be subject to biannual increases based upon the CPI Increase Factor in effect on the date of the first closing. Further, the license fee is subject to change from time to time as the Board deems necessary.

6.10.4 Upon the issuance of a Storage License to a Unit Owner or the transfer of a Storage License to an assignee, such Unit Owner or assignee, as the case may be, shall provide the Managing Agent with a copy of the Storage License.

#### 6.11 Use of Common Elements; Use of Adjacent Sidewalks.

6.11.1 Except as otherwise provided herein or in the Declaration, Common Elements may be used only for the furnishing of the services and facilities and for the other uses for which they are reasonably suited.

6.11.2 In no event shall any Unit Owner impair, restrict or impede the use of the Common Elements by any other Unit Owner or anyone claiming by, through or under any other Unit Owner.

6.11.3 The Owner or Owners of any one or more Units, which Unit or Units are the only Unit or Units serviced or benefited by any Common Element adjacent or appurtenant thereto (for example, that portion at the end of any hallway which is directly adjacent to any such Units located on opposite sides of such hallway) and not affecting access in any material way or service (including, without limitation, heating, ventilating and air conditioning) to any other Unit or to any other portion of the Common Elements shall, to the extent permitted by applicable law and subject to the consent of the Board (which consent may be granted or withheld in the Board's sole discretions and shall not be required if the Unit Owner

or Owners shall be Sponsor or its designee), have the exclusive right to use that portion of the Common Elements as if it were a part of such Units (including the right, in the above example of a portion of a hallway, to enclose such portion) and no amendment to the Declaration nor reallocation of Common Interests shall be made by reason thereof; provided, however, that notwithstanding the provisions of Subsection 6.1 hereof, such Unit Owner or Owners, at their sole cost and expense, shall (a) be responsible for the operation, maintenance and repair of that portion of the Common Elements for so long as such Unit Owner or Owners exercise such exclusive right of use, and (b) restore that portion of the Common Elements to its original condition, reasonable wear and tear excepted, after such Unit Owner or Owners cease to exercise such exclusive right of use. The owner of any such Units which are Unsold Units shall have the rights set forth in the preceding sentence without the necessity for obtaining the consent of the Board

6.11.4 Notwithstanding the foregoing, elevator landings which serve fewer than two (2) Units may be decorated and/or furnished by the adjoining Unit Owners as they desire, at their expense, provided that each such Unit Owner consents in writing thereto, and the Board gives its written consent to such decoration and/or furnishing, which consent of the Board may not be unreasonably withheld or delayed. After an elevator landing is decorated and/or furnished by the Unit Owners serviced by the same, the Owners of such Units, and not the Board, will be responsible for keeping the decor and furnishings in a first class condition and state of repair and performing, at their joint expense, all repairs and maintenance necessary or desirable in order to accomplish the same.

6.11.5 Notwithstanding anything to the contrary contained herein, Sponsor and its designees shall have the right, until the tenth (10th) Anniversary of the First Closing, to use portions of the General Common Elements, without charge, for exhibitions or for other promotional functions with respect to Sponsor's sales program or otherwise.

## 6.12 Right of Access.

6.12.1 Each Unit Owner grants a right of access to its Unit to the Board, the Managing Agent and/or any other person authorized by any of the foregoing, for the purposes, among others, of: making inspections of, or removing violations noted or issued by any governmental authority against, the Common Elements or any other part of the Property; curing defaults hereunder or under the Declaration or Rules and Regulations by such Unit Owner or correcting any conditions originating in its Unit and having a reasonable likelihood of causing damage to another Unit or all or any part of the Common Elements; performing maintenance, installations, alterations, repairs or replacements to the mechanical, plumbing or electrical services or other portions of the Common Elements within its Unit or elsewhere in the Building; reading, maintaining or replacing utility meters relating to the Common Elements, its Unit or any other Unit in the Building; or correcting any condition which violates the provisions of any Permitted Mortgage covering another Unit; provided that (a) requests for entry to any Unit are made not less than one day in advance and (b) any such right shall be exercised in such a manner as will not unreasonably interfere with the use of the other Units for their permitted purposes. In case of an "emergency", as defined in subsection 6.6.4, such right of entry shall be immediate, without advance notice, whether or not the Unit Owner or tenant is present

6.12.2 Each Unit Owner grants a right of access to its Unit and, in the case of a Unit, any Limited Common Elements appurtenant thereto, and the Board shall grant rights of access to the General Common Elements, to Sponsor and its contractors, subcontractors, agents and employees, for the purpose of complying with and fulfilling each such party's obligations as set forth in the Offering Plan, provided that access thereto shall be exercised by such party, with respect to any Unit or Limited Common Element, in such a manner as will not unreasonably interfere with the use of the Unit or Limited Common Element for its or their permitted purposes.

6.13 Rules and Regulations. Annexed hereto as Exhibit A and made a part hereof are rules and regulations (the "Rules and Regulations") concerning the use of the Units and Common Elements. The Board may from time to time modify, amend or add to such Rules and Regulations, except that (a) a Majority of Unit Owners may overrule the Board with respect to any such modification, amendment or addition; and (b) no such adoption, modification, amendment or addition affecting Sponsor or the Unsold Units may be made unless agreed to, in writing, by Sponsor or its designee. Copies of any newly adopted Rules and Regulations, or any modifications, amendments or additions thereto shall be furnished by the Board to each Unit Owner not less than 30 days prior to the effective date thereof.

6.14 Real Estate Taxes, Water Charges and Sewer Rents.

6.14.1 Water and sewer services for the Building shall be supplied by the City of New York or other utilities servicing the Property. Unless and until water charges and sewer rents are billed directly to Unit Owners by the proper authority, the Board shall promptly pay such charges, together with all related sewer rents arising therefrom, and allocate such costs as a Common Expense among the Unit Owners, as reasonably determined by the Board, based on Common Interests, and the Unit Owners shall be required to reimburse the Board, as a Common Charge, for their share of such charges and rents. In the event Sponsor pays such charges on behalf of the Board (a) the Board and/or Unit Owners shall be required to reimburse Sponsor for such charges, or (b) Sponsor shall be entitled to offset the amount paid for such charges against future costs allocated to Sponsor.

6.14.2 Until the Units are separately assessed and billed for real estate tax purposes, the Board will pay all real estate taxes with respect to the Property to the Department of Finance of the City of New York (or directly to Sponsor if Sponsor has paid such taxes) and allocate the cost thereof among all Units on the basis of percentage interest. Each Unit Owner will then reimburse the Board for his or her allocated share. Such reimbursement shall be payable as if it were a Common Charge. In the event Sponsor pays such taxes on behalf of the Board, Sponsor shall be entitled to offset the amount paid against future costs allocated to Sponsor. Such taxes will be paid in a timely manner so that no lien will be placed on the Condominium Property or any Unit. If Sponsor fails to pay real estate taxes attributable to any Unsold Unit in a timely manner and as a result of such failure a lien is placed on the Condominium Property and/or any other Unit, Sponsor will immediately cause such lien to be removed at its sole cost and expense.

6.14.3 In the event of a proposed sale of any Unit, the Board (so long as the Board is still collecting and paying such real estate taxes and/or water charges and sewer rents),

upon the written request of the selling Unit Owner, shall execute and deliver to the purchaser of such Unit or to such purchaser's title company, a letter agreeing to promptly pay all such taxes, charges and rents affecting such Owner's Unit to the date of the closing of title to such Unit

6.14.4 The Board shall commence, pursue, compromise and settle certiorari proceedings to obtain reduced real estate tax assessments with respect to any or all of the Units on behalf of and as agent for the respective Unit Owners thereof, but only with respect to such Units as to which the respective Unit Owners thereof have indemnified the Board from and against all claims, costs and expenses (including, without limitation, attorneys' fees) resulting from such proceedings. All Unit Owners will share the costs in connection therewith in proportion to the benefits derived therefrom by such Unit Owners. In the event any Unit Owner individually seeks to have the assessed valuation of its Unit reduced by bringing a separate certiorari proceeding, the Board, if necessary for such proceeding, will execute any documents or other papers required for, and otherwise cooperate with such Unit Owner in pursuing, such reduction, provided that such Unit Owner indemnifies, defends and holds the Board harmless from all claims, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) resulting from such proceedings.

6.15 Electricity. Electricity for each Unit shall be billed through separate electric meters. Each Unit Owner shall be required to pay bills for electricity consumed or used in its Unit directly to the utility company. Consumption with respect to the Common Elements will be determined by a separate meter and allocated by the Board among the Units or the Units, as applicable, on the basis of percentage of Common Interest.

6.16 Gas. Gas for the Building shall be supplied and billed through a single gas meter. The cost of the gas consumed in the Building, exclusive of the gas consumed by the PH Unit, shall be paid by the Board as a Common Expense and allocated among the Units on the basis of percentage of Common Interests.

6.17 Dispute as to Utilities Charges. In the event that there is a dispute as to the accuracy of assessing the charges for a utility upon the basis of usage, and the disputing Unit Owners and/or the Board fail to agree on a manner to accurately allocate such costs, the matter shall be determined by Arbitration.

6.18 Remedies for Violations of By-Laws or Rules and Regulations by Unit Owners.

6.18.1 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 Board the right, in addition to any other rights set forth in these By-Laws or the Declaration, (i) to enter any Unit or Common Elements in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition resulting in such violation or breach and the Board shall not thereby be deemed guilty or liable in any matter of trespass, and/or (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such violation or breach, provided that the Board gives the Unit Owner notice (which may be by telephone, electronic mail or facsimile) that such violation exists, that repairs or replacements are necessary and that the Board will complete such repairs or replacements in the event the Unit Owner does not promptly act or

complete the repairs or replacements, and/or (iii) to levy such fines and penalties as the Board may deem appropriate, and the Board shall have the same remedies for non-payment of such fines and penalties as for non-payment of Common Charges.

6.18.2 The violation or breach of any of the provisions of these By-Laws, any of the Rules and Regulations or the Declaration with respect to any rights, easements, privileges or licenses granted to Sponsor or its designee shall give to Sponsor and its designee the right, in addition to any other rights set forth in these By-Laws or the Declaration, to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such violation or breach.

## ARTICLE 7

### MORTGAGES

7.1 Notice to Board. Each Unit Owner shall have the right to mortgage its Unit, subject only to the terms and conditions set forth in this Article 7. A Unit Owner who mortgages its Unit owned by such Unit Owner, or the holder of such mortgage, shall notify the Board of the name and address of the mortgagee and shall file a conformed copy of the note and mortgage with the Board, and such Unit Owner shall, prior to the making of such mortgage, satisfy all unpaid liens against its Unit, other than Permitted Mortgages. A Unit Owner who satisfies a mortgage covering its Unit shall so notify the Board and shall file a conformed copy of the satisfaction of mortgage with the Board.

7.2 Notice to Mortgagees of Default and Unpaid Common Charges. Whenever so requested in writing by a Permitted Mortgagee of a Unit, the Board shall promptly report to such Permitted Mortgagee any default in the payment of Common Charges or any other default by the Unit Owner of such Unit under any of the provisions of the Declaration or these By-Laws which, to the Board's knowledge, may then exist. The Board, when giving notice to a Unit Owner of any such default, shall also send a copy of such notice to any Permitted Mortgagee thereof, if so requested in writing by such Permitted Mortgagee; however, the Board shall have no liability for any failure, through oversight or negligence, in notifying a Permitted Mortgagee of such default by its mortgagor, provided that the Board shall advise such Permitted Mortgagee of the default promptly after discovering such failure.

7.3 Performance by Permitted Mortgagees. The Board shall accept payment of any sum of money or performance of any act by any Permitted Mortgagee of a Unit Owner required to be paid or performed by such Unit Owner pursuant to the provisions of the Declaration, these By-Laws or the Rules and Regulations, with the same force and effect as though paid or performed by such Unit Owner.

7.4 Examination of Books. Each Unit Owner and Permitted Mortgagee shall be permitted to examine the books of account of the Condominium upon reasonable prior notice, at reasonable times on business days, but not more frequently than once a month.

7.5 Representatives of Mortgagees.

**LEASE**

**STANDARD FORM OF CONDOMINIUM APARTMENT LEASE**

CAL/985

THE REAL ESTATE BOARD OF NEW YORK, INC.

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**PREAMBLE:** This Lease contains the agreements between You and Owner concerning the rights and obligations of each party. You and Owner have other rights and obligations which are set forth in government laws and regulations.

You should read this Lease carefully. If You have any questions, or if You do not understand any words or statements, get clarification. Once You and Owner sign this Lease, You and Owner will be presumed to have read it and understood it. You and Owner admit that all agreements between You and Owner have been written into this Lease except for obligations arising under the Condominium Documents (as defined in Article 4). You understand that any agreements made before or after this Lease was signed and not written into it will not be enforceable.

THIS LEASE is made as of January 6 2015 between  
month day year

Owner, the Lessor, REDACTED  
whose address is REDACTED, and  
You, the Lessee, REDACTED  
whose address is REDACTED

**1. APARTMENT AND USE**

Owner agrees to lease to You Condominium Unit 9E (the "Apartment") on the 9th floor in the condominium apartment building at 250 West Street, Borough of Manhattan, City and State of New York, which is known as the \_\_\_\_\_ Condominium (the "Condominium"). You shall use the Apartment for living purposes only. The Apartment may be occupied only by You and the following Permitted Occupants: your children

You acknowledge that: (i) this Lease may not commence until the Condominium has waived any first refusal rights that it may have with respect to this Lease; and (ii) no other person other than You and the Permitted Occupants may reside in the Apartment without the prior written consent of the Owner and the Condominium.

**2. LENGTH OF LEASE**

The term (that means the length) of this Lease will begin on March 1st 2015 and will end on February 29th 2016. If You do not do everything You agree to do in this Lease, Owner may have the right to end this Lease before the ending date. If Owner does not do everything that Owner agrees to do in this Lease, You may have the right to end the Lease before the ending date. You acknowledge that the term of this Lease may be reduced as authorized by Article 6.

**3. RENT**

Your monthly rent for the Apartment is \$ 13,500. You must pay Owner the rent, in advance, on the first day of each month either to Owner at the above address or at another place that Owner may inform You of by written notice. You must pay the first month's rent to Owner when You sign this Lease if the Lease begins on the first day of the month. If the Lease begins after the first day of the month, You must pay when You sign this Lease: (i) the part of the rent from the beginning date of this Lease until the last day of the month, and (ii) the full rent for the next full calendar month.

**4. CONDOMINIUM DOCUMENTS**

This Lease shall be subject and subordinate to: (i) the Declaration of Condominium; (ii) the Rules and Regulations of the Condominium (which are sometimes called House Rules); and (iii) the By-Laws of the Condominium. (The Declaration, the Rules and Regulations and the By-Laws of the Condominium and all amendments thereto, including any amendments subsequent to the date hereof, are collectively called the "Condominium Documents".) In the event of any inconsistency between the provisions of this Lease and the Condominium Documents, the provisions of the Condominium Documents shall govern and be binding.

You and the Permitted Occupants of the Apartment shall faithfully observe and comply with the Condominium Documents, other than the provisions of the Condominium Documents required to be performed by Owner (which include the payment of common charges for the Apartment to the Condominium). You and the Permitted Occupants of the Apartment shall not undertake any action which, if performed by Owner, would constitute a violation of the Condominium Documents. You have reviewed the Condominium Documents or waived their examination.

**5. SECURITY DEPOSIT**

You are required to give Owner the sum of \$ 13,500 when You sign this Lease as a security deposit, which is called in law a trust. Owner will deposit this security in Citi bank at New York, New York. This security account shall not bear interest.

If You carry out all of your agreements in this Lease and if You move out of the Apartment and return it to Owner in the same condition it was in when You first occupied it, except for ordinary wear and tear or damage caused by fire or other casualty through no fault of your own, Owner will return to You the full amount of your security deposit within 60 days after this Lease ends. However, if You do not carry out all your agreements in this Lease, Owner may keep all or part of your security deposit which has not yet been paid to You necessary to pay Owner for any losses incurred, including missed payments.

If Owner sells the Apartment, Owner will turn over your security either to You or to the person buying the Apartment within 5 days after the sale. Owner will then notify You, by registered or certified mail, of the name and address of the person or company to whom the deposit has been turned over. In such case, Owner will have no further responsibility to You for the security deposit. The new owner will become responsible to You for the security deposit.

**6. IF YOU ARE UNABLE TO MOVE IN**

A situation could arise which might prevent Owner from letting You move into the Apartment on the beginning date set in this Lease. If this happens for reasons beyond Owner's reasonable control, including the failure to obtain a waiver of any first refusal right that the Condominium may have with respect to this Lease prior to the beginning date, Owner will not be responsible for your damages or expenses and this Lease will remain in effect. However, in such case, the Lease will start on the date when You can move in; the ending date of this Lease as specified in Article 2 will remain the same. You will not have to pay rent until the move-in date Owner gives You by

*Handwritten initials: APN, SA*

written notice, or the date You move in, whichever is earlier. If Owner does not give You notice that the move-in date is within 30 days after the beginning date of the term of this Lease as stated in Article 2, this Lease shall be canceled and all prepaid rent and security deposit shall be promptly returned to You.

**7. CAPTIONS**

In any dispute arising under this Lease, in the event of a conflict between the text and a caption, the text controls.

**8. WARRANTY OF HABITABILITY**

A. All of the sections of this Lease are subject to the provisions of the Warranty of Habitability Law in the form it may have from time to time during this Lease. Nothing in this Lease can be interpreted to mean that You have given up any of your rights under that law. Under that law, Owner agrees that the Apartment is fit for human habitation and that there will be no conditions which will be detrimental to life, health or safety.

B. You will do nothing to interfere to make more difficult the Condominium's efforts to provide You and all other occupants of the Condominium with the required facilities and services. Any condition caused by your misconduct or the misconduct of anyone under your direction or control shall not be a breach by Owner.

**9. CARE OF YOUR APARTMENT; END OF LEASE-MOVING OUT**

A. You will take good care of the Apartment and will not permit or do any damage to it, except for damage which occurs through ordinary wear and tear. You will move out on or before the ending date of this Lease and leave the Apartment in good order and in the same condition as it was when You first occupied it, except for ordinary wear and tear and damage caused by fire or other casualty through no fault of your own.

B. When the Lease ends, You must remove all of your movable property. You must also remove at your own expense, any wall covering, bookcases, cabinets, mirrors, painted murals or any other installation or attachment You may have installed in the Apartment, even if it was done with Owner's consent. If the Condominium imposes any "move-out" deposits or fees, You shall pay any such deposit or fee when requested by the Condominium. You must restore and repair to its original condition those portions of the Apartment affected by those installations and removals. You have not moved out until all persons, furniture and other property of yours is also out of the Apartment. If your property remains in the Apartment after the Lease ends, Owner may either treat You as still in occupancy and charge You for use, or may consider that You have given up the Apartment and any property remaining in the Apartment. In this event, Owner may either discard the property or store it at your expense. You agree to pay Owner for all costs and expenses incurred in removing such property. The provisions of this article will continue to be in effect after the end of this Lease.

**10. CHANGES AND ALTERATIONS TO APARTMENT**

You cannot build in, add to, change or alter, the Apartment in any way, including wallpapering, painting, repainting, or other decorating, without first obtaining the prior written consent of Owner and, if required under the Condominium Documents, the Condominium. Without Owner's and/or the Condominium's prior written consent, You cannot install or use in the Apartment any of the following: dishwasher machines, clothes washing or drying machines, electric stoves, garbage disposal units, heating, ventilating or air conditioning units or any other electrical equipment which, in Owner's and/or the Condominium's opinion, will overload the existing wiring installation in the Condominium or interfere with the use of such electrical wiring facilities by other occupants of the Condominium. Also, You cannot place in the Apartment water-filled furniture.

**11. YOUR DUTY TO OBEY AND COMPLY WITH LAWS, REGULATIONS AND RULES**

A. GOVERNMENT LAWS AND ORDERS. You will obey and comply: (i) with all present and future city, state and federal laws and regulations which affect the Condominium or the Apartment, and (ii) with all orders and regulations of insurance rating organizations which affect the Apartment and the Condominium. You will not allow any windows in the Apartment to be cleaned from the outside unless the prior written consent of the Condominium is obtained.

B. CONDOMINIUM'S RULES AFFECTING YOU. You will obey all of the Condominium Documents other than the provisions of the Condominium Documents required to be performed by Owner.

C. YOUR RESPONSIBILITY. You are responsible for the behavior of yourself, the Permitted Occupants of the Apartment, your servants and people who are visiting You. You will reimburse Owner as additional rent upon demand for the cost of all losses, damages, fines and reasonable legal expenses incurred by Owner because You, the Permitted Occupants of the Apartment, servants or people visiting the Apartment, have not obeyed government laws and orders, the Condominium Documents or this Lease.

**12. OBJECTIONABLE CONDUCT**

You, the Permitted Occupants of the Apartment, servants or people visiting the Apartment will not engage in objectionable conduct at the Condominium. Objectionable conduct means behavior which makes or will make the Apartment or the Condominium less fit to live in for You or other occupants. It also means anything which interferes with the right of others to properly and peacefully enjoy their apartments, or causes conditions that are dangerous, hazardous, unsanitary and detrimental to other occupants of the Condominium. Objectionable conduct by You gives Owner the right to end this Lease.

**13. SERVICES AND FACILITIES**

A. REQUIRED SERVICES. The Condominium will provide cold and hot water and heat, as required by law, repairs to the Apartment, as required by the Condominium Documents, elevator service if the Condominium has elevator equipment, and the utilities, if any, included in the rent, as set forth in subparagraph B. You are not entitled to any rent reduction because of a stoppage or reduction of any of the above services unless it is provided by law.

B. The following utilities are included in the rent Hot Water

C. ELECTRICITY AND OTHER UTILITIES. If the Condominium provides electricity or gas for a separate, submetered charge, your obligations to the Condominium and/or Owner are described in a rider attached to this Lease. If electricity or gas is not included in the rent and is not charged separately by the Condominium and/or Owner, You must arrange for this service directly with the utility company. You must also pay directly for telephone service and cable television service if the cost of any such service is not included in the rent.

D. APPLIANCES. Appliances supplied by Owner in the Apartment are for your use. They are in good working order on the date hereof and will be maintained and repaired or replaced by Owner, but if repairs or replacement are made necessary because of your negligence or misuse, You will pay Owner for the cost of such repair or replacement as additional rent.

E. FACILITIES. If the Condominium permits Owner to use any storeroom, storage bin, laundry or any other facility located in the Condominium but outside of the Apartment, and provided such use is transferable to You by Owner pursuant to the Condominium Documents, the use of any such facility will be furnished to You free of charge and at your own risk. You will operate at your expense any coin operated appliances located in any such facility.

**14. INABILITY TO PROVIDE SERVICES**

Because of a strike, labor, trouble, national emergency, repairs, or any other cause beyond Owner's and the Condominium's

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reasonable control, Owner and the Condominium may not be able to provide or may be delayed in providing any services or in making any repairs to the Apartment and/or the Condominium. In any of these events, any rights You may have against Owner are only those rights which are allowed by laws in effect when the reduction in service occurs.

#### 15. ENTRY TO APARTMENT

During reasonable hours and with reasonable notice, except in emergencies, Owner, Owner's representatives and agents or employees of the Condominium may enter the Apartment for the following reasons:

A. To erect, use and maintain pipes and conduits in and through the walls and ceilings of the Apartment; to inspect the Apartment; and to make any necessary repairs or changes Owner or the Condominium decide are necessary. Your rent will not be reduced because of any of this work, unless the common charges payable by Owner to the Condominium are reduced.

B. To show the Apartment to persons who may wish to become owners of the Apartment or may be interested in lending money to Owner.

C. For two months before the end of the Lease, to show the Apartment to persons who wish to lease it.

D. If, during the last month of the Lease, You have moved out and removed all or almost all of your property from the Apartment, Owner may enter to make changes, repairs or redecorations. Your rent will not be reduced for that month and this Lease will not be ended by Owner's entry.

E. If, at any time, You are not personally present to permit Owner, Owner's representatives or the agents and employees of the Condominium, to enter the Apartment and entry is necessary or allowed by law, under the Condominium Documents or this Lease, Owner, Owner's representatives or the agents and employees of the Condominium may nevertheless enter the Apartment. Owner, Owner's representatives or the agents and employees of the Condominium may enter by force in an emergency. Owner will not be responsible to You, unless during this entry, any authorized party is negligent or misuses your property.

#### 16. ASSIGNING; SUBLETTING; ABANDONMENT

A. Assigning and Subletting. You cannot assign this Lease or sublet the Apartment. You acknowledge that Owner may refuse any request made by You to assign this Lease or to sublet the Apartment for any reason or no reason.

B. Abandonment. If You move out of the Apartment (abandonment) before the end of this Lease without the consent of Owner, this Lease will not be ended. You will remain responsible for each monthly payment of rent as it becomes due until the end of this Lease. In case of abandonment your responsibility for rent will end only if Owner chooses to end this Lease for default as provided in Article 17.

#### 17. DEFAULT

A. You default under the Lease if You act in any of the following ways:

- (i) You fail to carry out any agreement or provision of this Lease;
- (ii) You, a Permitted Occupant of the Apartment, servants or people visiting the Apartment behave in an objectionable manner;
- (iii) You, a Permitted Occupant of the Apartment, servants or people visiting the Apartment violate any of the Condominium Documents;
- (iv) You do not take possession or move into the Apartment 15 days after the beginning of this Lease; or
- (v) You and the Permitted Occupants of the Apartment move out permanently before this Lease ends.

If You do default in any one of these ways, other than a default in the agreement to pay rent, Owner may serve You with a written notice to stop or correct the specified default within 10 days. You must then either stop or correct the default within 10 days, or, if You need more than 10 days, You must begin to correct the default within 10 days and continue to do all that is necessary to correct the default as soon as possible.

B. If You do not stop or begin to correct a default within 10 days, Owner may give You a second written notice that this Lease will end 6 days after the date the second written notice is sent to You. At the end of the 6-day period, this Lease will end. You then must move out of the Apartment. Even though this Lease ends, You will remain liable to Owner for unpaid rent up to the end of this Lease, the value of your occupancy, if any, after the Lease ends, and damages caused to Owner after that time as stated in Article 18.

C. If You do not pay your rent when this Lease requires after a personal demand for rent has been made, or within 3 days after a statutory written demand for rent has been made, or if the Lease ends Owner may do the following: (i) enter the Apartment and retake possession of it if You have moved out; (ii) go to court and ask that You and all other occupants in the Apartment be compelled to move out.

Once this Lease has been ended, whether because of default or otherwise, You give up any right You might otherwise have to reinstate this Lease.

#### 18. REMEDIES OF OWNER AND YOUR LIABILITY

If this Lease is ended by Owner because of your default, the following are the rights and obligations of You and Owner.

A. You must pay your rent until this Lease has ended. Thereafter, You must pay an equal amount for what the law calls "use and occupancy" until You actually move out.

B. Once You are out, Owner may re-rent the Apartment or any portion of it for a period of time which may end before or after the ending date of this Lease. Owner may re-rent to a new subtenant at a lesser rent or may charge a higher rent than the rent in this Lease.

C. Whether the Apartment is re-rented or not, You must pay to Owner as damages:

- (i) the difference between the rent in this Lease and the amount, if any, of the rents collected in any later lease of the Apartment for what would have been the remaining period of this Lease; and
- (ii) Owner's expenses for the cost of putting the Apartment in good condition for re-rental; and
- \*\*\* (iii) Owner's expenses for attorney's fees (*Delete if inapplicable*).

D. You shall pay all damages due in monthly installments on the rent day established in this Lease. Any legal action brought to collect one or more monthly installments of damages shall not prejudice in any way Owner's right to collect the damages for a later month by a similar action. If the rent collected by Owner from a subsequent subtenant of the Apartment is more than the unpaid rent and damages which You owe Owner, You cannot receive the difference. Owner's failure to re-rent to another subtenant will not release or change your liability for damages, unless the failure is due to Owner's deliberate inaction.

#### 19. ADDITIONAL OWNER REMEDIES

If You do not do everything You have agreed to do, or if You do anything which shows that You intend not to do what You agreed to do, Owner has the right to ask a Court to make You carry out your agreement or to give the Owner such other relief as the Court can provide. This is in addition to the remedies in Article 17 and 18 of this Lease.

#### 20. FEES AND EXPENSES

A. You must reimburse Owner for any of the following fees and expenses incurred by Owner:

- (i) Making any repairs to the Apartment or the Condominium, including any appliances in the Apartment, which result from

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- misuse or negligence by You, the Permitted Occupants of the Apartment, persons who visit the Apartment or work for You;
- (ii) Correcting any violations of city, state or federal laws or orders and regulations of insurance rating organization concerning the Apartment or the Condominium which You, the Permitted Occupants of the Apartment, persons who visit the Apartment or work for You have caused;
- (iii) Preparing the Apartment for the next tenant if You move out of the Apartment before the Lease ending date without Owner's prior written consent;
- \*\*\* (iv) Any legal fees and disbursements for legal actions or proceedings brought by Owner against You because of a default by You for defending lawsuits brought against Owner because of the actions of You, the Permitted Occupants of the Apartment, persons who visit the Apartment or work for You (*Delete if inapplicable*);
- (v) Removing all of your property after this Lease is ended;
- (vi) Any miscellaneous charges payable to the Condominium for services You requested that are not required to be furnished You under this Lease for which You have failed to pay the Condominium and which Owner has paid;
- (vii) All other fees and expenses incurred by Owner because of the failure to obey any other provisions and agreements of this Lease or the Condominium Documents by You, the Permitted Occupants of the Apartment, persons who visit the Apartment or work for You.

These fees and expenses shall be paid by You to Owner as additional rent within 30 days after You receive Owner's bill or statement. If this Lease has ended when these fees and expenses are incurred, You will still be liable to Owner for the same amount as damages.

B. Owner agrees that unless subparagraph (iv) of subparagraph 20 A has been stricken out of this Lease, You have the right to collect reasonable legal fees and expenses incurred in a successful defense by You of a lawsuit brought by Owner against You or brought by You against Owner to the extent provided by Real Property Law Section 234.

C. You shall pay the Condominium on demand for the cost of any miscellaneous charges payable to the Condominium for services You requested that are not required to be furnished You under this Lease.

## 21. PROPERTY LOSS, DAMAGES OR INCONVENIENCE

Unless caused by the negligence or misconduct of Owner, Owner's representatives or the agents and employees of the Condominium, none of these authorized parties are responsible to You for any of the following: (i) any loss of or damage to You or your property in the Apartment or the Condominium due to any accidental or intentional cause, even a theft or another crime committed in the Apartment or elsewhere in the Condominium; (ii) any loss of or damage to your property delivered to any agent or employee of the Condominium (i.e. doorman, superintendent, etc.); or (iii) any damage or inconvenience caused to You by actions, negligence or violations of lease or the Condominium Documents made by any other tenant or person in the Condominium except to the extent required by law.

Owner will not be liable for any temporary interference with light, ventilation, or view caused by construction by or on behalf of the Condominium. Owner will not be liable for any such interference on a permanent basis caused by construction on any parcel of land not owned by Owner or the Condominium. Owner will not be liable to You for such interference caused by the permanent closing, darkening or blocking up of windows, if such action is required by law. None of the foregoing events will cause a suspension or reduction of the rent or allow You to cancel the Lease.

## 22. FIRE OR CASUALTY

A. If the Apartment becomes unusable, in part or totally, because of fire, accident or other casualty, this Lease will continue unless ended by Owner under subparagraph C below or by You under subparagraph D below. However, the rent will be reduced immediately. This reduction will be based upon the square footage of the part of the Apartment which is unusable.

B. Owner and/or the Condominium will repair and restore the Apartment, unless Owner decides to take actions described in subparagraph C below.

C. After a fire, accident or other casualty in the Building, the Condominium may decide to tear down the Condominium building or to substantially rebuild it. In such case, Owner need not restore the Apartment but may end this Lease. Owner may do this even if the Apartment has not been damaged, by giving You written notice of this decision within 30 days after the date when the damage occurred. If the Apartment is unusable when Owner gives You such notice, this Lease will end 60 days from the last day of the calendar month in which You were given the notice.

D. If the Apartment is completely unusable because of fire, accident or other casualty and it is not repaired in 30 days, You may give Owner written notice that You end the Lease. If You give that notice, this Lease is considered ended on the day that the fire, accident or casualty occurred. Owner will promptly refund your security deposit and the pro-rata portion of rents paid for the month in which the casualty happened.

E. Unless prohibited by the applicable policies, to the extent that such insurance is collected, You and Owner release and waive all right of recovery against the other or anyone claiming through or under each by way of subrogation.

F. You acknowledge that if fire, accident, or other casualty causes damage to any of your personal property in the Apartment, including, but not limited to your furniture and clothes, neither the Owner nor the Condominium will be responsible to You for the repair or replacement of any such damaged personal property unless such damage was as a result of the Owner's or the Condominium's negligence.

## 23. PUBLIC TAKING

The entire Condominium or a part of it can be acquired (condemned) by any government or government agency for a public or quasi-public use or purpose. If this happens, this Lease shall end on the date the government or agency take title. You shall have no claim against Owner for any damage resulting; You also agree that by signing this Lease, You assign to Owner any claim against the government or government agency for the value of the unexpired portion of this Lease.

## 24. SUBORDINATION CERTIFICATE AND ACKNOWLEDGMENTS

All mortgages of the Apartment now in effect or made after this Lease is signed, and any lien created by the Condominium Documents come ahead of this Lease. In other words, this Lease is "subject and subordinate to" any lien created by the Condominium Documents and existing or future mortgages on the Apartment, including any renewals, consolidations, modifications and replacements of any such mortgage. If certain provisions of any such mortgage or the Condominium Documents come into effect, the holder of any such mortgage or the Condominium can end this Lease and such parties may commence legal action to evict You from the Apartment. If this happens, You acknowledge that You have no claim against Owner, the Condominium or such mortgage holder. If Owner requests, You will sign promptly an acknowledgment of the "subordination" in the form that Owner may requires.

You also agree to sign (if accurate) a written acknowledgment to any third party designated by Owner that this Lease is in effect, that Owner is performing Owner's obligations under this Lease and that You have no present claim against Owner.

## 25. YOUR RIGHT TO LIVE IN AND USE THE APARTMENT

Provided the Condominium waives any right of first refusal it may have with respect to this Lease, if You pay the rent and any required additional rent on time and You do everything You have agreed to do in this Lease, your tenancy cannot be cut off before the ending date, except as provided for in Articles 22, 23 and 24.

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**26. BILLS AND NOTICE**

A. Notices to You. Any notice from Owner or Owner's agent or attorney will be considered properly given to You if it is: (i) in writing, (ii) signed by or in the name of Owner or Owner's agent, and (iii) addressed to You at the Apartment and delivered to You personally or sent by registered or certified mail to You at the Apartment. The date of service of any written notice by Owner to You under this agreement is the date of delivery or mailing of such notice.

B. Notices to Owner. If You wish to give a notice to Owner, You must write it and deliver it or send it by registered or certified mail to Owner at the address noted on page 1 of this Lease or to another address of which Owner or Agent has given You written notice.

**27. GIVING UP RIGHT TO TRIAL BY JURY AND COUNTERCLAIM**

A. Both You and Owner agree to give up the right to a trial by jury in a court action, proceeding or counterclaim on any matters concerning this Lease, the relationship of You and Owner as lessee and lessor or your use or occupancy of the Apartment. This agreement to give up the right to a jury trial does not include claims or personal injury or property damage.

B. If Owner begins any court action or proceeding against You which asks that You be compelled to move out, You cannot make a counterclaim unless You are claiming that Owner has not done what Owner is supposed to do about the condition of the Apartment of the Condominium.

**28. NO WAIVER OF LEASE PROVISIONS**

A. Even if Owner accepts your rent or fails once or more often to take action against You when You have not done what You have agreed to do in this Lease the failure of Owner to make action or Owner's acceptance of rent does not prevent Owner from taking action at a later date if You against do not do what You have agreed to do.

B. Only a written agreement between You and Owner can waive any violation of this Lease.

C. If You pay and Owner accepts an amount less than all the rent due, the amount received shall be considered to be in payment of all or part of the earliest rent due. It will not be considered an agreement by Owner to accept this lesser amount in full satisfaction of all of the rent due unless there is a written agreement between You and Owner.

D. Any agreement to end this Lease and also to end the rights and obligations of You and Owner must be in writing, signed by You and Owner or Owner's agent. Even if You give keys to the Apartment and they are accepted by either any employee or agent of the Condominium, Owner's representatives or Owner, this Lease is not ended.

E. This Lease, or any provision hereof, may not be modified, amended, extended, waived or abrogated without the prior written consent of the Condominium.

**29. CONDITION OF THE APARTMENT**

When You signed this Lease, You did not rely on anything said by Owner, Owner's representatives or the Condominium's employees, agents, or superintendent about the physical condition of the Apartment, the Condominium or the land on which is built. You did not rely on any promises as to what would be done, unless what was said or promised is written in this Lease and signed by both You and Owner. Before signing this Lease, You have inspected the Apartment and You accept it in its present condition "as is", except for any condition which You could not reasonably have seen during your inspection. You agree that Owner has not promised to do any work in the Apartment except as specified in a rider attached to this Lease.

**30. DEFINITIONS**

A. Owner: The term "Owner" means the person or organization receiving or entitled to receive rent from You for the Apartment at any particular time other than a rent collector or managing agent of Owner. "Owner" is the person or organization that owns legal title to the Apartment. It does not include a former Owner, even if the former Owner signed this Lease.

B. You. The term "You" means the person or persons signing this Lease as lessee and the successors and assigns of the signer. This Lease has established a lessor-lessee relationship between Owner and You.

**31. SUCCESSOR INTERESTS**

The agreements in this Lease shall be binding on Owner and You and on those who succeed to the interest of Owner or You by law, by approved assignment or by transfer.

**32. INSURANCE**

You may obtain liability insurance insuring You, the Permitted Occupants of the Apartment, your servants and people visiting the Apartment, and personal property insurance insuring your furniture and furnishings and other items of personal property located in the Apartment. You may not maintain any insurance with respect to any furniture or furnishings belonging to Owner that are located in the Apartment. You acknowledge that Owner may not be required to maintain any insurance with respect to the Apartment.

**33. WAIVER OF CONDOMINIUM'S FIRST REFUSAL RIGHT [DELETE IF INAPPLICABLE]**

You shall furnish to the Condominium or its managing agent, within 5 business days after the date of this Lease, such personal and financial references and additional information concerning You and the Permitted Occupants of the Apartment as may be requested in order to obtain the waiver of the Condominium's right of first refusal with respect to this Lease, including the submission of any application requested by the Condominium.

You acknowledge that this Lease will not commence and that You and the Permitted Occupants shall have no right to occupy the Apartment until the waiver of the Condominium's right of first refusal with respect to this Lease is obtained. If such waiver has not been obtained by the date specified in Article 2 as the beginning date of this Lease, You shall have no obligation to pay rent until such waiver has been obtained. All rent prepaid for the period You are unable to occupy the Apartment because of the failure to obtain such waiver shall be applied by Owner to subsequent rent payable hereunder. If such waiver is not obtained within 30 days after the date specified in Article 2 as the beginning date of this Lease, this Lease shall be canceled and all prepaid rent and security deposit shall be promptly returned to You.

**34. FURNITURE [DELETE IF INAPPLICABLE]**

~~The Apartment is being leased as fully furnished; a rider attached to this Lease lists all furniture and furnishings contained in the Apartment. You shall accept the furniture and furnishings contained in the Apartment "as is" on the commencement date of this Lease. Owner represents that all such furniture and furnishings are in good repair and in working order on the commencement date of this Lease except as may be noted in such rider.~~

~~You shall take good care of the furniture and furnishings in the Apartment during the pendency of this Lease and shall be liable for any damages caused by You to such furniture and furnishings. You shall not be responsible for any damages to such furniture and furnishings not caused by You or caused by ordinary wear and tear. You shall surrender such furniture and furnishings when this Lease terminates in the same condition as on the date this Lease commenced, subject to ordinary wear and tear. If any repairs are required to the furniture and furnishings in the Apartment when this Lease terminates, You shall pay Owner upon demand the cost of any required repairs.~~

~~You may not remove any furniture or furnishings from the Apartment or change the location of any such furniture or furnishings during the pendency of this Lease without Owner's prior written consent.~~

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**35. BROKER [DELETE EITHER SUBPARAGRAPH A OR B]**

A. You represent to Owner that You have not dealt with any real estate broker(s) in connection with the leasing of the Apartment other than Kay Moon, [and that Bond New York is your real estate broker in connection with the leasing of the Apartment (Delete bracket if inapplicable)]. You will compensate such broker(s) in accordance with a separate agreement. You shall indemnify and hold Owner harmless from any and all loss incurred by Owner as a result of a breach of the foregoing representations.

B. You represent to Owner that you have not dealt with any real estate broker in connection with the leasing of the Apartment. You shall indemnify and hold Owner harmless from any and all loss incurred by Owner as a result of a breach of the foregoing representation.

**36. YOUR OPTION TO RENEW [DELETE IF INAPPLICABLE] \*\* Please see attached the rider to lease**

A. You shall have the right to extend the term of this Lease for One year(s) commencing March 1, 2016 and ending on February 28, 2017 (the "Extension Term") provided: (i) You give Owner notice (the "Extension Notice"), in the manner required under this Lease, of your election to extend the term of this Lease; (ii) the Election Notice must be given Owner at least 60 days prior to the ending date of this Lease stated in Article 2; and (iii) You may not be in default of any provisions of the Lease when the Extension Notice is given and on the commencement date of the Extension Term. If You fail to send the Extension Notice to Owner by the date specified herein, this Article 36 shall be of no further force and effect.

B. The monthly rent payable by You during the Extension Term shall be \$ 14,000.

C. All provisions of this Lease, except as modified by this Article 36, shall remain in full force and effect during the Extension Term.

**37. LEAD PAINT DISCLOSURE [DELETE IF THE CONDOMINIUM WAS ERECTED AFTER 1978]**

Simultaneously with the execution of this Lease, ~~You and Owner shall sign and complete the disclosure of information on lead-based paint and/or lead-based paint hazards annexed as a rider attached to this Lease. You acknowledge receipt of the pamphlet, "Protect Your Family From Lead in Your Home" prepared by the United States Environmental Protection Administration.~~

**38. PETS [DELETE EITHER SUBPARAGRAPH A OR B]**

A. You may not keep any pets in the Apartment.

B. If authorized by the Condominium Documents, You may keep pets in the Apartment provided: (i) You obtain the prior written consent of Owner; and (ii) You comply with the Condominium Documents with respect to the keeping of pets in the Condominium.

**39. KEYS**

Owner shall retain keys to all locks of the Apartment. If You make any changes to any such lock, You must deliver keys to Owner, and to the Condominium or its managing agent. At the end of this Lease, You must deliver to Owner all keys to the Apartment. If You fail to return any keys, You shall pay Owner the cost of replacing any such keys.

**40. WINDOW GUARDS**

You shall complete and deliver to the Condominium, when requested, a notice with respect to the installation of window guards in the Apartment in the form required by the City of New York. You acknowledge that it is a violation of law to refuse, interfere with installation, or remove window guards where required.

**41. OWNER'S DEFAULT TO CONDOMINIUM**

If: (i) Owner defaults in the payment to the Condominium of common charges or other assessments payable to the Condominium with respect to the Apartment; (ii) the Condominium notifies You of such default; and (iii) the Condominium instructs You to pay the rent under this Lease to the Condominium, then You shall pay all future installments of rent payable under this Lease to the Condominium until such time as the Condominium advises that the Owner's default has been cured. Owner acknowledges that if You pay any installment of rent payable under this Lease to the Condominium as herein provided, You have satisfied your obligation to pay any such installment of rent to Owner. Nothing contained in this Article shall suspend your obligation to pay rent under this Lease.

**42. BINDING EFFECT**

It is expressly understood and agreed that this Lease shall not constitute an offer or create any rights in your favor, and shall in no way obligate or be binding upon Owner, and this Lease shall have no force or effect until this Lease is duly executed by You and Owner and a fully executed copy of this Lease is delivered to both You and Owner.

TO CONFIRM OUR AGREEMENTS, OWNER AND YOU RESPECTIVELY SIGN THIS LEASE AS OF THE DAY AND YEAR FIRST WRITTEN ON PAGE 1.

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**GUARANTY**

The undersigned Guarantor guarantees to Owner the strict performance of and observance by Lessee of all the agreements, provisions and rules in the attached Lease. Guarantor agrees to waive all notices when Lessee is not paying rent or not observing and complying with all of the provisions of the attached Lease. Guarantor agrees to be equally liable with Lessee so that Owner may sue Guarantor directly without first suing Lessee. The Guarantor further agrees that this guaranty shall remain in full effect even if the Lease is renewed changed or extended in any way and even if Owner has to make a claim against Guarantor. Owner and Guarantor agree to waive trial by jury in any such action, proceeding or counterclaim brought against the other on any matters concerning the attached Lease or the Guaranty.

Dated, \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Guarantor  
\_\_\_\_\_  
Address

*Handwritten signature and initials: "SA" and "ACW"*

**RIDER TO LEASE AGREEMENT DATED January 6, 2015**

Rider to Lease between [REDACTED] as Landlord and [REDACTED] as Tenants for Apt. 9E for the premises at 250 West Street, New York, NY 10013.  
Lease term: March 1, 2015-February 29, 2016.

The provisions of this rider shall take precedence over any inconsistent provisions in the printed portion of this lease, and are intended to be an shall be construed to be in addition to and not in limitation of the rights of the owner and the obligations of the tenants. All references herein to "Landlord" shall mean "Owner".

- 1) This lease agreement is contingent upon the owner receiving the waiver of right of first refusal from the Condominium Association.
- 2) At the time of this lease signing, Tenants paid \$13,500 which represents the first month rent and \$13,500 which represents the security deposit.
- 3) All rents are due and payable on the first day of each month. If Tenants do not pay the rent by the 10<sup>th</sup> of each month, Landlord has the right to charge a late fee of \$100.00 for the overdue rent.
- 4) A \$100.00 service charge will be incurred for checks returned by the bank, for insufficient funds.
- 5) Tenants are responsible for paying the utilities including electricity and gas.
- 6) It is agreed and understood that Tenants must fulfill the entire 12 month lease. If Tenants seek to terminate the lease prior to its natural expiration date:
  - a. Tenants must give the landlord no less than sixty (60) days written notice, by certified mail, if Tenants plans to terminate the lease prior to the expiration date. In the event 60 days notice is not given, Landlord shall not be obligated to re-let the premises and mitigate any of Tenants costs (if such notice is timely given, Landlord shall use reasonable efforts to mitigate):
  - b. Tenants shall be responsible for all rent through the expiration date of the lease, unless and until a new tenant ("replacement tenant") commences a lease period at least through the natural expiration date of the lease herein;
  - c. Tenants further agree to pay the lesser of the current rent due and owing pursuant to the lease herein or any shortfall between the rent pursuant to the lease herein and the replacement lease through the natural expiration date of the within lease. Any such payments due pursuant to this subparagraph shall be due by the first of each month in which it comes due; a surcharge of \$100.00 shall be applied for any payments received after the tenth day of the month on which it becomes due.
  - d. Tenants acknowledge that any replacement tenant is subject to the waiver of right of first refusal of the condominium board.
- 7) Tenants agree that security deposit may not be used as payment of last month rent.
- 8) Tenants further agree to allow Landlord/Landlord's representative to show the apartment to prospective tenants on reasonable advance notice to Tenants (a) 60 days notice from the present Tenants of intent to vacate at the end of the lease and at the month Tenants intent to move out during the Extension and (b) 90 days notice if Tenants intend to vacate after November 1<sup>st</sup>, 2016.
- 9) Tenants will obtain the renter's insurance naming Landlord as an insured party before the start date of the lease and will maintain such insurance during the entire period of tenancy in the apartment. Tenants will supply satisfactory documentation of such insurance to Landlord before moving in to the apartment.
- 10) Landlord shall permit Tenants to erect a temporary wall in the entrance to the dining room, and that Tenants will be responsible for its removal and any necessary repairs as a result of it having been there.
- 11) Dog is accepted.

12) Section 36 is modified to provide that, the Extension is for up to 12 months starting from March 1<sup>st</sup> 2016 to February 28, 2017. Tenants may exercise the Extension option and Tenants shall be able to determine the amount of months by sending the Extension Notice to Landlord no later than (a) 60 days prior to the end of the initial term and (b) 60 days prior to the month Tenants intent to move out during the Extension period, however it shall be 90 days prior if Tenants intent to leave after November 1<sup>st</sup>, 2016.

All other terms and conditions of said lease remain in full force and effect. Acknowledged, understood and agreed.

**REDACTED**

# **EXHIBIT 4**

MAKE PAYMENT TO

THIS IS FOR INFORMATIONAL PURPOSES ONLY. DO NOT USE FOR ELECTRIC BILLING.

PLEASE PAY BY:  
DO NOT PAY

FirstService Residential  
622 Third Avenue, 15th Floor  
New York, NY 10017

**ELECTRIC BILL FOR UNIT:1A**

Billing Period: 01/02/2015 - 02/03/2015

**USAGE - KWH**

KWH: 1039.4

METER NO.	PREVIOUS READING	CURRENT READING	USAGE - KWH	***	AMOUNT- \$	RATE - \$
81038116- 3	6082.0	6601.7	1039.4	A	\$234.21	EL-1 RATES

**AMOUNT DUE - \$**

**\$292.13**

METER MULTIPLIER: x 2.0

**REDACTED**

FirstService Residential UNIT# 1A  
622 Third Avenue, 15th Floor  
New York, NY 10017

CUSTOMER CHARGE:	\$16.81
KWH COST:	\$234.21
FUEL ADJUSTMENT:	\$17.83
UTILITY TAX:	\$10.70
SALES TAX:	\$12.58
<b>TOTAL AMOUNT DUE:</b>	<b>\$292.13</b>

**TENANT**

1A

QB359



RETURN THIS STUB WITH PAYMENT

\*\*\* E=ESTIMATED READ, A=ACTUAL READ

RETAIN THIS PORTION FOR YOUR RECORDS

# **EXHIBIT 5**

## **NOTIFICATION OF RIGHTS AND PROCEDURES**

As a residential customer for electricity, you have certain rights assured by New York's Home Energy Fair Practices Act ("HEFPA") and the order issued by the New York State Public Service Commission on [ ], in Case [ ]: Notice of Intent to Submeter Electricity at 250 West Street, New York, New York 10013, Located in the Territory of Consolidated Edison Company of New York, Inc. (the "Submetering Order"). This notification is an overview of those rights and certain policies and procedures regarding the service and billing of your electricity.

The building at 250 West Street, New York, New York 10013, is a submetered facility. 250 West Street Condominium (the "Owner") is the owner of this building. The administration of submetering is performed by an outside vendor as a third-party billing company under contract with the Owner to invoice residents for their monthly utility usage. Residents receive monthly bills from the Owner or its third-party billing company for their respective electricity usage, which amounts are payable to the Owner.

If you have any questions or complaints concerning your electricity bill, please contact the Owner through the Management Office by telephone at (212) 634-8909 or by mail at FirstService Residential, c/o 250 West Street Condominium, 622 Third Avenue, 15th floor, New York, NY 10017. The Owner shall investigate and respond to you in writing within fifteen (15) days of the receipt of the complaint. As part of this response, you shall be advised of the disposition of the complaint and the reason therefore. Upon receiving this response, or at any time, you can also contact the Public Service Commission in writing at New York State Department of Public Service, 3 Empire State Plaza, Albany, New York 12223, by telephone at (800) 342-3377 or (212) 417-2223, in person at the nearest office at 90 Church Street, New York, New York 10007, or via the Internet at [www.dps.ny.gov](http://www.dps.ny.gov).

The electricity bills that you receive show the amount of kilowatt hours (“kWh”) that you used. The bills you receive shall provide, in clear and understandable form and language, the charges for service. In no event will the total monthly charges (including any administrative charges) exceed the utility’s (Consolidated Edison Company of New York, Inc.) direct metered residential rate. The Owner may terminate or disconnect service under certain conditions (*i.e.*, nonpayment of electricity bills) pursuant to HEFPA.

You have the right to request messages on bills and notices in Spanish. To make such a request, contact the Owner. Usted tiene el derecho de solicitar informacion en facturas e informativos en Espanol. Para solicitar informacion en Espanol, por favor contacte a un representante marcando.

You may request balanced billing for the payment of electricity charges. This plan shall be designed to reduce fluctuations in customer bills due to seasonal patterns of consumption. Balanced billing divides your electricity costs into twelve (12) equal monthly payments. Periodically, the Owner will review and adjust the balanced billing amount as necessary. At the end of one (1) year, you shall be responsible to pay for any electricity costs in excess of your balanced billing amount paid. You may contact the Owner to discuss the details of this plan, if you are interested.

Your meter is read because it measures and records the actual amount of electricity you use; this enables an accurate bill to be sent to you. Making sure your electricity bills are accurate and correct is important to the Owner and to you. That is why every effort is made to read your meter regularly.

You may qualify for a rate reduction the equivalent of that which is provided by Con Edison to customers who are enrolled in its low-income program pursuant to its tariff (*see* P.S.C.

No. 10 – Electricity, Leaf No. 388). If you receive benefits under Supplemental Security Income, Temporary Assistance to Needy Persons/Families, Safety Net Assistance, or Food Stamps, or have received a Home Energy Assistance Program grant in the preceding twelve (12) months, please alert the Owner by telephone or in writing and we will work with you.

If you are having difficulty paying your electricity bill, please contact the Owner by telephone or in writing in order to see if you qualify for a deferred payment agreement, whereby you may be able to pay the balance owed over a period of time. A deferred payment agreement is a written agreement for the payment of outstanding charges over a specific period of time, signed by both the submeterer and customer. If you can demonstrate to the Owner a financial need, the Owner can work with you to determine the length of the agreement and the amount of each monthly payment. You may not have to make a down payment, and installment payments may be as little as \$10.00 per month. The Owner will make reasonable efforts to help you find a way to pay your bill.

Regardless of your payment history relating to your electricity bills, your electricity service will be continued if your health or safety or the health or safety of someone living with you is threatened. When the Owner becomes aware of such hardship, the Owner can refer you to the Department of Social Services. Please notify the Owner if either of the following conditions exists:

(a) **Medical Emergencies.** You must provide a medical certificate from a doctor or local board of health.

(b) **Life Support Equipment.** You and/or those living with you suffer from a medical condition requiring electricity service to operate a life-sustaining device. You must provide a medical certificate from a doctor or local board of health.

Special protections may be available if you and/or those living with you are age eighteen (18) or younger or sixty-two (62) or older, blind, or disabled. To ensure that you receive all of the protections for which you are eligible, please contact the Owner and identify yourself.

You can also designate a third party as an additional contact to receive notices of past due balances. Every submeterer shall permit a residential customer to designate a third party to receive all notifications relating to disconnection of service or other credit actions sent to such residential customer, provided that the designated third party agrees in writing to receive such notices. The submeterer shall inform the third party that the authorization to receive such notices does not constitute acceptance of any liability on the third party for service provided to the customer. The submeterer shall promptly notify the residential customer of the refusal or cancellation of such authorization by the third party. If you are interested in Voluntary Third-Party Notice, notify the Owner with the party's contact information and written agreement of the third party to receive copies of all notifications relating to disconnection of service or other credit actions sent to you.

Please review the attached "Special Protections Registration Form" relating to some of the rights discussed above. Although you are not required to do so, please fill it out if you qualify for any special protection described on the form. You may return the completed form to the Owner.

**SPECIAL PROTECTIONS  
REGISTRATION FORM**

Please complete this form if any of the following applies. Return this form to:

**Management Office**  
FirstService Residential  
c/o 250 West Street Condominium  
622 Third Avenue, 15th floor  
New York, NY 10017

**ACCOUNT INFORMATION**

(Be sure to complete before mailing)

---

Name

---

Address

Apartment

---

Town/City

Zip

---

Telephone # Daytime

Evening

---

Account Number (as shown on bill)

**I would like to be considered for Special Protections.**

In my household (Check):

- Unit occupant is 62 years of age or over, and any and all persons residing therewith are either 62 years of age or under 18 years of age.
- Unit occupant is blind (Legally or Medically)
- Unit occupant has a permanent disability
- Unit occupant has a Medical Hardship (type):

- 
- Unit occupant has a Life Support Hardship (type):
-

**I receive government assistance.**

- I receive Public Assistance (PA). My case number is:

---

- I receive Supplemental Security Income (SSI). Note: SSI benefits are not the same as Social Security Retirement Benefits. My Social Security Number (optional) is:

---

**Please send me more information about:**

- Balanced billing

**To Be Completed by Third Party**

Please let me know if this customer's bill is overdue. As a "caregiver," I understand that I am not responsible for payment of this bill.

---

Caregiver/Agency

---

Address

Apartment

---

Town/City

Zip

---

Telephone # Daytime

Evening

---

Designee Signature

## **PROCEDURE TO PURSUE COLLECTION OF UTILITY CHARGES**

### **Step 1: Receive Master Utility Invoice**

The Owner and/or its third-party billing company (individually or collectively, the “Owner”) shall process the master invoice received from the utility (Consolidated Edison Company of New York, Inc.) and/or energy services company and note the date it was received.

### **Step 2: Mail Utility Bill to Residents**

Within thirty (30) days after receipt of the master utility invoice, the Owner shall calculate and mail a submetered utility bill to each resident with the due date clearly noted. Payment is due within five (5) days from receipt of the submetering bill. A late charge will be applied if payment is not received within twenty (20) days of the date payment is due.

### **Step 3: Identify Past Due Accounts**

After the due date of the submetered utility bill, the Owner will review and identify all past due utility accounts. The Owner may contact each resident with a past due utility account by phone, mail, or in-person. Eligible residents will be offered the option to enter into a Deferred Payment Agreement. The Owner will provide the following document to each such eligible resident: *Deferred Billing Agreement Option Form*.

### **Step 4: Negotiation of Deferred Payment Agreement**

If a resident expresses interest in and is eligible for a Deferred Payment Agreement, the Owner must enter into good faith negotiations with the person regarding the terms of a Deferred Payment Agreement. A meeting between the Owner and the resident will be timely scheduled to review the resident’s income, assets, and monthly financial obligations for the purpose of determining an equitable and fair payment agreement considering the resident’s financial circumstances. To that end, a *Deferred Payment Agreement Appointment Letter* will be hand-delivered and/or mailed to the resident. The contents of that letter will include:

- Appointment date and time.
- A listing of all information that must be provided during the meeting.
- A copy of the *Deferred Payment Agreement Worksheet* that will be used to determine the monthly amount that will be paid under the Deferred Payment Agreement. It is important to remember that the *Deferred Payment Agreement Worksheet* is NOT the Deferred Payment Agreement.

During the meeting, the Owner and the resident will:

- Review the resident’s income, assets, and reasonable monthly expenses.
- Complete the *Deferred Payment Agreement Worksheet* for the purposes of determining an equitable and fair monthly payment amount based on the resident’s financial circumstances. The minimum payment will not be less than \$10.00 per month.
- As appropriate, negotiate and complete the Deferred Payment Agreement.

If an agreement is reached, the Owner expects that the Deferred Payment Agreement will be signed by both parties during the meeting. Provided that the resident then adheres to the terms of the Deferred Payment Agreement, no further action is needed other than monitoring the resident's compliance with the terms of the Deferred Payment Agreement.

If the resident fails to attend the meeting, the Owner will contact the resident by phone to reschedule the meeting. If the resident is unable to reschedule the meeting, the Owner will attempt to negotiate the terms of a Deferred Payment Agreement during the call. If the terms of a Deferred Payment Agreement are agreed to by phone, the Owner will send the resident the Deferred Payment Agreement for his or her signature.

#### **Step 5: Default of a Deferred Payment Agreement Obligation**

If a resident with a Deferred Payment Agreement misses a payment, certain actions must be taken before the Owner can seek to terminate the resident's electricity. These actions include:

- The day after a Deferred Payment Agreement payment is due but not made, the Owner will hand-deliver or mail a *Deferred Payment Agreement Reminder Notice* to the resident. The resident has twenty (20) days from the date payment was due to make the payment or enter into a Revised Deferred Payment Agreement, if applicable.
- If the resident contacts the Owner within this time period regarding an inability to pay, the Owner will meet with the resident to determine whether the resident can demonstrate a substantial and/or significant change in his/her financial circumstances beyond his/her control.
  - If the resident is able to demonstrate a significant change in his/her financial status, the Owner will negotiate a Revised Deferred Payment Agreement with the resident. As with the original Deferred Payment Agreement, the Owner expects that the Revised Deferred Payment Agreement will be signed by both parties at the meeting.
  - If the resident is unable to demonstrate a significant change in his/her financial status, the Owner should explain that determination and demand payment of the missed payment.
- If, within this twenty (20)-day time period, the Owner does not receive payment or enter into a Revised Deferred Payment Agreement, the Owner may send the resident a *Demand for Full Payment* and a *Final Termination Notice* along with copies of the *Notification of Rights and Procedures* and *Special Protections Registration Form*.

#### **Step 6: Final Termination Notice with Executed Deferred Payment Agreement**

In the event the Owner and the resident do not enter into a Deferred Payment Agreement, or if a default under Step 5 is not cured, the next step is to issue a *Final Termination Notice*, which must include a copy of the *Notification of Rights and Procedures* and *Special Protections Registration Form*. Additionally, the Owner will send two executed *Deferred Payment Agreements* at this time. Since the resident did not participate in a negotiation, the Owner may insert a reasonable amount for monthly payment.

**Step 7: Review for Special Protections**

On or about the date that a *Final Termination Notice* is sent to a resident, the Owner will review the status of the resident to determine if he or she qualifies for special protections under HEFPA. If the resident so qualifies, additional steps must be undertaken before the Owner can complete the HEFPA process and seek to terminate the resident's electricity service.

**Step 8: Termination of Electricity Service**

If, after fifteen (15) days, the resident has failed to pay his/her electricity bill and the Owner has followed these procedures, the Owner may terminate such resident's electricity service. If special protections apply, the Owner may have to take additional steps before service may be terminated and may not be allowed to terminate service in some circumstances.

The Owner should advise residents that bills and notices can be prepared in both English and another language, if a resident desires.

## **DEFERRED PAYMENT AGREEMENT PACKAGE**

- A. Deferred Billing Agreement Option Offer Letter**
- B. Deferred Payment Agreement Appointment Letter**
- C. Deferred Payment Agreement**
- D. Payment Past Due Reminder Notice**
- E. Demand for Full Payment**

## A. DEFERRED BILLING AGREEMENT OPTION OFFER LETTER

[DATE]

[RESIDENT]

[STREET ADDRESS]

[CITY, STATE, ZIP CODE]

### Re: Deferred Billing Agreement Option Offer

In accordance with the Home Energy Fair Practices Act, we are required to provide you an opportunity to visit the Management Office and meet with our designated staff member, or to call the Management Office at (212) 634-8909 for the purpose of discussing your potential right to a Deferred Payment Agreement for the outstanding electricity charges on your account. Should you decide to accept this offer, you must return one (1) signed copy of this letter to the Management Office on or before five (5) days from the date of this letter indicating your request for an appointment to negotiate a Deferred Payment Agreement with us.

Two copies of this offer are included: one for your signature and return to the Management Office at FirstService Residential, c/o 250 West Street Condominium, 622 Third Avenue, 15th floor, New York, NY 10017, and one for your records.

Once we receive your request for an appointment, you will receive an appointment letter confirmation from the Management Office within five (5) days.

**YES,**

**I would like to schedule an appointment to discuss a Deferred Payment Agreement.**

**Resident Signature:** \_\_\_\_\_

**Apt #:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**OR**

**NO,**

**I would not like to schedule an appointment to discuss a Deferred Payment Agreement.**

**Resident Signature: :** \_\_\_\_\_

**Apt #:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## B. DEFERRED PAYMENT AGREEMENT APPOINTMENT LETTER

[DATE]

[RESIDENT]

[STREET ADDRESS]

[CITY, STATE, ZIP CODE]

### Re: Deferred Payment Agreement Appointment

Dear Resident:

You recently requested an appointment to review your eligibility for a Deferred Payment Agreement for your unpaid electricity charges totaling \$ XX.XX.

We have scheduled your appointment at the Management Office for:

**Date:**

**Time:**

**Location:**

It is vital that you attend this appointment so that we can determine your eligibility for a Deferred Payment Agreement. Your failure to attend this appointment will leave us no choice but to issue a *Final Termination Notice*.

We have enclosed the following for your review:

- *Deferred Payment Agreement Worksheet*

In accordance with the Home Energy Fair Practices Act, we hereby provide you the following information with respect to your rights and responsibilities regarding the formation of a Deferred Payment Agreement.

- You must provide the designated staff member with reasonable proof of all the applicable income, asset, and expense information noted on the enclosed list. **The information provided to us is for the sole purpose of determining your eligibility for a Deferred Payment Agreement and/or the development of the Deferred Payment Agreement will be maintained in your resident file with the strictest of confidence and will not be released or shared with any other person.**
- The designated staff member must negotiate with you in good faith to develop a Deferred Payment Agreement that is fair and equitable and considers your financial circumstances.
- Your payment agreement might not require a deposit.

**CONFIDENTIAL: Deferred Payment Agreement Worksheet**

Date: \_\_\_\_\_ Apt #: \_\_\_\_\_

Resident's Name: \_\_\_\_\_

**Monthly Income Calculation**

Income Source:

Employment: Average monthly income from 5 consecutive paystubs	
Child Support Documentation	
Alimony Documentation	
Social Security or SSI Award Letter	
Pension Statements	
Public Assistance	
Unemployment	
All other sources of verifiable income	

**Avg. Monthly Income:** \_\_\_\_\_

**Asset Calculation:**

Asset Source:

Avg. Checking and Savings Accounts Balance: (4) Consecutive Statements	
Other verifiable assets	
Other verifiable assets	

**Total Assets:** \_\_\_\_\_

**Applicable Monthly Expense:**

Rent	
Grocery Expense	
Basic Telephone Expense	
Medical Expenses	
Medicare / Medicaid Contributions	
Prescriptions	
Other verifiable medical expenses	
Childcare expenses	
Other verifiable monthly expenses	

**Total Expenses:** \_\_\_\_\_

**Avg. Monthly Income:** \_\_\_\_\_  
**Avg. Expenses:** \_\_\_\_\_  
**Avg. Monthly Disposal Income:** \_\_\_\_\_

**Down payment may be required**

Monthly Payment	
Number of Payments	
Total Amount Due	

**Resident Signature:** \_\_\_\_\_

By my signature above I hereby certify that the documents provided to landlord in the calculations of this worksheet are correct and accurate.

## C. DEFERRED PAYMENT AGREEMENT

Resident: \_\_\_\_\_

Address: \_\_\_\_\_

Account No.: \_\_\_\_\_

The total amount owed to 250 West Street Condominium (the "Owner") on this account as of **MM/DD/YYYY** is **\$XX.XX**.

Subject to 16 NYCRR § 11.10 (a-b) of the Home Energy Fair Practices Act ("HEFPA"), the Owner is required to offer a payment agreement that you are able to pay considering your financial circumstances. **This agreement should not be signed if you are unable to keep the terms.** Alternate terms may be available if you can demonstrate financial need. Alternate terms may include no down payment and payments as low as \$10 per month above your current bills. **If you sign and return this form, along with a down payment of \$XX.XX, by MM/DD/YYYY, you will be entering into a payment agreement and, by doing so, will avoid termination of electricity service.** You will be required to make timely payments on all current charges in order to remain compliant with the terms of this agreement.

Assistance to pay utility bills may be available to recipients of public assistance or supplemental security income from your local social services office. This agreement may be changed if your financial circumstances change significantly because of conditions beyond your control. If after entering into this agreement, you fail to comply with the terms, the Owner may terminate your electricity service. If you do not sign this agreement or pay the total amount due of \$ **XX.XX** by **MM/DD/YYYY**, the Owner may seek to terminate your electricity service. **If you are unable to pay these terms, if further assistance is needed, or if you wish to discuss this agreement, please contact the Owner through the Management Office by telephone at (212) 634-8909 or by mail at FirstService Residential, c/o 250 West Street Condominium, 622 Third Avenue, 15th floor, New York, NY 10017.**

Payment of Outstanding Balance:

**Your current monthly budget amount is: \$ XX.XX (in addition to your current electricity charges). The monthly amount is due on the same date that payment for your most current bill is due.**

If you are not already enrolled in our Budget Billing Program, which allows you to pay for your service in equal monthly installments, and wish to enroll, check the box below and we will start you on this process.

**Yes! I would like Budget Billing:**

Acceptance of Residential Payment Agreement:

This agreement has been accepted by the Owner. If you and the Owner cannot negotiate a payment agreement, or if you need any further assistance, **you may contact the Public Service Commission at (800) 342-3377.**

**Return one copy of this agreement signed, along with the down payment of \$XX.XX, by MM/DD/YYYY to the Owner. If this is not done, your electricity service may be terminated.**

---

**Resident**

**Date**

---

**250 West Street Condominium**

**Date**

## D. PAST DUE REMINDER NOTICE

RESIDENT: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
ACCOUNT NO.: \_\_\_\_\_

On **MM/DD/YYYY**, you signed a Residential Deferred Payment Agreement (“DPA”), which obligated you to make a down payment of **\$XX.XX** by **MM/DD/YYYY** and regular payments of **\$XX.XX** (in addition to your current electricity charges) in order to avoid termination of electricity service. Our records indicate that you have failed to comply with the terms of the DPA. As a result, we are hereby notifying you that you must meet the terms of the existing DPA by making the necessary payment within twenty (20) calendar days of the date payment was due or a Final Termination Notice may be issued to terminate your electricity service.

If you are unable to make payment under the terms of the DPA because your financial circumstances have changed significantly due to events beyond your control, you should immediately contact 250 West Street Condominium (the “Owner”) through the Management Office by telephone at (212) 634-8909 or by mail at FirstService Residential, c/o 250 West Street Condominium, 622 Third Avenue, 15th floor, New York, NY 10017, because a new payment agreement may be available. Further, assistance to pay utility bills may be available to recipients of public assistance or supplemental security income from your local social services office.

**The total amount owed to the Owner for this account as of MM/DD/YYYY is: \$XX.XX.**

## E. DEMAND FOR FULL PAYMENT

RESIDENT: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
ACCOUNT NO.: \_\_\_\_\_

On **MM/DD/YYYY**, you signed a Residential Deferred Payment Agreement (“DPA”), which obligated you to make a down payment of **\$XX.XX** by **MM/DD/YYYY** and regular payments of **\$XX.XX** (in addition to your current electricity charges) in order to avoid termination of electricity service. Our records indicate that you have failed to comply with the terms of the DPA. As such, 250 West Street Condominium (the “Owner”) now makes this demand for full payment of the total amount owed, **\$XX.XX**, and provides you with a *Final Termination Notice*, enclosed herewith.

If you are unable to make payment under the terms of the DPA because your financial circumstances have changed significantly due to events beyond your control, you should immediately contact the Owner through the Management Office by telephone at (212) 634-8909, because a new payment agreement may be available.

Assistance to pay utility bills may be available to certain eligible residents from your local social services office, which is the Department of Human Resources Administration (“DHRA”). DHRA can be reached by telephone at (800) 692-0557, or by visiting its Manhattan office at 122 East 124<sup>th</sup> Street, New York, New York 10035.

Before DHRA will provide assistance, a customer must generally provide the Owner with information showing assets, income, and expenses to evaluate whether the customer is entitled to a new payment agreement. If you would like to provide the Owner with this information, please contact the Management Office by telephone at (212) 634-8909 or by mail at FirstService Residential, c/o 250 West Street Condominium, 622 Third Avenue, 15th floor, New York, NY 10017.

**NOTIFICATION TO SOCIAL SERVICES OF CUSTOMER'S  
INABILITY TO PAY**

**Management Office**  
FirstService Residential  
c/o 250 West Street Condominium  
622 Third Avenue, 15th floor  
New York, NY 10017

Resident: \_\_\_\_\_

Address: \_\_\_\_\_

Account No.: \_\_\_\_\_

The above resident/customer has been sent a final notice of termination of electricity service. If the total payment due of **\$XX.XX** is not paid by **MM/DD/YYYY**, termination of their electricity service may occur any time after **MM/DD/YYYY**.

**BUDGET BILLING PLAN**

Resident: \_\_\_\_\_

Address: \_\_\_\_\_

Account No.: \_\_\_\_\_

As set forth below, 250 West Street Condominium (the "Owner") agrees to provide services in return for your agreement to make payments according to the terms of this Budget Billing Plan (the "Plan").

The Plan requires that you pay **\$XX.XX** per month for the 12-month period starting with the billing cycle commencing on **MM/DD/YYYY** and ending on **MM/DD/YYYY**.

This monthly payment is based on an estimate of your annual billing, which has been calculated by multiplying the average monthly consumption by the current estimate of commodity prices over the above-referenced 12-month period. Your average monthly consumption is \_\_\_\_\_ kWh, based on your or the premises' last 12 months of actual consumption.

The Plan shall be subject to regular review for conformity with actual billing. The Owner reserves the right to recalculate the monthly payment to reflect either (a) an increase in consumption beyond the average monthly consumption, and/or (b) an increase in commodity prices.

Each month, you will be billed the equal monthly payment and you will be required to pay that amount. Your bill will inform you what your consumption for the period was, as well as the actual charge you would have incurred if you were not on the Plan. If you fail to pay the bill when due, you may be subject to a Final Termination Notice pursuant to the Home Energy Fair Practices Act or other collection remedies.

In the last month of the Plan, the Owner shall true up your account based on a comparison of the billing under the Plan and the amount you would have been charged for the 12-month period if you were not on the Plan. If you owe the Owner a sum of money due to the true up, you will be billed for the amount due. If you have been over billed, you will be issued a credit to be applied to the next plan year.

**[ ] Yes! I would like budget billing and agree to the terms of the Plan.**

**Acceptance of Agreement:**

---

**Resident**

**Date**

---

**250 West Street Condominium**

**Date**

**Return one signed copy to the Owner through the Management Office by mail at FirstService Residential, c/o 250 West Street Condominium, 622 Third Avenue, 15th floor, New York, NY 10017, by MM/DD/YYYY.**

**HEFPA QUARTERLY BILLING AGREEMENT**

Resident: \_\_\_\_\_  
Address: \_\_\_\_\_  
Account No.: \_\_\_\_\_

Under this plan, 250 West Street Condominium (the “Owner”) agrees to provide services in return for your agreement to make payments according to the terms of this Quarterly Billing Plan (the “Plan”).

You confirm that you are greater than 62 years old, and that your bills in the preceding 12 months, starting on MM/DD/YYYY and ending on MM/DD/YYYY, did not exceed \$150.

Under this Plan, you will receive the first bill on MM/DD/YYYY covering actual charges incurred during the 3-month period MM/DD/YYYY to MM/DD/YYYY, and you will receive quarterly bills thereafter on or before MM/DD/YYYY, MM/DD/YYYY, and MM/DD/YYYY for actual charges incurred during each such preceding 3-month period.

On the dates specified above, you will be billed for the actual charges incurred and you will be required to pay the amount stated on the bill. If you fail to pay the bill when it is due, you may be subject to a Final Termination Notice pursuant to the Home Energy Fair Practices Act.

**[ ] Yes! I would like Quarterly Billing.**

**Acceptance of Agreement:**

_____ <b>Resident</b>	_____ <b>Date</b>
<b>250 West Street Condominium</b>	<b>Date</b>

**Return one signed copy to the Owner through the Management Office by mail at FirstService Residential, c/o 250 West Street Condominium, 622 Third Avenue, 15th floor, New York, NY 10017, by MM/DD/YYYY.**

**FAILURE TO MAKE PAYMENT NOTICE DATED:**

---

Resident: \_\_\_\_\_  
Address: \_\_\_\_\_  
Account No.: \_\_\_\_\_

Dear Resident:

Your account is now XX (XX) days overdue. Please make payment of **\$XX.XX** by **MM/DD/YYYY** or we shall institute termination of your electricity service.

**PLEASE REMIT \$XX.XX BY MM/DD/YYYY TO AVOID INITIATION OF TERMINATION OF YOUR ELECTRICITY SERVICE.**

If you are unable to make payment because your financial circumstances have changed significantly due to events beyond your control, please contact 250 West Street Condominium through the Management Office by telephone at (212) 634-8909 or by mail at FirstService Residential, c/o 250 West Street Condominium, 622 Third Avenue, 15th floor, New York, NY 10017. If you or anyone in your household meets any of the following conditions please contact us: medical emergency, dependence on life support equipment, elderly, blind, or disabled.

Sincerely,

250 West Street Condominium

**FINAL TERMINATION NOTICE DATED:**

---

Resident: \_\_\_\_\_  
Address: \_\_\_\_\_  
Account No.: \_\_\_\_\_

Dear Resident:

By letter dated **MM/DD/YYYY**, we notified you that your failure to remit the past due amount of **\$XX.XX** by **MM/DD/YYYY** would result in our terminating your electricity service. Our records indicate that we have not received your payment. Please remit **\$XX.XX** or your service will be terminated after **MM/DD/YYYY**.

If you disagree with the amount owed, you may call or write 250 West Street Condominium (the "Owner") through the Management Office by telephone at (212) 634-8909 or by mail at FirstService Residential, c/o 250 West Street Condominium, 622 Third Avenue, 15th floor, New York, NY 10017, or you may contact the Public Service Commission at (800) 342-3377.

**THIS IS A FINAL TERMINATION NOTICE. PLEASE BRING THIS NOTICE TO OUR ATTENTION WHEN PAYING THIS BILL.**

**PLEASE REMIT \$XX.XX BY MM/DD/YYYY TO AVOID TERMINATION OF YOUR ELECTRICITY SERVICE.**

If you are unable to make payment because your financial circumstances have changed significantly due to events beyond your control, please contact the Owner. Further, please contact the Owner if you or anyone in your household meets any of the following conditions: medical emergency, dependence on life support equipment, elderly, blind, or disabled.

Sincerely,

250 West Street Condominium

Enclosures  
Notification of Rights and Procedures  
Special Protections Registration Form

# **EXHIBIT 6**



**New York State Public Service Commission  
Office of Consumer Services**



**Submetering Identification Form**

Name of Entity:			Corporate Address:		
City:	State:	Zip:	Web Site:		
Phone:			Utility Account Number:		
Chief Executive:			Account Holder Name:		
Phone:			E-mail:		
DPS Case Number:					

**Primary Regulatory Complaint Contact**

**Secondary Regulatory Complaint Contact**

Name:			Name:		
Phone:			Phone:		
Fax:			Fax:		
E-mail:			E-mail:		
Address:			Address:		
City:	State:	Zip:	City:	State:	Zip:

***We do not send complaints to personal e-mail addresses. A shared e-mail address must be provided or the transmission will default to the fax number listed above. Please enter the e-mail address, if any, to which we should send complaints: \_\_\_\_\_***

Name of Property:			Address:		
City:	State:	Zip:			
Electric Heat? Y / N			Electric Hot Water? Y / N		
# Units Occupied by: Sr. Citizens Disabled			Total # of Units		
Rent Stabilized	# Rent Controlled		# Rent-Regulated		# Market Rate
Rental: Y/N	Condo: Y/N		Co-Op: Y/N		
# Low Income	# Section 8	# Landlord Assist Program		# Other	
Submeter / Billing Agent:			Address:		
City:	State:	Zip:			
Contact Name:		Contact Phone:	Contact Fax:		

Please return this form within 5 days to:

Hon. Kathleen H. Burgess, Secretary to the Commission  
 NYS Public Service Commission  
 3 Empire State Plaza  
 Albany, NY 12223-1350  
 E-mail: secretary@dps.ny.gov

(Rev. 8/12/13)

**Changes in contact information should be submitted within 5 days of any personnel change.**

# **EXHIBIT 7**

## RULES AND REGULATIONS

**250 West Street, New York, New York 10013**

### **47. The following Rules and Regulations are applicable only to Submetered Electricity.**

(a) Consolidated Edison Company of New York, Inc. (“Con Edison”) or another local utility, and/or energy services company, and/or on-site distributed energy resource(s) (individually or collectively, the “distribution utility”) will provide electricity to the Condominium,<sup>1</sup> the consumption of which will be measured through the use of a submeter in each Unit. Each Unit in the Condominium will receive a monthly bill from the Board or its third-party billing company for the submetered electric service.

(b) Pursuant to Sections 2.2.2(e), 6.13, and 6.15 of the Bylaws of 250 West Street Condominium, each Unit Owner shall pay for the use of electricity at their respective Unit on the basis of a separate submetered charge. Electricity for the common areas will be paid for by the Board as a Common Charge and allocated among the Units in proportion to their common interests. In the event of non-payment of submetered electricity charges, the Board shall afford the Unit Owner all notices and protections available pursuant to Home Energy Fair Practices Act (“HEFPA”) before any action(s) based on such non-payment is commenced, including, but not limited to, termination of service.

(c) The rate calculation to be used for submetered electric service is the Con Edison Service Classification SC-1 for direct metered service. Specifically, the Unit Owner’s kilowatt hour (“kWh”) usage will be multiplied by the Con Edison Service Classification SC-1 tariffed rate for a billing period. The Con Edison Service Classification SC-1 rate is a combination of various items, including, but not limited to:

Basic Customer Charge: This is a charge for basic system infrastructure and customer-related services, including customer accounting, meter reading, and meter maintenance.

kWh Cost: This energy charge is broken down into separate components, including market supply, monthly adjustment, and delivery (transmission and distribution).

Systems Benefit Charge (“SBC”)/Renewable Portfolio Standard (“RPS”): This is an additional charge per kWh.

Fuel Adjustment: The sum of Market Supply Charge (“MSC”) and Monthly Adjustment Charge (“MAC”) adjustment factors.

Utility Tax: The sum of Commodity Gross Receipt Tax and Full Service Gross Receipt Tax.

Sales Tax: The current New York State (“NYS”) sales tax.

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<sup>1</sup> Capitalized terms, including Condominium, Board, Common Charge, Unit, and Unit Owner, are defined in the Condominium Bylaws and carry the same meaning herein.

The following is a nonexclusive example of the formula that will be used to derive the Tenant’s electricity charges based on the current Con Edison Service Classification SC-1 rate and a monthly use of 250 kWh:

<b>Type of Charge</b>	<b>Calculation</b>	<b>Total</b>
Basic Charge		\$YY.YY
kWh	.XXXXX times 250 kWh	\$YY.YY
Systems Benefit Charge	.XXXXX times 250 kWh	\$Y.YY
Fuel Adjustment Charge	.XXXXX times 250 kWh	\$Y.YY
	Subtotal	\$YY.YY
Utility Tax	.XXXXX times Subtotal YY.YY	\$Y.YY
	New Subtotal	\$YY.YY
Sales Tax	New Subtotal YY.YY times .045000	\$T.TT
	New Subtotal YY.YY plus T.TT	\$ZZ.ZZ
<b>Tenant Cost</b>		<b>\$ZZ.ZZ</b>

All Con Edison rates by classification are available on its website ([www.coned.com](http://www.coned.com)) under Rates and Tariffs. The electric Rates and Tariffs are listed under the heading “P.S.C. No. 10–Electricity.” In no event will the total rate for a billing period (including any monthly administrative charge) exceed the rates and charges of the distribution utility for delivery and commodity in that billing period to similarly-situated, direct-metered residential customers (*see* 16 NYCRR § 96.1 [i]). The Board or its third-party billing company will read the meters and process a bill based on the Unit Owner’s actual consumption. The meter reading data and billing calculations will be documented and maintained for a 6-year period for each Unit (*see* 16 NYCRR § 96.6 [j]).

(d) If the Unit Owner has a question about the submetered electricity bill or believes it is inaccurate, he or she will contact the Board through its Management Office by telephone at (212) 634-8909, or by mail at FirstService Residential, c/o 250 West Street Condominium, 622 Third Avenue, 15th Floor, New York, New York 10017. The Board or its third-party billing company, as a representative of the Board, shall investigate and respond to the Unit Owner in writing within fifteen (15) days of the receipt of the complaint. As part of this response, the Unit Owner shall be advised of the disposition of the complaint and the reason therefore. If the Unit Owner and the Board cannot reach an equitable agreement and the Unit Owner continues to believe the complaint has not been adequately addressed, then the Unit Owner may file a complaint with the Public Service Commission (the “PSC”) through the Department of Public Service. Alternatively, the Unit Owner may contact the PSC at any time concerning submetered service in writing at New York State Department of Public Service, 3 Empire State Plaza, Albany, New York 12223, by telephone at (800) 342-3377, in person at

the nearest office at 90 Church Street, New York, New York 10007, or via the Internet at [www.dps.ny.gov](http://www.dps.ny.gov).

(e) As a residential customer for submetered electricity, the Unit Owner will be afforded rights and protections available to residential energy consumers in New York State under HEFPA, including the ability to file a complaint with the PSC. The nearest office of the PSC is at: New York State Public Service Commission, 90 Church Street, New York, NY 10007, (212) 417-2234, (800) 342-3377, [www.dps.ny.gov](http://www.dps.ny.gov). The Unit Owner may contact the Department of Public Service at any time if dissatisfied with the Board's response to a complaint or at any time regarding submetered service.

(f) The Unit Owner may request balanced billing for the Unit's submetered electricity charges. Balanced billing divides the electricity costs into equal monthly payments. Periodically, the balanced billing amounts will be reviewed and adjusted as necessary. At the end of one year, the Unit Owner shall be responsible to pay for any electricity costs in excess of the balanced billing amount paid.

(g) If the Unit Owner has difficulty paying the submetered electricity bill, the Unit Owner may contact the Board in order to arrange for a deferred payment agreement, whereby the Unit Owner may be able to pay the balance owed over a period of time. If the Unit Owner can show financial need, the Board can work with the Unit Owner to determine the length of the agreement and the amount of each monthly payment.

(h) Regardless of the Unit Owner's payment history relating to the Unit Owner's submetered electricity bills, the Unit Owner's submetered electricity service will be continued if the Unit Owner's health or safety or the health or safety of someone living in the Unit is threatened. When the Board becomes aware of such hardship, the Board can refer the Unit Owner to the Department of Social Services. The Unit Owner shall notify the Board if either of the following conditions exist: (i) a medical emergency, substantiated by a medical certificate from a doctor or local board of health; or (ii) the Unit Owner and/or those living in the Unit suffer from a medical condition requiring electricity service to operate a life-sustaining device, where a medical certificate from a doctor or local board of health demonstrates this necessity.

(i) Special protections may be available to the Unit Owner. Such protections may be available if the Unit Owner and/or those living with the Unit Owner are age eighteen (18) or younger or sixty-two (62) or older, blind, or disabled. If the Unit Owner is age sixty-two (62) or older, the Unit Owner may be eligible for quarterly billing for the Unit Owner's submetered electrical charges. The Unit Owner may designate a third party as an additional contact to receive notices of past due balances for the Unit Owner's electrical charges.

(j) Any submetering refunds will be credited to a submetered Unit Owner affected by the Board's actions that led to such refunds provided that the Board has such contact information for such Unit Owner.

(k) The Unit Owner agrees that at all times the use of electricity in the Unit shall never exceed the capacity of existing feeders to the Building or the risers, wiring, or electrical installations serving the Unit. The Unit Owner shall not make any alterations, modifications, or additions to the electrical installations serving the Unit.

(l) The Board shall have the right to suspend submetered electricity service to the Unit when necessary by reason of accident or for repairs, alterations, replacements, or improvements necessary or desirable in the Board's judgment for as long as may be reasonably required by reason thereof and the Board shall not incur any liability for any damage or loss sustained by the Unit Owner or any other occupant of the Unit as a result of such suspension. The Board shall not in any way be liable or responsible to the Unit Owner or any other occupant for any loss, damage, cost, or expense that the Unit Owner or any occupant of the Unit may incur if either the quantity or character of electricity service is changed or is no longer available or suitable for the Unit Owner's requirements or if the supply or availability of electricity is limited, reduced, interrupted, or suspended by the utility company serving the Building or for any reason or circumstances beyond the Board's control. Except as may be provided by applicable law, the Unit Owner shall not be entitled to any credit or refund because of a stoppage, modification, interruption, suspension, limitation, or reduction of electricity service to the Unit.

(m) If the Board or its third-party billing company fails to deliver a bill to the Unit Owner for the use of submetered electricity at the Unit for any given billing period, then such failure shall not prejudice or impair the Board's right to subsequently deliver or cause its third-party billing company to deliver such a bill to the Unit Owner, nor shall any such failure relieve or excuse the Unit Owner from having to pay to such bill, except as may otherwise be provided by applicable law.

# **EXHIBIT 8**

## Rider to Lease: Submetering

**250 West Street, New York, New York 10013**

1. The Tenant acknowledges that while Consolidated Edison Company of New York, Inc. (“Con Edison”) or another local utility, and/or energy services company, and/or on-site distributed energy resource(s) (individually or collectively, the “distribution utility”) will be the provider of electricity to this building (the “Building”) and that the Owner will be paying the charges for such electricity directly to the distribution utility (or its successor or successors), the Tenant will be required to pay the Owner for the use of electricity at the Apartment on the basis of a separate submetered charge that will be billed to the Tenant by the Owner or its third-party billing company on a monthly basis. The Tenant also acknowledges that, on [ ], in Case [ ]: Notice of Intent to Submeter Electricity at 250 West Street, New York, New York 10013, Located in the Territory of Consolidated Edison Company of New York, Inc., the New York State Public Service Commission (“PSC”) approved the Building to submeter electricity to the Building’s residential tenants. In the event of non-payment of electric charges, the Owner shall afford the Tenant all notices and protections available pursuant to the Home Energy Fair Practices Act (“HEFPA”) before any action(s) based on such non-payment, including, but not limited to, termination of service is commenced.
2. The rate calculation to be used is the Con Edison Service Classification SC-1 for direct metered service. Specifically, the Tenant’s kilowatt hour (“kWh”) usage will be multiplied by the Con Edison Service Classification SC-1 tariffed rate for a billing period.

The Con Edison Service Classification SC-1 rate is a combination of various items, including, but not limited to:

**Basic Customer Charge:** This is a charge for basic system infrastructure and customer-related services, including customer accounting, meter reading, and meter maintenance.

**kWh Cost:** This energy charge is broken down into separate components, including market supply, monthly adjustment, and delivery (transmission and distribution).

**Systems Benefit Charge (“SBC”)/Renewable Portfolio Standard (“RPS”):** This is an additional charge per kWh.

**Fuel Adjustment:** The sum of Market Supply Charge (“MSC”) and Monthly Adjustment Charge (“MAC”) adjustment factors.

**Utility Tax:** The sum of Commodity Gross Receipt Tax and Full Service Gross Receipt Tax.

**Sales Tax:** The current New York State (“NYS”) sales tax.

The following is a nonexclusive example of the formula that will be used to derive the Tenant’s electricity charges based on the current Con Edison Service Classification SC-1 rate and a monthly use of 250 kWh:

<b>Type of Charge</b>	<b>Calculation</b>	<b>Total</b>
Basic Charge		\$YY.YY
kWh	.XXXXX times 250 kWh	\$YY.YY
Systems Benefit Charge	.XXXXX times 250 kWh	\$Y.YY
Fuel Adjustment Charge	.XXXXX times 250 kWh	\$Y.YY
	Subtotal	\$YY.YY
Utility Tax	.XXXXX times Subtotal YY.YY	\$Y.YY
	New Subtotal	\$YY.YY
Sales Tax	New Subtotal YY.YY times .045000	\$T.TT
	New Subtotal YY.YY plus T.TT	\$ZZ.ZZ
<b>Tenant Cost</b>		<b>\$ZZ.ZZ</b>

All Con Edison rates by classification are available on its website ([www.coned.com](http://www.coned.com)) under Rates and Tariffs. The electric Rates and Tariffs are listed under the heading “P.S.C. No. 10–Electricity.”

In no event will the total rate for a billing period (including any monthly administrative charge) exceed the rates and charges of the distribution utility for delivery and commodity in that billing period to similarly-situated, direct-metered residential customers (*see* 16 NYCRR § 96.1 [i]).

The Owner or its third-party billing company will read the meters and process a bill based on the Tenant’s actual consumption. The meter reading data and billing calculations will be documented and maintained for a 6-year period for each unit (*see* 16 NYCRR § 96.6 [j]).

3. If the Tenant has a question about the electric bill or believes it is inaccurate, the following protocol will be followed: please contact the Management Office by telephone at (212) 634-8909 or by mail at FirstService Residential, c/o 250 West Street Condominium, 622 Third Avenue, 15th floor, New York, NY 10017. The Owner shall investigate and respond to the Tenant in writing within fifteen (15) days of the receipt of the complaint. As part of this response, the Tenant shall be advised of the disposition of the complaint and the reason therefore. If the Tenant and the Owner cannot reach an equitable agreement and the Tenant continues to believe the complaint has not been adequately addressed, then the Tenant may file a complaint with the PSC through the Department of Public Service. Alternatively, the Tenant may contact the Department of Public Service at any time concerning submetered service in writing at New York State Department of Public Service, 3 Empire State Plaza,

Albany, New York 12223, by telephone at (800) 342-3377, in person at the nearest office at 90 Church Street, New York, New York 10007, or via the Internet at [www.dps.ny.gov](http://www.dps.ny.gov).

4. The Tenant will be afforded rights and protections available to residential energy consumers in New York State under HEFPA, including the ability to file a complaint with the PSC. The nearest office of the PSC is at: NYS Public Service Commission, 90 Church Street, New York, NY 10007, (212) 417-2234, (800) 342-3377, [www.dps.ny.gov](http://www.dps.ny.gov). The Tenant may contact the PSC at any time if you are dissatisfied regarding the Owner's response to your complaint or at any time regarding submetered service.
5. The Tenant may request balanced billing for your electric charges. Balanced billing divides the electric costs into equal monthly payments. Periodically, the balanced billing amounts will be reviewed and adjusted as necessary. At the end of one year, the Tenant shall be responsible to pay for any electric costs in excess of the balanced billing amount paid.
6. If the Tenant has difficulty paying the electric bill, you may contact the Owner by telephone or by letter in order to arrange for a deferred payment agreement, whereby you may be able to pay the balance owed over a period of time. If the Tenant can show financial need, the Owner can work with you to determine the length of the agreement and the amount of each monthly payment.
7. Regardless of your payment history relating to your electric bills, your electricity service will be continued if your health or safety or the health or safety of someone living with you is threatened. When the Owner becomes aware of such hardship, the Owner can refer you to the Department of Social Services. Please notify the Owner if either of the following conditions exist:
  - (a) **Medical Emergencies.** You must provide a medical certificate from a doctor or local board of health.
  - (b) **Life Support Equipment.** You and/or those living with you suffer from a medical condition requiring electricity service to operate a life-sustaining device. You must provide a medical certificate from a doctor or local board of health.
8. Special protections may be available if the Tenant and/or those living with you are age eighteen (18) or younger or sixty-two (62) and older, blind, or disabled.
9. If the Tenant is age sixty-two (62) or older, you may be eligible for quarterly billing for your electrical charges.
10. The Tenant may designate a third party as an additional contact to receive notices of past due balances for your electrical charges.
11. As a residential customer for electricity, the Tenant also has certain additional rights assured by HEFPA.

12. Any submetering refunds will be credited to a submetered Tenant affected by the Owner's actions that led to such refunds provided that the Owner has such contact information for such Tenant.
13. The Tenant agrees that at all times the use of electricity in the Apartment shall never exceed the capacity of existing feeders to the Building or the risers, wiring or electrical installations serving the Apartment. The Tenant shall not make any alterations, modifications or additions to the electrical installations serving the Apartment.
14. The Owner shall have the right to suspend electric service to the Apartment when necessary by reason of accident or for repairs, alterations, replacements or improvements necessary or desirable in the Owner's judgment for as long as may be reasonably required by reason thereof and the Owner shall not incur any liability for any damage or loss sustained by the Tenant or any other occupant of the Apartment as a result of such suspension. The Owner shall not in any way be liable or responsible to the Tenant or any other occupant for any loss, damage, cost, or expense that the Tenant or any occupant of the Apartment may incur if either the quantity or character of electric service is changed or is no longer available or suitable for the Tenant's requirements or if the supply or availability of electricity is limited, reduced, interrupted, or suspended by the utility company serving the Building or for any reason or circumstances beyond the Owner's control. Except as may be provided by applicable law, the Tenant shall not be entitled to any rent reduction because of a stoppage, modification, interruption, suspension, limitation, or reduction of electric service to the Apartment.
15. If the Owner or its third-party billing company fails to deliver a bill to the Tenant for the use of electricity at the Apartment for any given billing period, then such failure shall not prejudice or impair the Owner's right to subsequently deliver or cause its third-party billing company to deliver such a bill to the Tenant, nor shall any such failure relieve or excuse the Tenant from having to pay such bill, except as may otherwise be provided by applicable law.
16. IT IS A SUBSTANTIAL AND MATERIAL DEFAULT OF THE TENANT'S COVENANTS AND OBLIGATIONS UNDER THE LEASE IF, AFTER A COMPLAINT IS SATISFACTORILY RESOLVED IN ACCORDANCE WITH THE TENANT'S RIGHTS AFFORDED BY HEFPA, THE TENANT REFUSES TO PAY THE ELECTRICAL CHARGES. ACCORDINGLY OWNER SHALL BE ENTITLED TO EXERCISE ALL RIGHTS AND REMEDIES AT LAW OR IN EQUITY.

\_\_\_\_\_  
**Tenant**

\_\_\_\_\_  
**Owner**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date**

# **EXHIBIT 9**



May 22, 2015

Mr. David Desanti  
General Manager, Central Energy Services  
Consolidated Edison Company of New York, Inc.  
4 Irving Place  
New York, NY 10003

**Re: Notice of Intent to Submeter Electricity at 250 West Street, New York, New York 10013, Located in the Territory of Consolidated Edison Company of New York, Inc.**

Dear Mr. Desanti:

Please be advised that on May 22, 2015, 250 West Street Condominium submitted to the New York State Public Service Commission a notice of intent to submeter electricity at the above-referenced property, which is located within the service territory of Consolidated Edison Company of New York, Inc.

Enclosed for your convenience is a copy of this notice.

Thank you for your attention in this matter.

Sincerely,

250 WEST STREET CONDOMINIUM

/s/ Brooke Rosenthal

Signature

By: Brooke Rosenthal, Agent

Name (printed), Title

250 West Street Condominium

Company Name

cc: John T McManus, Esq. (*via electronic mail*)  
Kerri Ann Kirschbaum, Esq., Senior Staff Attorney (*via electronic mail*)  
Consolidated Edison Company of New York, Inc.

# **EXHIBIT 10**

## ENERGY SAVING IDEAS

*Conserve Energy. Save Money. Protect the Environment.*

What can you do to lower your electric bill? Quadlogic has put together the following guidelines to help you conserve energy and lower your electric bill. This information was collected from various sources\*, and is intended to show you how easy it can be to make a few changes that won't have a big impact on your lifestyle but *will* have a big impact on your electric bill.

### LIGHTING

- ❖ Replace ordinary light switches with dimmers. Dimmers let you set bulb brightness to suit different needs. Whenever lights are set at less than full brightness, you save energy.
- ❖ Replace ordinary incandescent bulbs with new compact fluorescent bulbs. Compact fluorescent bulbs give the same light levels as the ordinary bulbs they replace, but use 40-60% less energy.
- ❖ Use timers to turn off lights when you're away from home. That saves energy and adds security to your home.
- ❖ Use lower wattage bulbs whenever you can. Wattage isn't a measure of brightness, it's a measure of energy usage. The lower the wattage, the less energy used.
- ❖ Replace ordinary switches with motion sensors. Motion sensors monitor a room for the presence of people. When someone enters the room, lights go on automatically so you don't light an unoccupied room.

### APPLIANCES

- ❖ Choose Energy Star appliances, which use considerably less energy than other appliances.
- ❖ Use your refrigerator as efficiently as possible by keeping the condenser coils clean.
- ❖ Use washers, dryers and dishwashers efficiently. Every time these appliances go through a cycle, they use very nearly the same amount of energy whether empty or full. So cleaning with full loads makes for best efficiency and best value on your energy dollars.
- ❖ Switch off the "instant on" feature in electronic devices. Many electronic products have an "instant on" circuit that uses energy continuously, even when the device is turned off. On some electronic devices, you can choose to turn it off.

### COMPUTER & HOME OFFICE EQUIPMENT

- ❖ Turn your computer off when it is not in use. Much of the energy use associated with computer is wasted because PC's are often left on when not in use, including nights, weekends, and even extended periods of inactivity during the day.

- ❖ Turn off your display device or monitor. Monitors consume a significant portion of the energy used by PC's.
- ❖ Use a laptop. A typical laptop computer has a maximum power consumption of 15 watts, and extensive power management capabilities. A typical desktop PC, with display consumes about 10 times that or 150 watts, and has limited power management features. The potential energy savings from substituting PC's with portable laptops are large, up to 90% or more.
- ❖ Select a printer with power management capabilities. Printers with automatic "power down" features can reduce electricity use by over 65%.
- ❖ Select a fax machine with power management capabilities. Fax machines are generally turned on 24 hours-a-day to receive incoming faxes. However, they are typically in use for only 5% of the total time they are turned on. Fax machines with power management features can reduce energy costs by almost 50%.

<b>AVERAGE ANNUAL ENERGY CONSUMPTION</b>			
<b>Equipment</b>	<b>Conventional Products</b>	<b>Energy Saving Products</b>	<b>Potential Energy Savings</b>
Desktop PC's	500 kWh	250 kWh	50%
Fax Machines	300 kWh	135 kWh	55%
Laser Printers	750 kWh	270 kWh	65%
Copier (Medium)	1200 kWh	535 kWh	55%
Copier (Large)	2800 kWh	1200 kWh	55%

You may find "Energy Star" appliances at your local retail stores.

**USEFUL LINKS**

- [www.sears.com](http://www.sears.com)
- [www.circuitcity.com](http://www.circuitcity.com)
- [www.bestbuy.com](http://www.bestbuy.com)
- [www.perichard.com](http://www.perichard.com)
- [www.allcityappliance.com](http://www.allcityappliance.com)

**OTHER HELPFUL HINTS**

- ❖ Stop drafts coming in near doors, windows, or air conditioners. Drafts make the heating and cooling systems work harder therefore costing you more money.
- ❖ Stop leaks at faucets, toilets, tubs, and showers. If the leak is from hot-water faucets, it wastes the energy from your hot water heater and costing you more money.

\* Sources: Con Edison, LIPA, Orange and Rockland, NYSERDA, Niagra Mohawk, Southern California Edison.