

**BY-LAWS  
OF  
ODELL CLARK PLACE CONDOMINIUM I**

**Borough of Manhattan  
County of New York City, City and State of New York**

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**THE BY-LAWS  
OF  
ODELL CLARK PLACE CONDOMINIUM I**

**ARTICLE I**

**GENERAL**

**Section 1.1 Purpose.** The purpose of these By-Laws is to set forth the rules and procedures concerning the conduct of the affairs of the Condominium. The Condominium covers the Property, which consists of: (i) the Land which lies in Section \_\_, Block 2007, Lot 62 on the Tax Map of the Borough of Manhattan, County of New York, City and State of New York; (ii) the Building, which includes, without limitation, the Units, the Common Elements and all easements, rights and appurtenances belonging thereto and (iii) all other property, real or personal intended for use in connection therewith. The Property has been submitted to the provisions of the Condominium Act by the recording of the Declaration in the Register's Office, of which Declaration these By-Laws form a part.

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

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

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

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

## ARTICLE 2

### BOARD OF MANAGERS

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

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

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

**Section 2.4 Powers and Duties of the Condominium Board.** (A) The Condominium Board shall have all of the powers and duties necessary for, or incidental to, the administration of the affairs of the Condominium, provided, however, that the Condominium Board shall not have such powers and duties that by Law, or pursuant to the terms of the Declaration and these By-Laws, may not be delegated to the Condominium Board by the Unit Owners. Without intention to limit the generality of the foregoing in any respect, the Condominium Board shall have the following specific powers and duties:

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

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

(iii) to maintain complete and accurate books and records with respect to the finances and the operation, of the Condominium, including, without limitation: (a) detailed accounts, in chronological order, of receipts and expenditures affecting the property; (b)

detailed books of account of the Condominium Board; (c) other financial records, as well as other books of account of the Condominium, as may be required to be kept pursuant to the terms of these By-Laws and (d) minutes and other records of all meetings held pursuant to the terms of these By-Laws;

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

(v) to determine the amount and establish the methods of payment of, and to collect, the Common Charges and Special Assessments from the Unit Owners;

(vi) to borrow money on behalf of the Condominium when required in connection with the operation, maintenance, repair, restoration, improvement, alteration and replacement of the Common Elements, provided, however, that: (a) the affirmative consent of at least three-fourths (3/4th) of the members of the Condominium Board shall be required for the borrowing of any sum in excess of \$10,000.00 in any one fiscal year (regardless of the balance of any loans outstanding from previous fiscal years); (b) no lien to secure repayment, of any sum borrowed may be created on any Unit or its Appurtenant Interests without the consent of the owner of such Unit and, (c) the documentation executed in connection with any such borrowing shall provide that, if any sum borrowed by the Condominium Board pursuant to this subparagraph (vi) shall not be repaid by the Condominium Board, any Unit Owner who pays to the creditor thereunder such proportion of the then outstanding indebtedness represented or secured thereby as such Unit Owner's Common Interest bears to the aggregate Common Interests of all Unit Owners shall be entitled to obtain from the creditor a release of any judgment or other lien that the said creditor shall have filed, or shall have the right to file, against such Unit Owner's Unit;

(vii) to open and maintain bank accounts on behalf of the Condominium and to designate the signatories required therefor;

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

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

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



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

(xii) to obtain and keep in force fidelity bonds, in amounts deemed appropriate by the Condominium Board, but in no event less than \$25,000.00, for: (a) all members of the Condominium Board; (b) all officers and employees of the Condominium and (c) the Managing Agent, and the premiums on all such fidelity bonds shall constitute a part of the Common Expenses.

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

(xiv) in accordance with the Condominium Documents to purchase, lease, or otherwise acquire Units offered for sale or lease by their owners, in the name of the Condominium Board or its designee, corporate or otherwise, and on behalf of all Unit Owners;

(xv) to purchase Units at foreclosure or other judicial sales, in the name of the Condominium Board or its designee, corporate or otherwise, and on behalf of all Unit Owners;

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

(xvii) in accordance with the Condominium Documents, to adopt and amend the Rules and Regulations and to levy and collect fines against Unit Owners for violations of the same;

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

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

(xx) to organize corporations to act as the designees of the Condominium Board in acquiring title to, or leasing of, Units and in acquiring rights, title and interest in real and

personal property for use in connection with the ownership and operation of the Property-as a residential condominium;

(xxi) to execute, acknowledge and deliver; (a) any declaration or other instrument affecting the Property that the Condominium Board deems necessary or appropriate to comply with any Law applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Building and (b) any consent, covenant, restriction, easement or declaration affecting the Property that the Condominium Board deems necessary or appropriate;

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

(xxiii) to carry out any other duties imposed upon the Condominium Board pursuant to the Declaration and these Bylaws

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

(C) The Condominium Board shall be responsible to ensure that the initial managing agreement and any subsequent management agreement will contain a provision requiring the managing agent to work with the Sponsor, or its permitted designee, in its capacity as administrator of the Technical Assistance Contract.

**Section 2.5 Certain Limitations on the Powers of The Condominium Board.** (A) Notwithstanding anything to the contrary contained in these By-Laws, for a period of three years from the First Closing, so long as Declarant or its designee or both shall continue to collectively own Units representing 25% or more in aggregate Common Interest, the Condominium Board may not, without Declarant's or such designee's prior written consent:

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

(ii) assess any Common Charges or Special Assessments for the creation or replacement of, or the addition to, all or any part of a reserve, contingency, or surplus fund in excess of five percent in the aggregate of the estimated Common Expenses for any year of operation;

(iii) increase the number or change the type of employees from that described in Schedule B set forth in the Plan;

(iv) enter into any service or maintenance contracts for work not covered in the schedule referred to in subparagraph (iii) hereinabove; or

(v) borrow money on behalf of the Condominium.

(B) Notwithstanding anything to the contrary contained in these By-Laws, the Condominium Board shall not take any of the following actions unless Unit Owners, representing at least 75% in aggregate Common Interest shall approve the same in writing or by vote at a duly constituted meeting called for such purpose:

(i) increase the number, or change the type, of employees from those hired at the time of recording the Declaration;

(ii) provided for new or additional services from those being provided at the time of recording the Declaration;

(iii) impose any Common Charge or Special Assessment for the purpose of making any capital or major improvement, alteration, or addition to the Common Elements or to any Unit, unless required by Law or an insurance company insuring the Property; or

(iv) establish any reserves, including, without limitation, a reserve for contingencies, repairs, improvements, or replacements, other than a twelve-month reserve for contingencies not exceeding five percent of the budgeted operating expenses for the ensuing twelve months of operation.

**Section 2.6 Exercise and Delegation of Powers and Duties.** (A) Any act within the power of the Condominium Board to perform, and deemed necessary or desirable to be performed by the Condominium Board, shall be performed by the Condominium Board or shall be performed on its behalf and at its direction by the agents, employees or designees of the Condominium Board.

(B) The Condominium Board may appoint an Executive Committee by duly adopted resolution, which Executive Committee shall have, and may exercise, all of the powers of the Condominium Board subject to both the exceptions and limitations contained in paragraph (D) of this Section 2.6 and such additional exceptions and limitations as the Condominium Board may from time to time deem appropriate, during the intervals between the meetings of the Condominium Board. In addition, the Condominium Board may from time to time appoint, by duly adopted resolutions, such other committees as the Condominium Board may deem appropriate to perform such duties and services as the Condominium Board shall direct, each of which committees shall have, and may exercise, all of the powers delegated to it in its enabling resolution, subject, however, to the exceptions and limitations contained in paragraph (D) of this Section 2.6. The Executive Committee and each other committee shall consist of two or more members of the Condominium Board, at least one of whom shall be a member designated by Declarant for so long as Declarant shall have the right to designate or elect one or more members of the Condominium Board.

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

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

**Section 2.7 Number, Election and Qualification of Members.** Until the first annual meeting of the Unit Owners held pursuant to the terms of Section 4.1 or until the end of the control period, whichever shall occur first, the Condominium Board shall consist of the Declarant and two (2) individuals to be designated from time to time by the Declarant. Upon the termination of Control Period or the first annual meeting all three board members shall resign as board members and will call for a meeting of the Unit Owners to elect a new Condominium Board, consisting of five (5) Managers, within thirty (30) days after the aforementioned period. From and after the earlier of (i) the transfer of title to Units, the percentage Common Interest of which equals at least fifty percent (50%) or (ii) two (2) years after the First Unit Closing, a majority of the Condominium Board must be owner-occupants or members of an owner-occupant's household who are unrelated to the Sponsor and its principals. Except for members designated or elected by Declarant or its designee pursuant of the terms of this Section 2.7 or of Section 2.10 or 4.9 hereof, all members of the Condominium Board shall be either: (i) individual Unit Owners; (ii) individual Permitted Mortgagees; (iii) principals or officers of Unit Owners; or (iv) spouse or adult child of Unit Owner. However, no Unit Owner may vote at any meeting of the Unit Owners if the condominium Board has perfected a lien against such Unit Owner's Unit and the amount necessary to release such lien has not been paid at the time of such meeting. Other than members elected by Sponsor or Sponsor designee, no member shall continue to serve in the Condominium Board after he ceases to be a Unit Owner as specified in this Section 2.7.

At the first annual meeting of the Condominium or after the Control Period, whichever shall occur first, until the 30<sup>th</sup> anniversary of the first unit closing, Sponsor shall have the right to designate one (1) non-voting member of the Board of Managers. The purpose of the non-voting Board member is to monitor compliance with the Technical Assistance Contract and the Regulatory Agreement. The non-voting member shall have no effect on the provisions concerning control of the Board of Managers.

**Section 2.8 Term of Office of Members.** The terms of office of three members of the Condominium Board designated by Declarant prior to the first annual meeting of the Unit Owners shall expire when the five individuals to be elected at such meeting are so elected and qualified. The term of office of each of the five individuals elected and qualified at the first annual

meeting of the Unit Owners shall be for one year. At each annual meeting of the Unit Owners subsequent to the first such meeting, the members of the Condominium Board shall be elected pursuant to the terms of Section 4.9 hereof to serve a term of office fixed at one year. Notwithstanding anything to the contrary contained in this Section 2.8, however, each member of the Condominium Board shall serve until his successor shall be elected and qualified. There shall be no limit on the number of terms of office, successive or otherwise, that a member of the Condominium Board may serve.

Thereafter within the limits above-specified, the number of Managers may be changed by a vote of the Units Owners at their meetings prior to the election of the next Board of Managers.

**Section 2.9 Removal and Resignation of Members.** (A) Any member of the Condominium Board who was elected there either by the Unit Owners, pursuant to the terms of Section 2.10 hereof, or by the Condominium Board, pursuant to the terms of Section 2.10 hereof, may be removed from office, with or without cause by a vote of a Majority of Unit Owners. Any member of the Condominium Board who was designated as such or elected by Declarant or its designee, pursuant to the terms of Section 2.7, 2.10, or 4.9 hereof may be removed, with or without cause, only by Declarant or the said designee. Any member of the Condominium Board whose proposed removal is to be acted upon at a meeting of the Unit Owners shall be given prior written notice thereof and an opportunity to be present and heard thereat.

(B) Any member of the Condominium Board may resign his membership at any time by giving written notice thereof to the Condominium Board and, with respect to members of the Condominium Board designated as such or elected by Declarant or its designee, to Declarant or such designee. In addition, any member of the Condominium Board who shall cease to be qualified for membership pursuant to the terms of Section 2.7 hereof shall be deemed to have resigned his membership effective as of the date upon which such qualification shall cease.

**Section 2.10 Vacancies.** (A) Any vacancy on the Condominium Board that is caused by the removal, resignation, or death of a member who was elected thereof by the Unit Owners shall be filled by an individual who is qualified to be a member pursuant to the terms of Section 2.7 hereof and who is elected by a vote of the majority of the members of the Condominium Board then in office. A special meeting of the Condominium Board shall be held for the purpose of filling any such vacancy promptly after the occurrence thereof, and the election held thereat shall be effective to fill such vacancy even if the number of members present at such meeting shall not constitute a quorum.

(B) Any vacancy on the Condominium Board that is caused by the removal, resignation, or death of a member who was designated as such or elected by Declarant or its designee shall be filled by an individual designated by Declarant or such designee.

(C) Each member of the Condominium Board who is elected thereto or designated as such to fill a vacancy pursuant to the terms of paragraph (A) or (B), respectively, of this Section 2.10 shall serve as a member of the Condominium Board for the remainder of the term

of the member he replaced and until his successor shall be selected and qualified at the appropriate annual meeting of the Unit Owners pursuant to the terms of Section 4.9 hereof.

**Section 2.11 Organizational Meeting of the Condominium Board.** The first meeting of the Condominium Board following each annual meeting of the Unit Owners shall be held within ten (10) days of such annual meeting, at such time and place in the City of New York as shall be both fixed informally by a majority of the members of the Condominium Board and designated in a written notice given to all members thereof by personal delivery, mail, or telegram not later than five (5) business days prior to such date.

**Section 2.12 Regular Meetings of the Condominium Board.** Regular meetings of the Condominium Board may be held at such time and place in the City of New York as shall be determined from time to time by a majority of the members thereof, provided that at least five (5) such meetings shall be held during each fiscal year. Written notice of all regular meetings of the Condominium Board shall be given to each member thereof by personal delivery, mail, or telegram at least five (5) business days prior to the day named for such meeting.

**Section 2.13 Special Meetings of the Condominium Board.** The President may call a special meeting of the Condominium Board whenever he deems the same to be necessary or desirable. However, the President shall call such a meeting upon the written request of two or more members of the Condominium Board. Written notice of all special meetings shall be given to each member thereof by personal delivery, mail, or telegram at least five (5) business days prior to the day named for such meeting, which notice shall state the time, place (in the City of New York and purpose of the meeting.

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

**Section 2.15 Quorum of the Condominium Board.** For purposes of all meetings of the Condominium Board, a majority of the members thereof shall constitute a quorum for the transaction of business. In connection therewith, one or more members of the Condominium Board may participate in any meeting thereof by means of a conference telephone or similar communications equipment permitting all individuals participating in the meeting to hear each other at the same time, and such participation shall constitute presence at such a meeting for all purposes. If, at any meeting of the Condominium Board, there shall be less than a quorum present, a majority of the members of the Condominium Board in attendance may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business that might have been transacted at the meeting originally called but for the lack of a quorum may be transacted without further notice.

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

**Section 2.17 Decisions by the Condominium Board.** Except as otherwise expressly provided in the Declaration or these By-Laws, the vote of a majority of the members of the Condominium Board present at a meeting thereof at which a quorum is present shall constitute the decision of the Condominium Board. Alternatively, any decision that is required or permitted to be made by the Condominium Board may be made without a meeting thereof if all members of the Condominium Board shall individually or collectively consent in writing to such decision, and all such written consents shall be duly filed by the Secretary of the Condominium in the minutes of the Condominium Board.

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

**Section 2.19 Common or Interested Members of the Condominium Board.** Each member of the Condominium Board shall perform his duties, and shall exercise his powers, in good faith and with a view to the interests of the Condominium. To the extent permitted by Law, no contract or other transaction between the Condominium Board and either (i) any of its members or (ii) any corporation, partnership, fiduciary, firm, association, or other entity in which any of the members of the Condominium Board are officers, directors, employees, partners, fiduciaries, beneficiaries, or principals, or are otherwise interested, pecuniarily or otherwise, shall be deemed either void or voidable because either (a) any such member of the Condominium Board was present at the meeting or meetings of the Condominium Board during which such contract or transaction was discussed, authorized, approved, or ratified, or (b) the vote of any such member was counted for such purpose, provided, however, that either:

(x) the fact thereof is disclosed to, or known by, the Condominium Board or a majority of the members thereof or noted in the minutes thereof, and the Condominium Board shall authorize, approve, or ratify such contract or transaction in good faith by a vote of a majority of the entire Condominium Board, less the number of such members;

(y) the fact thereof is disclosed to, or known by, a Majority of Unit owners shall authorize, approve, or ratify such contract or transaction; or

(z) the contract or transaction is commercially reasonable to the Condominium Board at the time that the same is authorized, approved, ratified, executed, or otherwise consummated.

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

**Section 2.20 Liability of the Condominium Board.** (A) The members of the Condominium Board shall have no liability to the Unit Owners for errors of judgment, negligence, or otherwise, except that each member of the Condominium Board shall be liable thereto for his own bad faith or willful misconduct. In connection therewith, members of the Condominium Board designated as such by Declarant shall not be deemed either to be in bad faith or to have committed willful misconduct by reason of any self-dealing in connection with any contract made, or other transaction entered into, between the Condominium Board and Declarant or its agents, provided that any compensation paid, or to be paid, to Declarant or its agents in connection with any such contract or transaction is disclosed in the Plan or an amendment thereto or is at competitive rates for goods sold or services rendered in the Borough of Manhattan.

(B) Every contract made, and other document executed, by or on behalf of the Condominium Board, any committee thereof, or the Managing Agent shall expressly state (if obtainable and in addition to the limitation of liability of the members of the Condominium Board and the Unit Owners pursuant to the terms of Sections 3.10 and 4.12 hereof, respectively) that the same is made or executed by or on behalf of the Condominium Board, such committee, or the Managing Agent solely as agent for the Unit Owners and that the members of the Condominium Board or such committee or the Managing Agent shall have no liability thereon, except to the extent of their liability, if any, as Unit Owners pursuant to the terms of Section 4.12 hereof.

(C) Neither the Condominium Board nor any member thereof shall be liable for either:

(i) any failure or interruption of any utility or other services to be obtained by, or on behalf of, the Condominium Board or to be paid for as a Common Expense; or

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

(D) The Unit Owners shall jointly and severally indemnify and hold each member of the Condominium Board harmless from and against any claim or liability to others arising from his acts or omissions as, or by reason of the fact that such individual is or was, a member of the Condominium Board, except, however, to the extent that such claim or liability shall be due to, or shall arise out of, the bad faith or willful misconduct of such member.

### **ARTICLE 3**

#### **OFFICERS**



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

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

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

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

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

**Section 3.6 Election, Term of Office and Qualifications of Officers.** Each of the officers of the Condominium Board shall be elected annually by a majority vote of the Condominium Board taken at the organizational meeting of each new Condominium Board, and shall serve at the pleasure of the Condominium Board. The President and the Vice President shall be elected from amongst the members of the Condominium Board. The other officers of the Condominium, however, need not be Unit Owners or members of the Condominium Board and need not have any interest in the Condominium.

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

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

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

**Section 3.10 Liability of the Officers of the Condominium.** (A) The officers of the Condominium shall have no liability to the Unit Owners for errors of judgment, negligence, or otherwise, except that each officer of the Condominium shall be liable thereto for his own bad faith or willful misconduct. In addition, every contract made, and other document executed, by one or more officers or other Persons on behalf of the Condominium shall expressly state (if obtainable and in addition to the limitation of liability of the members of the Condominium Board and the Unit Owners pursuant to the terms of Sections 2.20 and 4.12 hereof, respectively) that the same is made or executed by such officers or persons on behalf of the Condominium solely as agent for the Unit Owners and that such officers or Persons shall have no liability thereon, except to the extent of their liability, if any, as Unit Owners pursuant to the terms of Section 4.12 hereof.

(B) None of the officers of the Condominium shall be liable for either:

(i) any failure or interruption of any utility or other services to be obtained by any such officer on behalf of the Condominium or to be paid for as a Common Expense; or

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

(C) The Unit Owners shall jointly and severally indemnify and hold each officer of the Condominium harmless from his acts or omissions as, or by reason of the fact that such individual is or was, an officer of the Condominium, except, however, to the extent that such claim or liability shall be due to, or shall arise out of, the bad faith or willful misconduct of such officer.

## ARTICLE 4

## UNIT OWNERS

**Section 4.1 Annual Meetings of the Unit Owners.** The first annual meeting of the Unit Owners shall be held not later than one (1) year after the First Closing, at which meeting the incumbent three-member Condominium Board shall resign and a successor five (5) -member Condominium Board shall be elected or designated by the Declarant and Unit Owners, as provided both in this Article 4 and in Article 2 hereof. Thereafter, annual meetings of the Unit Owners shall be held on or about the second Wednesday in May of each year, unless such date shall occur on a legal holiday, in which event the meeting will be held on or about the succeeding business day. At each such subsequent meeting, the Unit Owners shall elect successors to the members of the Condominium Board whose term of office expires on the day of such meeting and shall transact such other business as may properly come before such meeting.

**Section 4.2 Special Meetings of the Unit Owners.** The President shall call a special meeting of the Unit Owners within thirty (30) days of the earlier of (i) two (2) years after the closing of the first unit or whenever the unsold units constitute less than fifty percent of the common interests. The President shall call a special meeting of the Unit Owners within thirty (30) days of the Annual Meeting, provided the Control Period has not expired. The President shall call a special meeting of the Unit Owners whenever so directed by a duly adopted resolution of the Condominium Board or upon receipt by the Secretary of a petition calling for such a meeting signed by Unit Owners having, in the aggregate, not less than twenty-five percent (25%) of the Common Interests of all Unit Owners. Each such resolution or petition shall set forth, in reasonable detail, the purposes for calling such a meeting, and no business shall be transacted at such special meeting except business reasonably related to such stated purposes.

**Section 4.3 Place of Meetings.** Meetings of the Unit Owners shall be held at the principal office of the Condominium or at such other suitable and convenient place in the City of New York as may be designated by the Condominium Board.

**Section 4.4 Notice of Meetings.** (A) The Secretary of the Condominium shall give notice of each annual or special meeting of the Unit Owners to all Unit Owners then of record entitled to vote at such meeting, which notice shall set forth the purpose, time and place of such meeting. Such notice may be given to any Unit Owner by personal delivery, mail or telegram not later than five (5) business days prior to the day fixed for the meeting; however, the mailing of such notice to any Unit Owner, addressed to his address at the Property, at least ten (10) days prior to the day fixed for the meeting shall be conclusively deemed the giving of notice to such Unit Owner of such meeting. Any Unit Owner may designate an address for the giving of notice other than such Unit Owner's address at the Property by giving written notice thereof to the Secretary of the Condominium not less than ten (10) days prior to the giving of notice of the applicable meeting.

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

**Section 4.5 Quorum of the Unit Owners.** Except as otherwise provided in these By-Laws, the presence, in person or by proxy, of Unit Owners owning Units to which fifty (50%) percent or more of the aggregate Common Interests appertain shall constitute a quorum at all meetings of the Unit Owners. If, at any meeting of the Unit Owners, there shall be less than a quorum present, a majority of the Unit Owners present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours from the time fixed for the original meeting.

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

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

- (i) Roll call;
- (ii) Proof of notice of meeting;
- (iii) Reading of the minutes of the preceding meeting (unless waived);
- (iv) Reports of officers of the Condominium;
- (v) Reports of members of the Condominium Board;
- (vi) Reports of committees;
- (vii) Election of inspectors of election (when so required);
- (viii) Election of members of the Condominium Board (when so required);
- (ix) Unfinished business; and
- (x) New business.

**Section 4.8 Voting.** (A) Subject to the terms of Section 4.9 hereof, each Unit Owner shall be entitled to cast one vote for each .01% of interest in the Common Interests attributable to their Unit(s) at all meetings of the Unit Owners.

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

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

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

(E) Except when otherwise required by law or otherwise provided in the Declaration or in these By-Laws, the affirmative vote of a Majority of Unit Owners shall be binding upon all Unit Owners for all purposes.

**Section 4.9 Election of Members of the Condominium Board.** (A) When voting for members of the Condominium Board, each Unit Owner shall be entitled to cast one vote for each .01% interest in the Common Interest to Unit Owner's Unit per member to be elected. However, nothing contained herein shall be deemed either to permit any Unit Owner to cumulate the votes attributable to the ownership of any one Unit in favor of any one for more members to be elected. In addition, the terms of paragraphs (B), (C) and (D) of Section 4.8 hereof shall apply to all elections of members of the Condominium Board.

(B) All elections of members of the Condominium Board shall be by written ballot, and each ballot cast shall state: (i) the name of the voting Unit owner and, if such ballot is cast by proxy, the name of the proxy; (ii) the designation number(s) of the Unit(s) owned by the voting Unit Owner; and (iii) the names of the candidates for whom such ballot is cast (the number of which names shall not exceed the number of members to be elected). Any ballot that is not cast in conformity with this paragraph (B) shall be discounted. All election ballots shall be retained in the records of the Condominium, appropriately segregated by election.

(C) Subject to the terms of paragraph (D) of this Section 4.9, all elections of members of the Condominium Board shall be determined by plurality vote.

(D) From the First Unit Closing until the first annual meeting the three (3) members of the Condominium Board shall be designated by the Declarant or its designee. Thereafter, not more than three (3) members of the Condominium Board shall serve by reason of the votes cast by Declarant or its designee at any election held during the Control Period, and not more than two (2) members of the Condominium Board shall serve by reason of the votes cast by Declarant or its designee at any election held after the expiration of the Control Period. However, after the Control Period, Declarant or its designee shall have the right to designate one (1) member for so long as Declarant or its designees own at least one (1) Unit.

(E) Not more than one (1) member of the Condominium Board shall serve by reason of the votes cast by Commercial Unit Owner at any election held after the expiration of the Control Period. Commercial Unit Owners shall have the right to designate one (1) member for so long as Commercial Unit Owner owns the Commercial Unit.

**Section 4.10 Action Without a Meeting.** Any action required or permitted to be taken by the Unit owners at a duly constituted meeting may be taken without such a meeting if the number of Unit Owners sufficient (both in absolute number and in aggregate Common Interests) to approve such an action at a duly constituted meeting of the Unit Owners pursuant to the Declaration or to these By-Laws consent in writing to the adoption of a resolution approving such action. All written consents given by Unit Owners pursuant to this Section 4.10 shall be retained in the records of the Condominium together with a true copy of the resolution to which they relate.

**Section 4.11 Title to Units.** Title to any Unit may be taken by any Person or by any two or more Persons as joint tenants, tenants in common, or tenants by the entirety, as may be appropriate, but not as owners in severalty.

**Section 4.12 Contractual Liability of Unit Owners.** Every contract made by the Condominium Board, by any officer of the Condominium, or by any superintendent or Managing Agent of the Building shall state (if obtainable and in addition to the limitation of liability of the members of the Condominium Board and the officers of the Condominium pursuant to the terms of Section 2.20 and 3.10 hereof, respectively) that the liability of any Unit owner with respect thereto shall be limited to: (i) such proportionate share of the total liability thereunder as the Common Interest of such Unit Owner bears to the aggregate Common Interests of all Unit Owners and (ii)

such Unit Owner's interest in his Unit and its Appurtenant Interests, unless otherwise provided by Law.

## ARTICLE 5

### OPERATION OF THE PROPERTY

**Section 5.1 Maintenance and Repairs.** (A) Except as otherwise provided in the Declaration or in these By-Laws, all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, ordinary or extraordinary:

(i) in or to any Unit and all portions thereof (including, but not limited to, the interior walls, ceilings and floors in the unit, kitchen and bathroom fixtures and appliances, all doors (entrance and terrace, if any) and their frames and saddles, exposed plumbing, gas and heating fixtures and equipment, air conditioning units, lighting and electrical fixtures and any General Common Elements incorporated therein pursuant to paragraph (B) of Section 5.8 hereof, but excluding any other General Common Elements contained therein) shall be performed by the owner of such Unit at such Unit Owner's cost and expense.

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

(iii) in or to the Limited Common Elements shall be performed (a) by the Condominium Board as a Common Expense, if involving structural or extraordinary maintenance, repairs, or replacements (including, but not limited to, the repair of any leaks that are not caused by the acts or omissions of the Unit Owner having direct and exclusive access thereto), or (b) by the Unit Owner having direct and exclusive access thereto at his sole cost and expense, if involving non-structural ordinary maintenance, repairs, or replacements.

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

(B) Notwithstanding anything to the contrary provided in paragraph (A) of this Section 5.1, however, the exterior glass surfaces of all windows of each Unit are to be washed and cleaned by the Owner of such Unit at such Unit Owner's sole cost and expense. In addition, if any painting, decorating, maintenance, repairs, or replacements to the Property or any part thereof, whether structural or non-structural, ordinary or extraordinary, is necessitated by the negligence, misuses or abuse of any Unit Owner, the entire cost and expense thereof shall be borne by such Unit

Owner, and, if necessitated by the negligence, misuse or abuse of the Condominium Board as a Common Expense, except, in all events, to the extent that such cost and expense is covered by the proceeds of any insurance maintained pursuant to the terms of these By-Laws. Similarly, each Unit Owner shall be responsible for any and all damage to any Unit or to the Common Elements resulting from such Unit Owner's failure to maintain, repair, or replace his Unit or any portion thereof as required herein.

(C) Each Unit and all portions of the Common Elements shall be kept in first-class condition, order and repair (and free of snow, ice and accumulation of water with respect to any terrace, roof or other part of the property exposed to the elements) by the Unit Owner or the Condominium Board, whichever is responsible for the maintenance thereof as set forth herein, and such Unit Owner or the Condominium Board, as the case may be, shall promptly make or perform, or cause to be made or performed, all maintenance work (including, without limitation, painting, repairs and replacements) that is necessary in connection therewith. In addition, the public areas of the Building and those areas exposed to public view shall be kept in good appearance, in conformity with the dignity and character of the Building, by (i) the Condominium Board, with respect to such parts of the Building required to be maintained by it, and (ii) each Unit Owner, with respect to the interior and exterior surfaces of terraces, windows and shades, Venetian or other blinds, drapes, curtains or other window decorations in or appurtenant to his Unit.

**Section 5.2 Alterations, Additions, Improvements, or Repairs in and to Units and Limited Common Elements.** (A) Subject to the terms of Article 12 of the Declaration no Unit Owner shall make any structural alteration, addition, improvement or repair in or to his Unit or its appurtenant Limited Common Elements without the prior written approval of the Condominium Board. In the event, however, that the Condominium Board shall fail to answer any written, reasonably detailed request for such approval within thirty (30) days after such request is received, such failure to respond shall constitute the Condominium Board's consent thereto. Prior to, and as a condition of, the granting of any such approval, the Condominium Board may, at its sole option require the Unit Owner to procure and agree to maintain during the course of such work such insurance as the Condominium Board may reasonably prescribe and to execute an agreement, in form and substance satisfactory to the Condominium Board, setting forth the terms and conditions under which such alteration, addition, improvement or repair may be made, including, without limitation the indemnity referred to in paragraph (D) hereof and the days and hours during which any such work may be done.

(B) All alterations, additions, improvements and repairs by Unit Owners shall be made in compliance with law. In connection therewith, the Condominium Board shall execute applications to any departments of the City of, or to any other governmental agencies having jurisdiction thereof, for any and all permits required in connection with the making of alterations, additions, improvements or repairs in or to a Unit or its appurtenant Limited Common Elements, provided that, with respect to all such work of a structural nature (except as provided in Article 12 of the Declaration), the same was approved by the Condominium Board pursuant to the terms of paragraph (A) hereof.

(C) Neither the Condominium Board nor any Unit Owner (other than the Unit Owner(s) making any alterations, improvements, additions or repairs, or causing any of the same to



be made, in or to his Unit(s) and appurtenant Limited Common Elements) shall incur any liability, cost or expense either (i) in connection with the preparation, execution or submission of the applications referred to in paragraph (B) hereof; (ii) to any contractor, subcontractor, materialman, architect or engineer on account of any alterations, improvements, additions or repairs made or caused to be made by any Unit Owner; or (iii) to any Person asserting any claim for personal injury or property damage arising therefrom. Any Unit Owner(s) making any alterations, improvements, additions or repairs, or causing any of the same to be made, in or to Unit(s) and appurtenant Limited Common Elements shall agree (in a writing executed and delivered to the Condominium Board, if the Condominium Board shall so request), and shall be deemed to agree (in the absence of such writing), to indemnify and hold the Condominium Board, the members of the Condominium Board, the officers of the Condominium, the Managing Agent and all other Unit Owners harmless from and against any such liability, cost or expense.

**Section 5.3 Alterations, Additions or Improvement to the General Common Elements.** Except as otherwise provided in the Declaration or in these By-Laws, all necessary or desirable alterations, additions or improvements in or to any of the General Common Elements shall be made by the Condominium Board, and the cost and expense thereof shall constitute a Common Expense. Notwithstanding the foregoing, however, whenever the cost of any such alterations, additions or improvements would, in the judgment of the Condominium Board, exceed \$10,000 in the aggregate in any calendar year, such proposed alterations, additions or improvements shall not be made unless first approved by the Unit Owners owning a majority of the Common Interests at a duly constituted meeting of the Unit Owners and by the Mortgage Representatives, if any. Except as otherwise provided in the Declaration and in these By-Laws, all such alterations, additions or improvements costing \$10,000 or less in the aggregate in any calendar year may be made as aforesaid without the approval of either the Unit Owners or any Mortgage Representatives.

**Section 5.4 Insurance.** (A) The Condominium Board shall obtain, and shall maintain in full force and effect, fire insurance policies with all risk extended coverage, vandalism and malicious mischief endorsements, insuring the Building (including all Units, bathroom and kitchen fixtures, but not including appliances or any furniture, furnishings, decorations, belongings, or other personal property supplied or installed by Unit Owners or the tenants of Unit Owners) and covering the interests of the Condominium, the Condominium Board, all of the Unit Owners and all Permitted Mortgagees, as their interests may appear. Each of the said policies shall contain to the extent obtainable:

(i) waivers of (a) subrogation against Unit Owners, (b) any defense based upon co-insurance or other insurance, and (c) invalidity arising out of any acts of the insured;

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

(iii) a New York standard mortgagee clause in favor of each Permitted Mortgagee, which shall provide that the proceeds thereof shall be paid to such Permitted Mortgagee as its interest may appear, subject, however, to the loss payment provisions in

favor of the Condominium Board and the Insurance Trustee set forth in subparagraph (ii) above and in Section 5.5 hereof; and

(iv) a provision that such policy may not be either cancelled or materially modified except upon at least thirty (30) days prior written notice to all of the insureds, including all Permitted Mortgagees.

Duplicate originals or certificates of all such policies shall be given to all Unit Owners upon request and duplicate originals or certificates of all renewal policies, together with proof of payment of premiums, shall be sent to all Unit Owners and upon request by Permitted Mortgagees at least ten (10) days prior to the expiration of the then current policies.

(B) The Condominium Board shall also obtain and maintain, to the extent practicable:

(i) comprehensive general liability insurance, covering all claims for personal injury or property damage arising out of any occurrence on the Property and listing as co-insureds (a) the Condominium Board and each member thereof, (b) the Managing Agent or manager (if any), (c) each officer and employee of the Condominium and (d) each Unit Owner (except, however, that such insurance shall not cover any liability of a Unit Owner arising from occurrences within his own Unit or its Limited Common Elements) ;

(ii) rent insurance;

(iii) workers' compensation and New York State disability benefits insurance;

(iv) boiler and machinery insurance;

(v) water damage legal liability insurance;

(vi) collision insurance; and

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

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

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

(i) with respect to insurance policies maintained by the Condominium Board pursuant to paragraph (A) hereof, the coverage shall be in an amount equal to not less than eighty (80%) percent of the full replacement cost of the Building, exclusive of excavation and foundations, without deduction for depreciation, as approved by the fire insurance

company issuing the policy or a qualified appraiser (and, until the first regular meeting of the first four-member Condominium Board elected by the Unit Owners, such coverage shall be at least in the amount of \$1,000,000.00.

(ii) with respect to insurance policies maintained by the Condominium Board pursuant to subparagraph (i) of paragraph (B) hereof, such policies shall contain single limits of not less than \$1,000,000.00 in the aggregate until the first regular meeting of the first three-member Condominium Board elected by the Unit Owners; and

(iii) with respect to insurance policies maintained by the Condominium Board pursuant to subparagraph (ii) of paragraph (B) hereof, the coverage shall be in an amount equal to not less than the aggregate of all of the Unit Owners' Common Charges for one year.

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

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

(E) Unit Owners shall not be prohibited from carrying other insurance for their own benefit, provided that all such policies shall contain waivers of subrogation against the other Unit Owners and the Condominium Board and further provided that the liability of the carriers issuing the insurance maintained by the Condominium Board shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

(F) The Commercial Unit Owner, at the Commercial Unit Owner's expense, shall procure and maintain for the mutual benefit of the Condominium Board and the Commercial Unit Owner general public liability insurance against claims for personal injury or death occurring upon, in under or about the building or the adjoining street, sidewalk, curbs or vaults with limits of not less than \$1,000,000.00 for personal injury or death.

(i) Such insurance shall be effected by a valid enforceable policy issued by an insurance company of recognized responsibility doing business in the State of New York.

(ii) Not less than fifteen (15) days prior to the expiration date of the expiring policy thereto furnished pursuant to the provisions hereof, the original of such policy or a certificate duly issued by the insurance carrier and each such renewal policy or certificate shall be delivered by the Commercial Unit Owner to the Condominium Board with proof of payment of premium.

(iii) Commercial Unit Owner shall cause to be included in each of its insurance policies insuring the Commercial Unit against loss, damage or destruction by fire or other

casualty (i) a waiver of the insurer's right of subrogation against the Condominium and/or Condominium Board, and (ii) an express agreement that such policy shall not be invalidated if the insured waives the right of recovery against any party responsible for a casualty covered by the policy before the casualty. If such waiver of permission shall not be, or shall cease to be obtainable without additional charge or at all, the Commercial Unit Owner shall so notify the Condominium Board promptly after learning thereof. In such case, if the Commercial Unit Owners shall so elect and shall pay the insurer's additional charge therefor, such waiver shall be included in the policy. Each such policy shall name the Condominium and/or the Condominium Board as an additional insured and shall contain, if obtainable, agreements by the insurer that the policy will not be cancelled without at least ten (10) days prior notice to both insureds.

**Section 5.5 Casualty or Condemnation.** (A) In the event that either the Building or any part thereof is damaged or destroyed by fire or other casualty (hereinafter referred to as a "Casualty Loss" or (ii) the General Common Elements are or any part thereof is taken in condemnation or by eminent domain (hereinafter referred to as a "Taking"), the net insurance proceeds payable under the insurance policies maintained by the Condominium Board pursuant to the terms of Section 5.4 hereof by reason of such Casualty Loss or the net condemnation awards receivable by reason of such Taking, as the case may be, shall be payable either to the Condominium Board, if the same shall be \$100,000.00 or less in the aggregate, or to the Insurance Trustee, if the same shall exceed \$100,000.00 in the aggregate. In either instance, all such monies actually received (hereinafter referred to as the "Trust Funds") shall be held in trust for the benefit of all Unit Owners and their Permitted Mortgagees and shall be disbursed pursuant to the terms of this Section 5.5. Notwithstanding anything to the contrary contained either in this paragraph (A) or elsewhere in this Section 5.5, however, no Unit Owner whose Unit, its appurtenant Limited Common Elements, or any portion thereof are taken in condemnation or by eminent domain (whether or not all or a part of the General Common Elements are contemporaneously taken) shall be deemed to have waived whatever rights he may have to pursue a separate claim against the condemning authority by reason thereof.

(B) Subject to the terms of paragraph (D) . hereof, the Condominium Board shall arrange for the prompt repair or restoration (hereinafter referred to as the "Work") of: (i) in the event of a Casualty Loss, the portion(s) of the Building (including all Units and the bathroom and kitchen fixtures installed therein on the date of recording the Declaration and all service machinery contained therein, but not including appliances or any furniture, furnishings, decorations, belongings, or other personal property supplied or installed by either Unit Owners or the tenants of Unit Owners) affected by such Casualty Loss or (ii) in the event of a Taking, the portion(s) of the General Common Elements affected by such Taking. If pursuant to the immediately preceding sentence, Work is to be performed in or to Units, Common Elements that service or enclose Units and other Common Elements, or any combination of the foregoing, the Work shall be performed, to the extent practicable, first in or to the Units, next in or to the Common Elements that service or enclose Units and then in or to the balance of the Common Elements. Notwithstanding anything contained in this paragraph (B) to the contrary, however, the Commercial Unit Owner shall have the right, if the Commercial Unit Owner so elects, to make all arrangements for undertaking the Work to be performed in or to the Commercial Unit independently of the Condominium.

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

(D) If either 50% or more of the Building is destroyed or substantially damaged by fire or other casualty of 50% or more of the General Common Elements are taken in a Taking, the Work shall not be performed unless 75% or more of all Unit Owners, both in number and in aggregate Common Interests shall pass a resolution to proceed with the same. If such resolution is duly adopted, the Work shall be performed pursuant to the terms of paragraphs (B) and (C) hereof. Conversely, if such resolution is not duly adopted the Work shall not be performed and the Property may be subjected to an action for partition by any Unit Owner or lien or as if it were owned in common, in which event the net proceeds of the resulting sale, together with any Trust Funds, shall be paid to all Unit Owners in proportion to their respective Common Interests, except that no payment shall be made to a Unit Owner until there shall first have been paid out of such Unit Owner's share of such funds, such amounts as may be necessary to reduce unpaid liens on the Unit Owner's Unit (other than mortgages that are not Permitted Mortgages) in the order of their priority.

(E) If the damage resulting from a Casualty Loss shall (i) render one or more Units wholly or partially unusable for the purposes permitted herein and in the Declaration or (ii) destroy the means of access to one or more Units, the installments of Common Charges otherwise payable by the owner of any Unit so affected thereby shall proportionately abate until such Unit shall again be rendered usable for such purposes and/or until the means of access thereto shall be restored, as the case may be. Notwithstanding the foregoing, if such Casualty Loss is caused by the negligent act or omission or the owner of a Unit so affected thereby, by a Family Member of such Unit Owner, or by a tenant or other occupant of such Unit, such installments of Common Charges shall abate only to the extent of any proceeds of rent insurance actually collected by the Condominium Board attributable to such Unit and there shall be no abatement if such Casualty Loss is caused by the willful act of the Owner of such Unit, Family Member of such Unit Owner or by a tenant or other occupant of such Unit.

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

(G) As used in this Section 5.5:

(i) "prompt repair or restoration" shall mean that the Work is to be commenced not later than either: (a) sixty (60) days after the date upon which the Insurance Trustee notifies the condominium Board and the Unit Owners that it has received Trust Funds sufficient to discharge the estimated cost and expense of the Work or (b) ninety (90) days after the date upon which the Insurance Trustee notifies the Condominium Board and the Unit Owners that it has not received Trust Funds sufficient to discharge the estimated cost and expense of the Work or (c) in the event that the Trust Funds are payable to the Condominium Board pursuant to the terms of paragraph (A) of this Section 5.5, sixty (60) days after the date upon which the Condominium Board notifies the Unit Owners that it has received the Trust Funds, whether or not the same are sufficient to discharge the cost and expense of the Work; and

(ii) a resolution shall not be deemed duly adopted unless it is adopted by 75% of the Unit Owners in number and aggregate Common Interest not more than sixty (60) days after the Condominium Board or the Insurance Trustee, notifies the Unit Owners that it has received Trust Funds irrespective of whether such funds are sufficient to discharge the estimated cost and expense of the Work.

(H) Any dispute concerning or that may arise under this Section 5.5 between Unit Owners or between any Unit Owner(s) and the Condominium Board shall be resolved by arbitration pursuant to the terms of Article 10 hereof. The provisions of this paragraph (H) shall not be construed to extend time periods prescribed in paragraph (G) of this Section 5.5.

**Section 5.6 Use of the Property.** (A) No nuisance shall be allowed on the Property, nor shall any use or practice be allowed that either is a source of unreasonable annoyance to its residents or interferes with the peaceful possession or proper use of the property by its residents or occupants. No immoral, improper, offensive or unlawful use shall be made of the Property or any portion thereof.

(B) Nothing shall be done or kept in any Unit or in any of the Common Elements that would increase the rate of insurance for the Property, except upon the prior written consent of the Condominium Board. No Unit Owner shall permit anything to be done or kept in a Unit or in the Common Elements that will result in the cancellation of insurance on the Property or the contents thereof, or that would be in violation of any Law. No waste shall be committed in the Common Elements.

(C) Nothing shall be done in any Unit or in, on, or to the Common Elements that will impair the structural integrity of the Property or that will structurally change the Building, except as is otherwise provided in the Declaration or in these By-Laws.

(D) The provisions of paragraphs (A), (B), and (C) of this Section 5.6 shall not be applicable to the Commercial Unit, except that the Commercial Unit Owners shall not use, or permit the use of the Unit or any part thereof for: (i) the sale, storage, handling or furnishing of any materials which are flammable or explosive and the storage of which would cause the rate of insurance for the Building to be increased, or (ii) any obscene or pornographic purposes or any sort of commercial sex establishment, or (iii) use as a facility for the treatment or housing of any drug addicts, alcoholics, homeless persons or mentally ill and/or deranged persons, or (iv) as an abortion clinic or office, office of a political party, an embassy, consulate or use by any tenant entitled to sovereign immunity or (v) use as any government facility providing services to patients on a non-paying or subsidized basis. The provisions of this paragraph (D) may not be amended without the consent of the Commercial Unit Owner.

**Section 5.7 Use of the Units.** (A) In order to provide for congenial occupancy of the Property and for the protection of the value of the Units, the use of Units shall be restricted to, and shall be in accordance with, the terms contained in the balance of this Section 5.7.

(B) Each Unit shall be used only as a residence, and not more than one natural person and his Family Members plus one additional occupant and the dependent children of such additional occupant may reside in a Unit at any one time. Notwithstanding the foregoing, however, Declarant or its designee (or, when there are no longer any Unsold Units, the Condominium Board) may, in its sole discretion, consent to the use of a Unit as a professional or business office or for any purpose other than that set forth in this paragraph (B), provided that the nature and manner of such use complies with Law and does not violate the then existing Certificate of Occupancy covering such Unit. Any such consent shall be in writing and shall be personal to such Unit Owner. Any lessee of, or successor in title to, such Unit Owner shall be required to obtain the prior written consent of Declarant or its designee or the Condominium Board (as the case may be) before using such Unit for any purpose other than that set forth in the first sentence of this paragraph (B).

(C) Intentionally Omitted.

(D) A Unit owned or leased by an individual, corporation, partnership, fiduciary, or any other entity may be occupied only by said individual, or by an officer, director, stockholder, or employee of such corporation, or by a partner or employee of such partnership, or by said fiduciary (including a director, officer, stockholder, or employee of a corporate fiduciary and a

partner or employee of a partnership fiduciary), or by the beneficiary of said fiduciary or by a principal or employee of such other entity, respectively, or by Family Members or guests of any of the foregoing. Additionally, in no event shall a portion of a Unit (as opposed to the entire Unit) be sold, conveyed, leased, or subleased, and no transient occupant (other than a guest permitted under this paragraph (D)) may be accommodated therein.

(E) Notwithstanding anything to the contrary contained in Section 5.6, the Commercial Units may be used by the Commercial Unit Owners for any lawful purpose except that the Commercial Unit Owners shall not sue, or permit the use of the Unit or any part thereof, without the prior written consent of the Board of Managers of Odell Clark Place Condominium I for: (i) the sale, storage, handling or furnishing of any materials which are flammable or explosive and the storage of which would cause the rate of insurance for the Building to be increased, or (ii) any obscene or pornographic purposes of any sort of commercial sex establishment, or (iii) for use as a facility for the treatment or housing of drug addicts, alcoholics, homeless persons or mentally ill and/or deranged persons, or (iv) as an abortion clinic or office, office of a political party, an embassy, consulate or for use by any tenant entitled to sovereign immunity or (vi) for use as any government facility providing services to patient on a non-paying or subsidized basis.

(F) Except as provided herein, Commercial Unit Owner shall only use the entrance to the building on Adam Clayton Powell Boulevard as the means of ingress and egress to the Commercial Unit. Owners of the Commercial Unit are not entitled to and shall not use, or allow its agents or invitees to use the residential entrance to the Building except as a fire exit.

**Section 5.8 Use of the Common Elements.** (A) Subject to the terms of paragraphs (B) and (C) of this Section 5.8, the Common Elements (including, without limitation, the electrical, heating, gas, plumbing and other mechanical systems and equipment of the Building and the Facilities) may be used only for the furnishing of the services and facilities, and for the other uses, for which they are reasonably suited and capable. The lobbies, vestibules, public halls, and stairways shall be used only for normal passage through them. Accordingly, all Unit Owners shall require their tradesmen to utilize exclusively the entrance designated by the Condominium Board for transporting packages, merchandise, or other objects.

(B) The owner or owners of any two or more if such Units are the only Units serviced or benefited by any General Common Element adjacent or appurtenant to such Units (for example, that portion at the end of any residential hallway that is directly adjacent to any such Units located on opposite sides of such hallway) shall, with the consent of the Condominium Board (which consent shall not be unreasonably withheld or delayed), have the right to use such General Common Elements exclusively, 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 or reallocation of Common Interests shall be made by reason thereof. In such an event, however, such owner or owners shall, at his sole cost and expense, both (i) operate, maintain and repair such General Common Element for so long as such owner(s) exercise such exclusive right of use and (b) restore such General Common Element to its original condition, reasonable wear and tear excepted, after such owner(s) cease to exercise such exclusive right of use.



(C) The terms of paragraph (A) of this Section 5.8 shall not apply to the or to Declarant or its designee for so long as there are any Unsold Units. Declarant or its designee shall have the right, without charge or limitation, to: (i) have their respective employees, contractors, subcontractors and sales agents present on the Property; and (ii) do all things necessary or appropriate, including use the General Common Elements, to sell, lease, manage, or operate Unsold Units, to complete any work or repairs to the Building expressly undertaken by Declarant and to comply with Declarant's obligations under the Plan and the Condominium Documents. In addition, Declarant and its designee shall be entitled to exercise the rights set forth in paragraph (B) of this Section 5.8 with respect to any Unsold Unit(s) without the necessity of obtaining the consent of either the Condominium Board or any other Unit Owners. In no event, however, shall Declarant or such designee be entitled to use any Common Elements in such a manner as will unreasonably interfere with the use of any Unit for its permitted purposes. The provisions of this paragraph (C) may not be amended without the consent of Declarant.

**Section 5.9 Rights of Access.** (A) Subject to the right of existing tenants and other occupants of Unsold Units, each Unit Owner shall grant to the Condominium Board, to the Managing Agent or manager (if any), to the superintendent and/or to any other Person authorized by any of the foregoing a right of access to his Unit and its appurtenant Limited Common Elements for the purposes of:

- (i) making inspections of, or removing violations noted or issued by any governmental authority against, the Common Elements or any other part of the property;
- (ii) curing defaults hereunder or under the Declaration or violations of the Rules and Regulations committed by such Unit Owner or correcting any conditions originating in his Unit and threatening another Unit or all or a portion of the Common Elements;
- (iii) performing maintenance, installations, alterations, repairs, or replacements to the mechanical or electrical services, or other portions of the Common Elements located within his Unit or elsewhere in the Building;
- (iv) reading, maintaining, or replacing utility meters relating to the Common Elements, to his Unit, or to any other Unit; or
- (v) correcting any condition that violates the provisions of any Permitted Mortgage encumbering another Unit.

Except in cases of emergency (e.g., a condition requiring repairs or replacements immediately necessary for the preservation or safety of the Building or for the safety of the occupants of the Building or other individual, or required to avoid the suspension or any necessary service in the Building), the foregoing rights of access shall be exercised only upon not less than one (1) days advance notice and only in such a manner as will not unreasonably interfere with use of the Units and their appurtenant Limited Common Elements for their permitted purposes. In cases of emergency, however, such rights of access may be exercised immediately, without advance notice and whether or not the Unit Owner is present.

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

**Section 5.10 Modification of the Rules and Regulations.** The Condominium Board shall have the right to amend, modify, add to, or delete any of the Rules and Regulations from time to time, provided, however, (i) that any such amendment, modification, addition, or deletion may be overruled by a vote of Majority of Unit Owners and (ii) no rule or regulation may be amended to increase the obligation or abridge the rights or limit the benefits to Declarant or its designee without the consent of the affected party. Copies of the text of any amendments, modifications, additions, or deletions to the Rules and Regulations shall be furnished to all Unit Owners not less than thirty (30) days prior to the effective date thereof.

**Section 5.11 Real Estate Taxes, Water Charges and Sewer Rents.** Water for the Building is supplied by the City of New York. Unless and until real estate taxes, water charges and sewer rents are billed directly to Unit Owners by the City Collector, the Condominium Board shall promptly pay such taxes, charges and rents as a Common Expense. In the event of a proposed sale of any Unit, the Condominium Board (for so long as the Condominium Board is still paying such real estate taxes, water charges and sewer rents) shall, upon the written request of the selling Unit Owner, execute and deliver to the purchaser of such Unit or to such purchaser's title company, a letter agreeing promptly to pay all such taxes, charges and rents affecting such owner's Unit to the date of the closing of title to such Unit.

**Section 5.12** No common heating is provided for the Building. Each Unit will be separately heated and each Unit Owner will pay for his heating costs directly to the utility servicing the Unit.

**Section 5.13** Electricity and gas shall be supplied to each Unit through a separate meter for such Unit, and each Unit Owner shall be required to pay all charges for electricity and gas consumed or used in his Unit directly to the utility company servicing the Building.

**Section 5.14 Utilities Serving the General Common Element.** The Cost and expense of water, steam, electricity and gas serving or benefiting any General Common Element shall be (i) considered part of the expense of maintaining such General Common Element and (ii) charged to the Unit Owners as a Common Expense.

**Section 5.15 Vault Charges.** All license fees, and all periodic taxes and charges, for vaults or other protrusions beyond the building line shall be paid by the Condominium Board as a Common Expense.

**Section 5.16 Records and Audits.** (A) The Treasurer of the Condominium, or the Managing Agent under the supervision of such Treasurer, shall keep full, detailed and accurate

records and books of account with respect to the financial affairs of the Condominium, which records and books of account shall include, without limitation, (i) a listing of all receipts of and expenditures by the Condominium Board and the Managing Agent and (ii) a separate listing for each Unit, setting forth, among other things, the amount of each assessment of Common Charges and Special Assessments levied against such Unit, the date when due, the amounts paid thereon and the balance, if any, remaining unpaid.

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

## ARTICLE 6

### COMMON CHARGES

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

(A) From time to time, but not less frequently than once a year, the Condominium Board shall: (i) prepare and adopt a budget for the Condominium, subject, in all respects, to the strictures set forth in Section 2.5 hereof; (ii) determine the aggregate amount of Common Charges necessary to be charged to the Unit Owners in order to meet the Common Expenses; and (iii) allocate and assess such Common Charges amongst the Unit owners pro-rata, in accordance with their respective Common Interests (except as otherwise provided in the Declaration or in these By Laws). The Condominium Board shall advise all Unit Owners promptly thereafter in writing of the amount of Common Charges payable by each of them and, not later than ten (10) days next preceding the date upon which the first installment of newly determined Common Charges is due, shall furnish copies of the budget (in a reasonably itemized form) upon which such Common Charges are based to all Unit Owners and to their respective Permitted Mortgagees. The Condominium Board may, at its sole discretion, from time to time increase or decrease the amount of Common Charges allocated to the Units and payable by the Unit Owners and may modify its prior determination of the Common Expenses for any fiscal year so as to increase or decrease the amount of Common Charges payable for such fiscal year or portion thereof; however, no such revised determination of Common Expenses shall have a retroactive effect on the amount of Common Charges payable by Unit Owners for any period prior to the date of such new determination. Notwithstanding the foregoing, however, the Condominium Board shall not reduce the Common Charges payable during any year occurring within the Control Period solely as a result of either reducing the number of employees of the Condominium below the number employed for the Property on the date of recording the Declaration, or eliminating or reducing any service or reducing the insurance coverage below that provided for the Property on such date, except with the concurrence of a majority of the members of the Condominium Board elected by Unit Owners other than Declarant or its designee. During the period, if any, the Condominium Board is paying the real estate taxes as a Common Expense, that portion of the Common Charges billed which is allocable to such tax, shall be separately stated on a bill for Common Charges rendered to the Unit Owners and the funds so collected shall be held in a

separate account by the Managing Agent and shall be used solely for the purpose of paying said real estate tax.

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

(C) In addition to the foregoing duty to determine the amount of and assess Common Charges, the Condominium Board shall have the right, subject in all respects, to the strictures contained in Section 2.5 hereof, to levy Special Assessments to meet the Common Expenses. All Special Assessments shall be levied against all Unit Owners in proportion to their respective Common Interests and may be payable either in one lump sum or in installments, as the Condominium Board shall determine, provided, however that the Condominium Board shall give each Unit Owner not less than fifteen (15) days written notice prior to the date upon which such Special Assessment, or the first installment thereof shall be due and payable, which notice shall set forth, in reasonable detail, the nature and purpose thereof. The Condominium Board shall have all rights and remedies for the collection of Special Assessments as are provided herein for the collection of Common Charges (including, without limitation, the provisions of Section 6.4 hereof).

(D) The excess of all rents, profits and revenues derived from the rental or use of any space forming a part of, or included in, any General Common Element or rent from the subleasing of a Unit leased pursuant to Section 7.3 hereof or rent from the leasing or proceeds from the sale of a Unit to which title was acquired pursuant to Section 7.3 hereof remaining after deduction of all expenses incurred in connection with generating the same shall constitute income of the Unit Owners, and shall be collected on behalf of the Unit Owners by the Condominium Board and applied against the Common Expenses for the year in which collected. In the event that such net rents, profits and revenues, together with the Common Charges and any Special Assessments collected from the Unit Owners, for any year of operation shall exceed the Common Expenses for such year, then such excess shall be applied by the Condominium Board against the Common Expenses for the next succeeding year(s) of operation, and no Unit Owner shall be entitled to a distribution of any portion of such excess unless the Condominium Board shall determine to distribute all or part of such excess to all Unit Owners pro-rata, in proportion to their respective Common Interests. Notwithstanding any provision contained in these By-Laws or in the Declaration to the contrary, however, in no event shall any rent, profit, or revenue derived from the rental or use of any space in the Building be deemed to be derived from the rental 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.

(E) If the Condominium Board shall specifically so elect, the determination of Common Expenses may include sums to be collected as Common Charges for the improvement or replacement of the Common Elements, but the Condominium Board need not designate specifically which Common Elements are to be replaced or improved. All such sums shall be collected as

Common Charges, shall be separately stated on bills for Common Charges to be rendered for the period during which such determination is in effect, and must be deposited by the Condominium Board or the Managing Agent in a separate bank account. All such Common Charges payable pursuant to such a determination shall be deemed to be contributions to the capital of the Condominium. The Condominium Board may discontinue, modify or increase any determination theretofore made without prejudice to any future determination in that regard.

**Section 6.2 Payment of Common Charges.** (A) All Unit Owners shall be obligated to pay Common Charges and Special Assessments assessed by the Condominium Board pursuant to the terms of Section 6.1 hereof at such time or times (but not less than annually) as the Condominium Board shall determine. Unless otherwise determined by the Condominium Board, Common Charges shall be payable in installments on the first day of every month in advance. To the extent permitted by Law, the Condominium Board shall have a lien on each Unit, on behalf of all Unit Owners, for unpaid Common Charges and Special Assessments assessed against such Unit. Such lien, however, shall be subordinate, to the extent required by Law, to any liens for real estate taxes assessed against such Unit.

(B) No Unit Owner shall be liable for the payment of any part of the Common Charges and any Special Assessments assessed against his Unit subsequent to a sale, transfer, or other conveyance by him of such Unit, together with its Appurtenant Interests, made in compliance with the terms of Article 7 hereof. A purchaser or other successor-in-title to the owner of a Unit shall be liable for the payment of all Common Charges and any Special Assessments accrued and unpaid against such Unit prior to his acquisition thereof, except that, to the extent permitted by Law, a Permitted First Mortgagee acquiring title to a mortgaged Unit or a purchaser at a mortgage foreclosure sale held with respect to a Permitted First Mortgage shall not be liable, and such mortgaged Unit shall not be subject to a lien, for the payment of any Common Charges and Special Assessments assessed subsequent to the recording of such Permitted First Mortgage and prior to the acquisition of title to such Unit by the Permitted First Mortgagee or by such purchaser. However, in the event of a foreclosure of a Permitted First Mortgage (whether by sale, deed in lieu of foreclosure, or otherwise), the defaulting Unit Owner shall remain fully liable for the payment of all unpaid Common Charges and Special Assessments that accrued prior to such foreclosure. Any unpaid Common Charges and Special Assessments that are not collected from such defaulting Unit Owner shall be deemed a Common Expense, collectible from all those who are Unit Owners at the time that the same is levied.

(C) Subject to the terms and conditions contained in these By-Laws, any Unit Owner may convey his Unit, together with its Appurtenant Interests, to the Condominium Board or to its designee, corporate or otherwise, on behalf of all Unit Owners, without being compensated therefore, and, in such event, be exempt from the payment of Common Charges and Special Assessments thereafter accruing, provided, however, that: (i) all Common Charges and any Special Assessments then due and payable with respect to such Unit have been paid; (ii) such Unit is free and clear of all liens and encumbrances other than a Permitted First Mortgage and the statutory lien for unpaid Common Charges and, Special Assessments; and (iii) no violation of any provision of the Condominium Documents then exists with respect to such Unit.

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

**Section 6.3 Statement of Common Charges.** The Condominium Board shall promptly provide a written statement of all unpaid Common Charges due from any Unit Owner upon its receipt of a written request therefore from such Unit Owner. In addition, each Unit Owner shall be permitted to examine the books of account of the Condominium at reasonable times on business days, but not more frequently than once a month.

**Section 6.4 Default in Payment of Common Charges.** (A) The Condominium Board shall take prompt action to collect any Common Charges due to the Condominium Board that remain unpaid for more than thirty (30) days after the due date for the payment thereof. In connection therewith, the Condominium Board shall have the right and obligation to cause liens for all sums due and owing to the Condominium Board to be filed in the Register's Office pursuant to the terms of Section 339-z of the Condominium Act, to cause such liens to be foreclosed in the manner provided in Section 339-aa of the Condominium Act and/or to institute all other proceedings deemed necessary or desirable by the Condominium Board to recover all such unpaid Common Charges, together with all additional sums of money collectible by the Condominium Board by reason of such nonpayment pursuant to the terms of paragraph (B) hereof. A suit to recover a money judgment for unpaid Common Charges, however, shall be maintainable without foreclosing or waiving the lien securing such charges.

(B) In the event that any Unit Owner shall fail to make prompt payment of Common Charges, such Unit Owner shall be obligated to pay interest thereon at the highest rate chargeable to individuals pursuant to Law, to be computed from the due date thereof until paid in full, together with all costs and expenses paid or incurred by the Condominium Board, the Managing Agent, or the manager (if any) in connection with collecting such unpaid Common Charges with interest as aforesaid and/or in foreclosing the aforementioned lien, including, without limitation, reasonable attorneys' fees and disbursements and court costs. In addition, if the Condominium Board shall bring an action to foreclose the aforementioned lien, the defaulting Unit Owner will be required to pay a reasonable rental for the use of his Unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. All such interest, costs and expenses and rentals shall be added to and shall constitute Common Charges payable by such Unit Owner.

(C) In any action brought by the Condominium Board to foreclose a lien on a Unit because of unpaid Common Charges, the Condominium Board shall have, on behalf of all Unit

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

## ARTICLE 7

### SELLING AND LEASING OF UNITS

**Section 7.1 General.** Subject to the terms of Section 7.5 hereof, no Unit Owner may sell or lease his Unit except in compliance with the applicable provisions of this Article 7. Any purported sale or lease consummated in default of the applicable terms hereof shall be voidable at the sole election of the Condominium Board, and, if the Condominium Board shall so elect, the selling or leasing Unit Owner shall be deemed to have authorized and empowered the Condominium Board to institute legal proceedings to eject the purported purchaser (in the event of an unauthorized sale) or to evict the purported tenant (in the event of an unauthorized leasing) in the name of the said Unit Owner as the owner or landlord, as the case may be. The said Unit Owner shall reimburse the Condominium Board for all costs and expenses paid or incurred in connection with such proceedings, including, without limitation, reasonable attorneys' fees and disbursements and court costs.

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

(B) The sending of the notice referred to in paragraph (A) of this Section 7.2 shall constitute an offer by the Offeree Unit Owner to sell his Unit, together with its Appurtenant Interests, or to lease his Unit, as the case may be, to the Condominium Board or to its designee, corporate or otherwise, on behalf of all Unit Owners, upon the same terms and conditions as are contained in such Sale or Lease Agreement, subject, however, to any variance therefrom provided

in Section 7.3 hereof. The giving of such notice shall further constitute a representation and warranty by the Offeree Unit Owner to the Condominium Board, on behalf of all Unit Owners, that such Offeree Unit Owner believes the Sale or Lease Agreement to be bona fide in all respects. Thereafter, upon the written demand of the Condominium Board, the Offeree Unit Owner shall submit to the Condominium Board, in writing, such further information with respect to the Outside Offeror and the Sale or Lease Agreement as the Condominium Board may reasonably request.

(C) The Condominium Board may elect, by sending written notice thereof to the Offeree Unit Owner by certified or registered mail not later than thirty (30) business days (in the event of a proposed sale) and twenty (20) business days (in the event of a proposed lease) after receipt of the notice referred to in paragraph (A) hereof together with such further information as may have been requested pursuant to the terms of paragraph (B) hereof, to purchase such Unit together with its Appurtenant Interests or to lease such Unit together with its Appurtenant Interests, as the case may be (or to cause the same to be purchased or leased by its designee, corporate or otherwise) on behalf of all Unit Owners upon substantially the same terms and conditions as were contained in the Sale or Lease Agreement and stated in the response(s) by the Offeree Unit Owner to any requests for additional information pursuant to the terms of paragraph (B) hereof except as otherwise set forth in this Article 7. Notwithstanding anything to the contrary contained herein, however, the Condominium Board shall not exercise any option set forth in this Section 7.2 to purchase or lease any Unit without the prior approval of a Majority of Unit Owners.

**Section 7.3 Acceptance of Offer.** (A) In the event that the Condominium Board shall elect, within the time and in the manner provided in Section 7.2 hereof, to purchase a Unit together with its Appurtenant Interests, to lease such Unit, or to cause the same to be purchased or leased by its designee, title shall close or a lease shall be executed, in either event in accordance with the terms of the Sale or Lease Agreement, at the office of the attorneys for the Condominium within forty-five (45) days after the day upon which the Condominium Board shall give notice of its election to accept such offer.

(B) If such Unit and its Appurtenant Interests are to be purchased by the Condominium Board or its designee on behalf of all Unit Owners, such purchase may be made from the funds deposited in the capital and/or expense accounts of the Condominium. If the funds in such accounts are insufficient to effectuate such purchase, the Condominium Board may levy a Special Assessment against each Unit Owner (other than the Offeree Unit Owner and the Restricted Unit Owners) in accordance with the terms of paragraph (C) of Section 6.1 hereof and/or the Condominium Board may, in its discretion, finance the acquisition of such Unit; provided however, that no such financing may be secured by an encumbrance on or a hypothecation of any portion of the Property other than the Unit to be purchased together with its Appurtenant Interests. The Restricted Unit Owners shall not be subject to a Special Assessment to purchase a Unit, as set forth in this section, and shall not benefit from said purchase of a Unit, except to the extent that the Condominium's funds, other than funds from a Special Assessment, are used to purchase the Unit. The Unit Owners that provide funds for the purchase of the Unit shall hereinafter be referred to as the Contributing Unit Owners. At the closing of title, the Offeree Unit Owner shall convey the Unit, together with its Appurtenant Interests, to the Condominium Board or to its designee on behalf of all Contributing Unit Owners by deed in the form required by Section 399-0 of the Condominium Act with all tax and/or documentary stamps affixed at the expense of the Offeree Unit Owner, who



shall also pay all other transfer taxes arising out of such sale notwithstanding any terms of the Sale or Lease Agreement to the contrary. Real estate taxes (including water charges and sewer rents, if separately assessed), mortgage interest (if applicable) and Common Charges shall be apportioned between the Offeree Unit Owner and the Condominium Board or its designee as of the closing date, notwithstanding any terms of the Sale or Lease Agreement to the contrary. Thereafter, such Residential or Professional Unit shall be held, so long as the same is owned by the Condominium Board or its designee, on behalf of all Contributing Unit Owners, as tenants-in-common, and all such Unit Owners shall be deemed to have waived all rights of partition with respect to such Residential or Professional Unit.

(C) In the event that such Unit is to be leased by the Condominium Board or its designee on behalf of all Unit Owners, the Offeree Unit Owner shall execute and deliver to the Condominium Board or such designee a lease covering such Unit by and between the Offeree Unit Owner, as landlord, and the Condominium Board or such designee, as tenant. Such lease shall be in the then current form of apartment lease recommended by the Real Estate Board of New York, Inc., and shall contain all of the terms and conditions of the Sale or Lease Agreement not in conflict with such form of lease, including, without limitation, the rental and term provided for therein. Notwithstanding anything to the contrary set forth hereinabove or in the Sale or Lease Agreement, such lease shall expressly provide that the Condominium Board or such designee may enter into a sublease of the premises demised thereunder without consent of the landlord.

**Section 7.4 Failure to Accept Offer.** (A) in the event that the Condominium Board shall fail to accept an offer made pursuant to the terms of Section 7.2 hereof within the respective times set forth in paragraph (C) thereof, the Offeree Unit Owner shall be free to consummate the transaction embodied in the Sale or Lease Agreement within one hundred twenty (120) days after (i) notice of refusal is sent to the Offeree Unit Owner by the Condominium Board or (ii) the expiration of the period within which the Condominium Board or its designee might have accepted such offer, as the case may be whichever is earlier. If the Offeree Unit Owner shall fail to consummate the transaction embodied in the Sale or Lease Agreement within such one hundred twenty (120) day period, then, should the Offeree Unit Owner thereafter elect to sell such Unit together with its Appurtenant Interests or to lease such Unit, the Offeree Unit Owner shall be required again to comply with all of the terms and provisions of Sections 7.2, 7.3 and 7.4 hereof.

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

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

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

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

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

**Section 7.5 Termination of, and Exceptions to the Right of First Refusal.** (A) A certificate executed and acknowledged by the Secretary of the Condominium or the Managing Agent, stating that the provisions of Section 7.2 hereof have been met by a Unit Owner or that the right of first refusal provided for therein has been duly released or waived by the Condominium Board and that, as a result thereof, the rights of the Condominium Board thereunder have terminated, shall be conclusive upon the Condominium Board and all Unit Owners in favor of all persons who rely upon such certificate in good faith. After the due issuance of such a certificate, the Unit to which the same shall relate, together with its Appurtenant Interests, may be sold, conveyed, or leased free and clear of the terms and conditions contained in Section 7.2 hereof. The Condominium Board shall furnish or cause the Managing Agent to furnish, without charge, upon written request such certificate to any Unit Owner in respect to whom the provisions of Section 7.2 hereof have, in fact, been terminated. In no event, however, shall the right of first refusal described in Section 7.2 hereof be deemed released or waived by the Condominium Board (as opposed to satisfied pursuant to the express terms of Sections 7.2, 7.3 and 7.4 hereof) in the absence of a certificate that has been duly executed, acknowledged and issued by the Condominium Board or the Managing Agent as aforesaid.

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

(i) the owner of such Unit to any of his adult Family Members, to any combination of the same, or to a trust for the benefit of any of them or, with respect to a Unit Owner that is not an individual, to any entity or individual that owns more than fifty (50%) percent of the legal and beneficial interest of such Unit Owner or to any entity with respect to which such Unit Owner (individual or otherwise) owns more than fifty (50%) percent of the legal and beneficial interest thereof;

(ii) Declarant or its designee, Unsold Units;

(iii) the Condominium Board;

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

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

(iv) the owner of a restricted Unit, for so long as the Unit is designated a Restricted Unit;

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

**Section 7.6 No Severance of Ownership.** No Unit Owner shall execute any deed or any other instrument conveying title to his Unit without including therein its Appurtenant Interests, it being the intention to prevent any severance of such combined ownership. Any deed or other instrument purporting to affect one or more such interests shall be taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the Appurtenant Interests of any Unit may be sold, conveyed or otherwise disposed of, except as part of a sale, conveyance or other disposition of the Unit to which such interests are appurtenant or as part of a sale, conveyance or other disposition. of such part of the Appurtenant Interests of all Units. Nothing contained in this Section 7.6, however, shall prohibit the lease of any Unit without the simultaneous lease of its Appurtenant Interests.

**Section 7.7 Payment of Common Charges.** Owner shall not be permitted to convey or lease his Unit unless he shall have paid in full to the Condominium Board all unpaid Common Charges and Special Assessments theretofore assessed against such Unit and shall have satisfied all unpaid liens, other than that of Permitted Mortgages, levied against such Unit.

**Section 7.8 Power of Attorney.** At the time of acquiring title to a Unit and as a condition thereof, the new Unit Owner shall duly execute, acknowledge and deliver to the representative of his title insurance company (or, if no such representative is present, to Declarant or its designee, or, if Declarant or its designee is not then the owner of any Unsold Unit, to the Condominium Board) for recording in the Register's Office (or the Office of the Clerk of the County of New York the Unit Owner's Power of Attorney required in Article 14 of the Declaration, in the form set forth as Exhibit E to the Declaration.

**Section 7.9 Gifts and Devises, Etc.** Any Unit Owner shall be free to convey or transfer his Unit, together with its Appurtenant Interests, by gift, or to devise the same by will or to have the same pass by intestacy, without restriction, provided, however, that each succeeding Unit Owner shall be bound by, and his Unit shall be subject to, the provisions of this Article 7.

## **ARTICLE 8**

### **MORTGAGING OF UNITS**

**Section 8.1 General.** Each Unit Owner shall have the right to mortgage his Unit, subject only to the terms and conditions contained in Section 8.2 hereof. Any Unit Owner who

mortgages his Unit, or the holder of such mortgage, shall supply the Condominium Board with the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the Condominium Board. Any Unit Owner who satisfies a mortgage covering his Unit shall so notify the Condominium Board and shall file a conformed copy of the satisfaction of mortgage with the Condominium Board. The Secretary of the Condominium shall maintain such information in a book entitled "Mortgages of Units".

**Section 8.2 Restrictions on Mortgaging.** (A) No Unit Owner shall be permitted to mortgage, pledge, or hypothecate his Unit unless and until he shall have paid in full to the Condominium Board all unpaid Common Charges and Special Assessments theretofore assessed against such Unit and shall have satisfied all unpaid liens, except the liens of Permitted Mortgages levied against such Unit.

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

(C) Any mortgage covering a Unit shall be substantially in the form of the New York statutory form of mortgage, except for such changes or additions thereto as may be required in order to permit a particular bank, trust company, insurance company, savings and loan association, or other institutional or non-institutional lender to make the mortgage loan.

**Section 8.3 Notice of Unpaid Common Charges and Default.** Whenever requested in writing by a Permitted Mortgagee, the Condominium Board shall promptly report to such Permitted Mortgagee any default by his mortgagor(s) in the payment of Common Charges or Special Assessments or in the observance or performance of any of the provisions of the Condominium Documents as to which the Condominium Board has knowledge then exists. The Condominium Board shall, when giving notice to a Unit Owner of any such default, also send a copy of such notice to his Permitted Mortgagee, if so requested. However, the Condominium Board shall have no liability for any failure, through oversight or negligence, in notifying a Permitted Mortgagee of any default by his mortgagor under the Condominium Documents, provided that (i) the Condominium Board shall advise such Permitted Mortgagee of the default promptly after discovering such failure and (ii) if the Condominium Board shall foreclose a lien on such mortgagor's Unit pursuant to the terms of Section 6.4 hereof by reason of such default, the Condominium Board shall pay to such Permitted Mortgagee any net proceeds of any foreclosure sale of such Unit or such lesser sum as shall be due and owing to such permitted Mortgagee.

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

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

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

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

## ARTICLE 9

### CERTAIN REMEDIES

**Section 9.1 Self Help.** If any Unit Owner shall violate or breach any of the provisions of the Condominium Documents on his part to be observed or performed, including, without limitation, any breach of his obligation to paint, decorate, maintain, repair or replace his Unit or its appurtenant Limited Common Elements pursuant to the terms of Article 5 hereof, and shall fail to cure such violation or breach within five (5) days after receipt of written notice of the same from the Condominium Board, the Managing Agent, or any manager (or, with respect to any violation or breach of the same not reasonably susceptible to cure within such period, to commence such cure within such five (5) day period and, thereafter, to prosecute such cure with due diligence to completion), the Condominium Board shall have the right to enter such Unit Owner's Unit and/or its appurtenant Limited Common Elements and summarily to abate, remove or cure such violation or breach without thereby being deemed guilty or liable in any manner of trespass. In addition, if

the Condominium Board shall determine that the abatement, removal or cure of any such violation or breach is immediately necessary for the preservation or safety of the Building or for the suspension of any necessary service in the Building, the Condominium Board may take such action immediately, without prior notice and without allowing the said Unit owner any period of time within which to cure or to commence to cure such violation or breach.

**Section 9.2 Abatement and Enjoinment.** (A) If any Unit Owner shall violate or breach any of the provisions of the Condominium Documents on his part to be observed or performed, the Condominium Board shall have the right to enjoin, abate or remedy the continuance or repetition of any such violation or breach by appropriate proceedings brought either at law or in equity.

(B) The violation or breach of any of the terms of the Condominium Documents with respect to any rights, easements, privileges or licenses granted to Declarant or its designee shall give to Declaration or such designee the right to enjoin, abate or remedy the continuation or repetition of any such violation or breach by appropriate proceedings brought either at law or in equity.

**Section 9.3 Remedies Cumulative.** The remedies specifically granted to the Condominium Board or to Declarant or its designee in this Article 9 or elsewhere in the Condominium Documents shall be cumulative, shall be in addition to all other remedies obtainable at law or in equity and may be exercised at one time or at different times, concurrently or in any order, in the sole discretion of the Condominium Board or Declarant or such designee, as the case may be. Further, the exercise of any remedy shall not operate as a waiver, or preclude the exercise, of any other remedy.

**Section 9.4 Costs and Expenses.** All sums of money expended, and all costs and expenses incurred, by (i) the Condominium Board in connection with the abatement, enjoinder, removal or cure of any violation, breach, or default committed by a Unit Owner pursuant to the terms of Section 9.1 or paragraph (A) of Section 9.2 hereof or (ii) Declarant in connection with any abatement, enjoinder or remedy of any violation or breach of the Condominium Documents pursuant to the terms of paragraph (B) of Section 9.2 hereof, shall be immediately payable by (a) in the event set forth in subparagraph (i) hereof, such Unit Owner to the Condominium Board or (b) in the event set forth in subparagraph (ii) hereof, the offending party (i.e., the Condominium Board or the Unit Owner) to Declarant, which amount shall, in either event, bear interest (to be computed from the date expended) at the rate of two (2%) percent per month (but in no event in excess of the maximum rate chargeable to such Unit Owner pursuant to Law). All sums payable by a Unit Owner to the Condominium Board pursuant to the terms of this Section 9.3 shall, for all purposes hereunder, constitute Common Charges payable by such Unit Owner.

## **ARTICLE 10**

### **ARBITRATION**

**Section 10.1 Procedure.** Any matter required or permitted to be determined by arbitration pursuant to the terms of the Condominium Documents shall be submitted for resolution by a single arbitrator in a proceeding held in the City of New York in accordance with the then existing rules of the American Arbitration Association or any successor organization thereto. In the event that the American Arbitration Association shall not then be in existence and has no successor organization, any such arbitration shall be held in the City of New York before one arbitrator appointed, upon the application of any party, by any Justice of the highest court of appellate jurisdiction then located in the City of New York. The decision of the arbitrator so chosen shall be given within ten (10) days after the hearing on the matter is complete. Any arbitrator appointed or selected in connection with any arbitration to be conducted hereunder shall be a member of a law firm having at least five (5) members whose principal office is located in the City of New York.

**Section 10.2 Variation by Agreement.** The parties to any dispute required or permitted to be resolved by arbitration pursuant to the terms of the Condominium Documents may, by written agreement, vary any of the terms of Section 10.1 hereof with respect to the arbitration of such dispute or may agree to resolve their dispute in any manner.

**Section 10.3 Binding Effect.** The decision in any arbitration conducted pursuant to the terms of Sections 10.1 and 10.2 hereof shall be binding upon all of the parties thereto and may be entered in any court of appropriate jurisdiction. Notwithstanding the foregoing, however, any arbitration held pursuant to the terms of the Condominium Documents with respect to a matter that arose prior to the first annual meeting of all Unit Owners held pursuant to the terms of Section 4.1 hereof shall be non-binding.

**Section 10.4 Costs and Expenses.** (A) The fees, costs and expenses of the arbitrator shall be borne by the losing party in the arbitration or, if the position of neither party to the dispute be substantially upheld by the arbitrator, such fees, costs and expenses shall be borne equally by the disputants. Each disputant shall also bear the fees and expenses of his counsel and expert witnesses.

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

## **ARTICLE 11**

### **NOTICES**

**Section 11.1 General.** All notices required or desired to be given hereunder shall be sent by registered or certified mail, return receipt requested, postage prepaid addressed:

- (i) if to the Condominium Board, to the Condominium Board at its principal office as set forth in Section 1.5 hereof, with a photocopy sent to the Managing Agent (if any) at its principal office address as aforesaid;

(ii) if to a Unit Owner other than Declarant or its designee, to such Unit Owner at his address at the Property;

(iii) if to Declarant or its designee, to Declarant or such designee at c/o Abyssinian Development Corporation, 4 West 125 Street, New York, NY 10027; or

(iv) if to a Permitted Mortgagee, to such Permitted Mortgagee at its latest address designated in writing to the Condominium Board.

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

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

## **ARTICLE 12**

### **AMENDMENTS TO BY-LAWS**

**Section 12.1 General.** (A) Subject to the terms of paragraph (B) hereof and subject, further, to any provisions contained in the Declaration or these By-Laws with respect to any amendments (affecting or in favor of Sponsor or its designee, any Unsold Unit(s), or any Permitted Mortgagee) any provision of these By-Laws may be amended, modified, added to, or deleted by the affirmative vote of not less than 75% in number and aggregate Common Interests of all Unit Owners either taken at a duly constituted meeting thereof or given in without a meeting as provided in Section 4.10 hereof. Each duly adopted amendment, modification, addition or deletion hereof or hereto shall be effectuated in an instrument executed and recorded in the Register's Office (or the Office of the Clerk of the County of New York) by or on behalf of the Condominium Board as attorney-in-fact of all Unit Owners, which power of attorney shall be deemed irrevocable and coupled with an interest. Attached to each such instrument shall be an original, executed Secretary's Certification, certifying that the requisite number and percentage of Unit Owners approved the amendment, modification, addition or deletion set forth therein either at a duly constituted meeting of Unit Owners or in writing without a meeting pursuant to the terms of Section 4.10 hereof, in which Secretary's Certification there shall be described the number and percentage of Unit Owners approving the same and, if voted at a meeting, the date, time and place of such meeting. No such amendment, modification, addition or deletion shall be effective unless and until such an instrument



shall be duly recorded in the Register's Office (or the Office of the Clerk of the County of New York.

(B) Notwithstanding anything to the contrary contained in paragraph (A) hereof, but still subject to any provision contained in the Declaration or these By-Laws with respect to any amendment affecting or in favor of Declarant or its designee, any Unsold Unit and/or any Permitted Mortgagee.

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

(ii) no amendment, modification, addition or deletion agreed to pursuant to the terms of paragraph (A) hereof shall be effective without the prior written consent of the Mortgage Representatives, if any, provided, however, that no such consent shall be unreasonably withheld or delayed.

**Section 12.2 Special Amendments.** (A) Any amendment, modification, addition, or deletion of or to any of the provisions of these By-Laws that, pursuant to the terms of the Declaration or these By-Laws that may be effected by Declarant or its designee or the Commercial Unit Owner without the consent of the Condominium Board or the Unit Owners shall be embodied in an instrument executed and recorded in the Register's Office by Declarant or such designee as attorney-in-fact of both the Condominium Board and all Unit Owners, which power-of-attorney shall be deemed to be irrevocable and coupled with an interest. Attached to each such instrument shall be an original, executed Certification by Declarant or such designee certifying that the amendment, modification, addition or deletion set forth therein was effectuated by Declarant or such designee pursuant to the terms of the Declaration and/or these By-Laws, in which Certification there shall be set forth the Article and/or Section of the Declaration or these By-Laws pursuant to which the same was effectuated. No such amendment, modification, addition or deletion shall be effective unless and until such an instrument shall be duly recorded in the Register's Office.

(B) Notwithstanding any provision contained in the By-Laws to the contrary, no amendment, modification, addition or deletion of or to these By-Laws shall be effective in any respect against Declarant or its designee, any Unsold Unit, or the holder of any present or future mortgage, pledge lien, or security agreement covering any Unsold Unit unless and until the Declarant, such designee, and/or such holder (as the case may be) shall consent to the same in writing.

(C) Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition, or deletion of or to Section 5.4 or 5.5, paragraph (B) of Section 6.2, subparagraph (iv) or (v) of paragraph (B) of Section 7.5 or Article 8 hereof shall be effective with respect to the holder of any Permitted Mortgage theretofore made unless and until such Permitted Mortgagee shall have given its written consent thereto.

(D) Whenever, pursuant to any provision of these By-Laws, the consent, approval, satisfaction or permission of Declarant or its designee the granting of such consent,

approval, permission or acknowledgment of satisfaction shall be solely in the discretion of the party whose consent, approval, satisfaction or permission is required and no standard of reasonableness shall be imposed on such party.

## ARTICLE 13

### FURTHER ASSURANCES

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

**Section 13.2 Failure to Deliver or Act.** (A) If any Unit owner or other Person that is subject to the terms of these Bylaws fails to execute, acknowledge or deliver any instrument, or fails or refuses, within ten (10) days after request therefore, to take any action that such Unit Owner or Person is required to execute, acknowledge and deliver or to take pursuant to these Bylaws, then the Condominium Board is hereby authorized, as attorney-in-fact for such Unit Owner or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of such Unit Owner or other Person, and such document or action shall be binding on such Unit Owner or other Person.

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

## ARTICLE 14

### MISCELLANEOUS

**Section 14.1 Inspection of Documents.** Copies of the Declaration, these By-Laws, the Rules and Regulations and the Floor Plans, as the same may be amended from time to time, shall be maintained at the office of the Condominium Board and shall be available for inspection by Unit Owners and their authorized agents during reasonable business hours.

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

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

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

**Section 14.5 Successors and Assigns.** The rights and/or obligations of Declarant as set forth herein shall inure to the benefit of, and shall be binding upon, any successor or assignee of Declarant or, with the consent of Declarant, any transferee of an Unsold Unit.

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

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

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

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.



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**RECORDING AND ENDORSEMENT COVER PAGE**

**PAGE 1 OF 13**

**Document ID: 2015051500604001** Document Date: 08-18-2014 Preparation Date: 06-01-2015  
Document Type: AMENDED CONDO DECLARATION  
Document Page Count: 10

<b>PRESENTER:</b> ENVISION TITLE SERVICES, LLC (CTSY15514NY) PICKUP BY BRIDGE SERVICE CORP. 3601 HEMPSTEAD TURNPIKE, SUITE LL-D LEVITTOWN, NY 11756 516-513-0815 AWEISSMAN@ENVISIONTITLE.COM	<b>RETURN TO:</b> WINDELS MARX LANE & MITTENDORF ATTN: D. BINDLER 156 WEST 56TH STREET NEW YORK, NY 10019
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PROPERTY DATA				
Borough	Block	Lot	Unit	Address
MANHATTAN	2007	1001	Entire Lot	COMM 2373 ADAM C POWELL BLVD
<b>Property Type: OTHER</b>				
Borough	Block	Lot	Unit	Address
MANHATTAN	2007	1002	Entire Lot	1A 2373 ADAM C POWELL BLVD
<b>Property Type: SINGLE RESIDENTIAL CONDO UNIT</b>				
<input checked="" type="checkbox"/> Additional Properties on Continuation Page				

**CROSS REFERENCE DATA**

CRFN: 2012000474787

**PARTIES**

**PARTY ONE:**  
ODELL CLARK PLACE CONDOMINIUM I  
C/O ABYSSINIAN DEVELOPMENT CORPORATION,  
2070 ADAM CLAYTON POWELL BOULEVARD  
NEW YORK, NY 10027

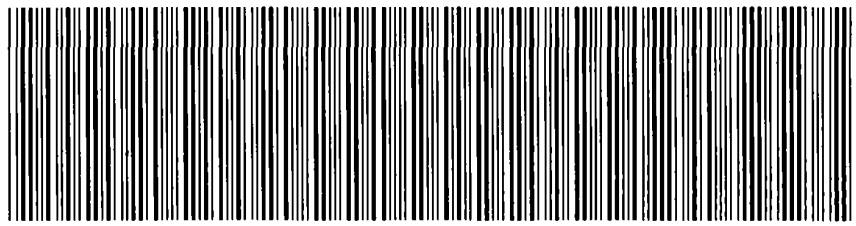
FEES AND TAXES			
<b>Mortgage :</b>			Filing Fee:
Mortgage Amount:	\$	0.00	\$ 0.00
Taxable Mortgage Amount:	\$	0.00	NYC Real Property Transfer Tax:
Exemption:			\$ 0.00
TAXES: County (Basic):	\$	0.00	NYS Real Estate Transfer Tax:
City (Additional):	\$	0.00	\$ 0.00
Spec (Additional):	\$	0.00	
TASF:	\$	0.00	
MTA:	\$	0.00	
NYCTA:	\$	0.00	
Additional MRT:	\$	0.00	
<b>TOTAL:</b>	\$	0.00	
Recording Fee:	\$	138.00	
Affidavit Fee:	\$	0.00	

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

Recorded/Filed 06-11-2015 11:26  
City Register File No.(CRFN):  
**2015000198321**



*Annette McMill*  
City Register Official Signature



2015051500604001002C57AC

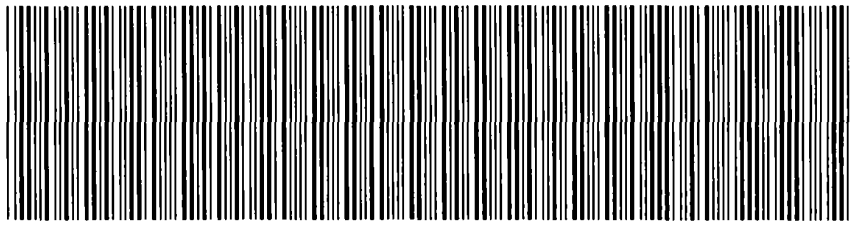
**RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 2 OF 13**

Document ID: 2015051500604001 Document Date: 08-18-2014 Preparation Date: 06-01-2015  
Document Type: AMENDED CONDO DECLARATION

**PROPERTY DATA**

Borough	Block	Lot	Unit	Address
MANHATTAN	2007	1003 Entire Lot	2A	2373 ADAM C POWELL BLVD
Property Type: SINGLE RESIDENTIAL CONDO UNIT				
MANHATTAN	2007	1004 Entire Lot	3A	2373 ADAM C POWELL BLVD
Property Type: SINGLE RESIDENTIAL CONDO UNIT				
MANHATTAN	2007	1005 Entire Lot	4A	2373 ADAM C POWELL BLVD
Property Type: SINGLE RESIDENTIAL CONDO UNIT				
MANHATTAN	2007	1006 Entire Lot	5A	2373 ADAM C POWELL BLVD
Property Type: SINGLE RESIDENTIAL CONDO UNIT				
MANHATTAN	2007	1007 Entire Lot	6A	2373 ADAM C POWELL BLVD
Property Type: SINGLE RESIDENTIAL CONDO UNIT				
MANHATTAN	2007	1008 Entire Lot	2B	2373 ADAM C POWELL BLVD
Property Type: SINGLE RESIDENTIAL CONDO UNIT				
MANHATTAN	2007	1009 Entire Lot	3B	2373 ADAM C POWELL BLVD
Property Type: SINGLE RESIDENTIAL CONDO UNIT				
MANHATTAN	2007	1010 Entire Lot	4B	2373 ADAM C POWELL BLVD
Property Type: SINGLE RESIDENTIAL CONDO UNIT				
MANHATTAN	2007	1011 Entire Lot	5B	2373 ADAM C POWELL BLVD
Property Type: SINGLE RESIDENTIAL CONDO UNIT				
MANHATTAN	2007	1012 Entire Lot	6B	2373 ADAM C POWELL BLVD
Property Type: SINGLE RESIDENTIAL CONDO UNIT				
MANHATTAN	2007	1013 Entire Lot	2C	2373 ADAM C POWELL BLVD
Property Type: SINGLE RESIDENTIAL CONDO UNIT				
MANHATTAN	2007	1014 Entire Lot	3C	2373 ADAM C POWELL BLVD
Property Type: SINGLE RESIDENTIAL CONDO UNIT				
MANHATTAN	2007	1015 Entire Lot	4C	2373 ADAM C POWELL BLVD
Property Type: SINGLE RESIDENTIAL CONDO UNIT				
MANHATTAN	2007	1016 Entire Lot	5C	2373 ADAM C POWELL BLVD
Property Type: SINGLE RESIDENTIAL CONDO UNIT				

NYC DEPARTMENT OF FINANCE  
OFFICE OF THE CITY REGISTER



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**RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 3 OF 13**

Document ID: 2015051500604001 Document Date: 08-18-2014 Preparation Date: 06-01-2015  
Document Type: AMENDED CONDO DECLARATION

**PROPERTY DATA**

<b>Borough</b>	<b>Block Lot</b>	<b>Unit</b>	<b>Address</b>
MANHATTAN	2007 1017 Entire Lot	6C	2373 ADAM C POWELL BLVD
<b>Property Type: SINGLE RESIDENTIAL CONDO UNIT</b>			
<b>Borough</b>	<b>Block Lot</b>	<b>Unit</b>	<b>Address</b>
MANHATTAN	2007 1018 Entire Lot	PH	2373 ADAM C POWELL BLVD
<b>Property Type: SINGLE RESIDENTIAL CONDO UNIT</b>			

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**FIRST AMENDMENT**

**TO**

**DECLARATION**

Establishing a Plan for Condominium Ownership  
of the Premises known as

2373 Adam Clayton Powell Boulevard  
New York, New York 10030

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

Name: Odell Clark Place Condominium I

Declarant: Odell Clark Place LLC  
c/o Abyssinian Development Corporation  
4 West 125th Street, 3rd Floor  
New York, NY 10027

Date of Declaration: December 26, 2012

The land affected by the within instrument lies in Block 2007, Lot 62  
On the Tax Map of the Borough of Manhattan, County of New York,  
City and State of New York. ✓

F.K.A. Old Lot Number 62 ✓  
N.K.A. New Lot Number 1001 - 1018

Record and return to:

Deborah H. Bindler  
Windels Marx Mittendorf & Lane, LLP  
156 West 56th Street  
New York, New York 10019

**FIRST AMENDMENT TO DECLARATION  
OF  
ODELL CLARK PLACE CONDOMINIUM I**

This **FIRST AMENDMENT** to the DECLARATION of ODELL CLARK PLACE CONDOMINIUM is made as of this 18<sup>th</sup> day of August, 2014, by Odell Clark Place LLC, a New York limited liability company, having an office at c/o Abyssinian Development Corporation, 2070 Adam Clayton Powell Boulevard, New York, NY 10027 (hereinafter referred to as "**Declarant**") does hereby declare as follows:

**WITNESSETH:**

**WHEREAS**, Declarant was the declarant under that certain Declaration dated October 4, 2012, which declaration was recorded in the Office of the New York City Register for New York County (the "**City Register's Office**") on December 4, 2012 in CRFN: 2012000474787 ("the "**Declaration**") establishing a plan for condominium ownership of premises known as Odell Clark Place Condominium I located at 2373 Adam Clayton Powell Boulevard, New York, New York (the "**Condominium**"), pursuant to Article 9-B of the Real Property Law of the State of New York;

**WHEREAS**, certain changes to the Declaration and bylaws were required by governmental agencies with jurisdiction over the Condominium with respect to the Restricted Units;

**WHEREAS**, all such changes were previously set forth in First amendment to the Offering Plan for the Condominium, which was recorded together with the Declaration, and the Fourth Amendment to the Offering Plan, prior to this sale of any Restricted Unit;

**WHEREAS**, pursuant to Section 18(b) (ii) of the Declaration, Declarant has the right to execute, acknowledge and record in the County Clerk's Office one or more amendments to the Declaration which are required by any governmental agency having regulatory jurisdiction over the condominium.

**WHEREAS**, Declarant desires to amend the Declaration to reflect the changes required with respect to the Restricted Units;

**NOW, THEREFORE**, the Declaration is hereby amended as follows:

**A. Declaration**. The following provisions of the Declaration are amended as set forth below:

1. **Article 9(a)** of the Declaration entitled "*Use of Units*" is amended by adding the following sentence at the end the Section:



“Notwithstanding anything set forth in this Article 9, each Restricted Unit must be occupied as the primary residence of the Unit Owner of such Restricted Unit.”

2. **Article 13** of the Declaration is amended by adding the following language:

“Notwithstanding anything set forth in Article 13 of the Declaration entitled “*Acquisitions of Units by the Condominium Board*”, any change in ownership of a Restricted Unit shall comply with the provisions of the Regulatory Agreement between Declarant and the Housing Trust Fund Corporation (“HTFC”) recorded against the title of such Restricted Unit, including resale restrictions, eligible buyer restrictions (*e.g.*, the Condominium Board may not hold title to a Restricted Unit), affordability requirements and equity accumulation on resale, as more specifically set forth in Regulatory Agreement.”

3. **Article 20** of the Declaration is amended to replace the address of the Declarant set forth therein with its current address of 2070 Adam Clayton Powell Boulevard, New York, New York, 10027.

4. **Exhibit C** to the Declaration entitled “*Definitions*” is amended as follows:

“The defined term “Institutional Lender” is hereby amended by adding “or (iii) a public benefit corporation such as the New York State Housing Trust Fund Corporation” at the end of the existing definition.” A new defined term “Restricted Unit” is hereby added and such term shall mean the ten (10) Residential Units in the Building that are subsidized, as more particularly described in the Plan.

5. **Exhibit E** to the Declaration (a copy of which is attached hereto), the Unit Owner’s Power of Attorney, is hereby amended only in connection with the use of the Power of Attorney for purchasers of Restricted Units, by including the following language at the end thereof:

“Notwithstanding anything to the contrary contained herein, any change in ownership or occupancy of a Restricted Unit shall comply with the provisions of the Regulatory Agreement between Declarant and the Housing Trust Fund Corporation (“HTFC”) recorded against the title of such Restricted Unit, including resale restrictions, eligible buyer restrictions (*e.g.*, the Condominium Board may not hold title to a Restricted Unit), affordability requirements and equity accumulation on resale, as more specifically set forth in Regulatory Agreement.”

**B. By-Laws:** The following provisions of the By-Laws are hereby amended.

1. **Section 2.7** of the By-Laws entitled “Number, Election and Qualification of Members” is amended by adding the following sentence at the end of the Section:

“During the term of the Regulatory Agreement between Sponsor and the Housing Trust Fund Corporation (“HTFC”), Sponsor shall maintain a non-voting seat on the Condominium Board in order to monitor compliance by the Condominium Board with the terms and conditions of the Regulatory Agreement, including the implementation of the requirements of the Technical Assistance Contract to be entered into between Sponsor and HTFC, to provide, among other things, counseling to purchasers of the Restricted Units (as defined in the Plan) with respect to both limits on such purchaser’s return on equity and the requirement to sell to an Income Eligible Purchaser, in the event of a resale of a Restricted Unit.”

2. Article 5 of the By-Laws entitled “Operation of the Property” is amended by adding the following new Section 5.17 entitled “Technical Assistance Contract” at the end of Article 5:

**“Section 5.17 Technical Assistance Contract.** During the term of the Regulatory Agreement, Sponsor shall be obligated to fulfill its obligations set forth in the Technical Assistance Contract, including, without limitation, those relating to (a) providing loans to each purchaser of a Restricted Unit in the amounts set forth in the Technical Assistance Contract, (b) maintaining a non-voting seat on the Condominium Board, (c) overseeing property management for the Building, (d) providing homebuyer counseling to each purchaser of a Restricted Unit, (e) monitoring compliance by the Condominium Board with all statutory and regulatory requirements of the Building, (f) insuring that an annual audit is performed and submitted to HTFC, and (g) complying with all reporting and marketing requirements of HTFC.”

3. Section 7.2 of the By-Laws entitled “Right of First Refusal” is amended by adding the following new paragraph (D) at the end of the paragraph:

“(D) Notwithstanding anything to the contrary contained in this Section 7.2, the rights of the Condominium Board as set forth in this Section 7.2 shall not apply to the Restricted Units.”

4. Article 7 of the By-Laws entitled “Selling and Leasing of Units” is amended by adding the following new Section 7.10 entitled “Restricted Units” at the end of Article 7:

**“Section 7.10 Restricted Units.** (A) Notwithstanding anything to the contrary contained in this Article 7, each of the Restricted Units must be occupied as the primary residence of the Unit Owner of such Restricted Unit during the term of the Regulatory Agreement.”

(B) Notwithstanding anything to the contrary contained in this Article 7, the resale price for any Restricted Unit shall not exceed an amount equal to the sum of (a) the original equity paid by the Unit Owner of such Restricted Unit, exclusive of any payments, grants or loans received from HTFC for such purposes or from such other sources as determined by HTFC, with interest thereon at the rate of six percent per annum, (b) the cost of capital improvements to such Restricted Unit paid by such Unit

Owner after the completion of rehabilitation or construction, exclusive of any payments, grants or loans received from HTFC for such purposes or from such other sources as determined by HTFC, with interest thereon at the rate of six percent per annum, (c) the pro-rata portion of any capital assessments or capital contributions for building-wide improvements paid by such Unit Owner for the Building, with interest thereon at the rate of six percent per annum, (d) the actual amortization paid by such Unit Owner on all existing and prior mortgages on, or loans for, such Restricted Unit in reduction of total outstanding principal indebtedness, but only to the extent that the proceeds of such mortgages or loans were used by such owner for the Restricted Unit and the rehabilitation or construction thereof or for the cost of capital improvements thereto, with interest thereon at the rate of six percent per annum, (e) the actual outstanding principal indebtedness on all existing mortgages on, and loans or other obligations for such Restricted Unit which the Unit Owner is required to satisfy, but only to the extent that the proceeds of such mortgages or loans were used by such Unit Owner for the Restricted Unit and the rehabilitation or construction thereof or for the cost of capital improvements thereto, provided that if the indebtedness is not paid in full upon the sale of such Restricted Unit, such Unit Owner shall not be credited with the amount of such indebtedness, and (f) the reasonable costs and expenses incurred in connection with the sale of such Restricted Unit.

(C) Notwithstanding anything to the contrary contained in this Article 7, Restricted Units may only be resold to families or individuals with gross income less than 80% of the Area Median Income – an Income Eligible Purchaser (as more specifically defined in the Regulatory Agreement).”

**C. Miscellaneous.**

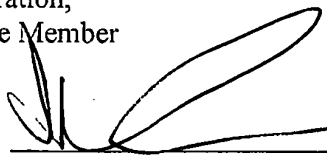
1. All capitalized terms used herein which are not separately defined herein shall have the meanings given to those terms in the Declaration or, to the extent any such terms are not defined in the Declaration or herein, the By-Laws of the Condominium.

2. This First Amendment shall supersede any inconsistent provisions of the Declaration and By-Laws. Except as amended herein, the Declaration and By-Laws and exhibits thereto are hereby confirmed and shall remain in full force and effect

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed  
as of the 18 day of August, 2014

Sponsor: Odell Clark Place LLC  
By: Abyssinian Development  
Corporation,  
Its Sole Member

By:   
James Howard, Vice President

STATE OF NEW YORK )  
COUNTY OF New York ) SS.:

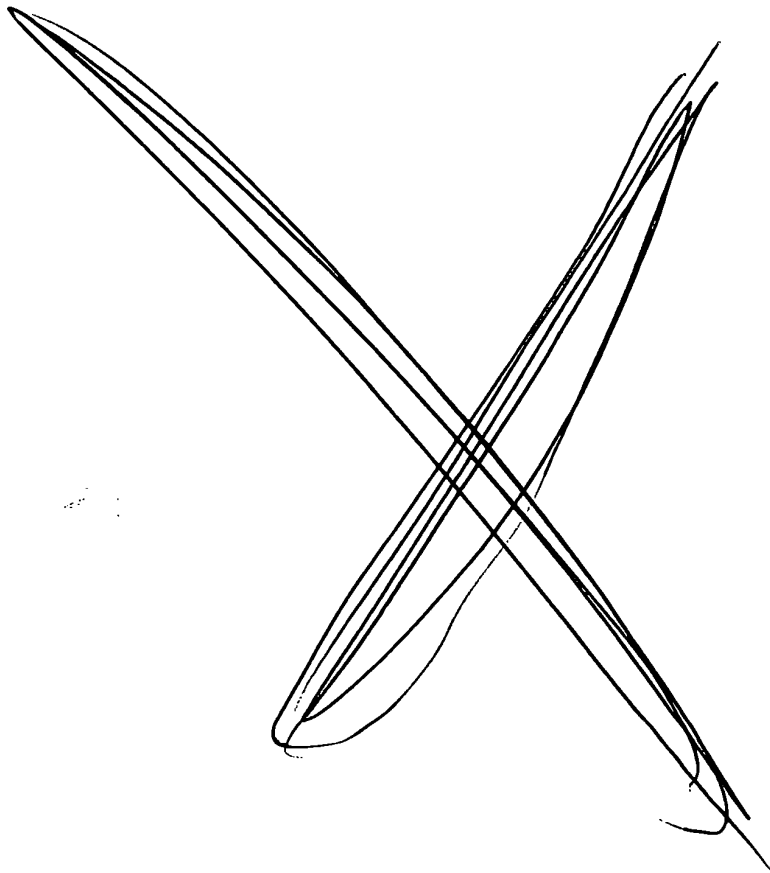
On the 18<sup>th</sup> day of August in the year 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared, James Howard, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted executed the instrument.

  
Notary

SEAL

ANDREA V. BRITTON  
Notary Public, State of New York  
No. 01BR6019108  
Qualified in Queens County  
Commission Expires February 1, 20 15

**Exhibit E**  
(Power of Attorney)



## UNIT OWNER POWER OF ATTORNEY

The undersigned, \_\_\_\_\_, the Owner of Unit No. \_\_\_\_\_ in the Condominium located at **2373 Adam Clayton Powell Jr. Boulevard**, New York, New York, consisting of the property submitted to the provisions of Article 9-B of the Real Property Law of the State of New York pursuant to Declaration dated **October 4, 2012**, and recorded in the New York County office of the Register of the City of New York on **December 4, 2012** in CRFN: **2012000474787** (as the same may be amended from time to time) and on the Floor Plans on file in said office as Map No. **2012000474788**, do hereby nominate, constitute and appoint the persons who may from time to time constitute the Board of Managers of Odell Clark Place Condominium I, jointly, true and lawful attorneys-in-fact for the undersigned, coupled with an interest, with power of substitution: (i) to acquire in their own name, as members of the Board of Managers, or in the name of their designee, corporate or otherwise, on behalf of all Owners of Units in said Property, in accordance with their Common Interests, any Unit whose Owner desires to abandon or sell the same, the undivided interest in the Common Elements appurtenant thereto, the interest of such Unit Owner in any other Units theretofore acquired by the Board of Managers, or its designee, on behalf of all Unit Owners, or in the proceeds of sale or lease thereof, if any, and the rights and privileges appurtenant thereto, the interest of such Unit Owner in all other assets of the Condominium, as defined in the aforementioned Declaration, or any Unit, which shall be the subject of a foreclosure or other judicial sale; or (ii) to lease any Unit whose Owner desires to rent the same, at such price and on such rental, as the case may be, pursuant to the offer as required by the right of first refusal, and on such terms as said attorneys-in-fact shall deem proper, and (iii) thereafter to convey, sell, lease or mortgage (but not to vote the votes appurtenant thereto) to otherwise deal with any such Units so acquired by them, or to sublease any Unit so leased by them on such terms as said attorney-in-fact may determine, granting to such attorneys-in-fact the power to do all things in the said premises which the undersigned could do if the undersigned were personally present; (iv) to commence, pursue, appeal, settle and/or terminate administrative and certiorari proceedings to obtain reduced real estate tax assessments with respect to Units, including retaining counsel and taking any other actions which the Board of Managers deems necessary or appropriate; and (v) to execute, acknowledge and deliver (a) any declaration or other instrument affecting the property which the Board of Managers deems necessary or appropriate to comply with any law, ordinance, regulations, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals or any other public authority, applicable to the maintenance, demolition, construction, alteration, repair or restoration of the Property or (b) any consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting the Property or the Common Elements which the Board of Managers deems necessary or appropriate.

The acts of a majority of such persons shall constitute the acts of said attorneys-in-fact. The undersigned do hereby nominate, constitute and appoint Odell Clark Place LLC ("Sponsor"), as attorney-in-fact for the undersigned, coupled with an interest, with power of substitution, to amend from time to time the Declaration, the By-Laws and the Rules



subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

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Signature and office of individual taking acknowledgment



Condominium No. \_\_\_\_\_

**SECOND AMENDMENT TO  
DECLARATION OF CONDOMINIUM**

**NAME: ODELL CLARK PLACE CONDOMINIUM 1**

**DATE OF AMENDMENT: MARCH 6, 2019**

Prepared by: Armstrong Teasdale LLP  
919 Third Avenue, 37<sup>th</sup> Floor  
New York, New York 10022

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The land affected by the within instrument lies in  
Block 2007, Lots 1001 to 1018  
on the Tax Map of the Borough of Manhattan,  
County of New York  
City and State of New York.

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**RECORD AND RETURN TO:**

Armstrong Teasdale LLP  
919 Third Avenue, 37<sup>th</sup> Floor  
New York, New York 10022  
Attn: Howard Schechter, Esq.



**SECOND AMENDMENT TO  
DECLARATION OF CONDOMINIUM OF  
ODELL CLARK PLACE CONDOMINIUM 1**

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

The Board of Managers of Odell Clark Place Condominium 1 (the "Condominium"), with its principal office at c/o Merlot Management, 201 West 91<sup>st</sup> Street, Suite 1D, New York, New York 10024 hereby declare as of February 7, 2019, as follows:

1. This is the Second Amendment to that certain Declaration establishing a plan for condominium ownership of the building and the land on which same is erected, located at 2373 Adam Clayton Powell Jr. Blvd, comprising Odell Clark Place Condominium 1, made pursuant to Article 9-B of the Real Property Law of the State of New York, which Declaration was recorded in the Office of the City Register of the City of New York on December 4, 2012 under CRFN 2012000474787 (the "Declaration").

2. All terms in this Amendment shall have the same meaning as ascribed thereto in the Declaration.

3. Article 4 of the By-laws is amended by deleting Section 4.1 and replacing it with the following:

**Section 4.1 Annual Meetings of the Unit Owners.** The first annual meeting of the Unit Owners shall be held not later than one (1) year after the First Closing, at which meeting the incumbent three (3)-member Condominium Board shall resign and a successor five (5)-member Condominium Board shall be elected or designated by the Declarant and Unit Owners, as provided both in this Article 4 and in Article 2 hereof. Thereafter, a meeting of the Unit Owners shall be held annually for the election of successors to the members of the Condominium Board whose term of office expires on the day of such meeting and shall transact such other business as may properly come before such meeting.

4. Article 5 of the By-laws is amended by adding a new Section 5.18 as follows:

**Section 5.18 Structural Defined.** As used in this Article 5, the term "structural" when used in connection with alterations, repairs, modifications, additions and improvements shall mean any (a) alterations, repairs, modifications, additions and improvements on or affecting the structural integrity or soundness of a structural column, beam, support, girder, joist, load-bearing wall, concrete slab comprising a floor or ceiling, or any other structural member of the Building; (b) removal, erection or replacement of a non-load bearing partition; (c) modification, addition to or removal of any machinery, equipment, apparatus, devices, lines, cables, pipes, wires, fibers, optic



fibers, filaments, ducts, tubes, casings or conduits constituting or which might affect a portion of the common plumbing, heating, ventilation or waste systems; and (d) any other alteration, repair, modification, addition or improvement that requires a governmental work permit or authorization from, or application to, the DOB or other governmental authority. The following shall not be considered structural alterations, repairs, modifications, additions or improvements: finishing of interior walls, floors and ceilings with paint, wallpaper, tiles, rugs, carpets and other finishes; outfitting an area with furniture and furnishings that do not affect any area outside of a Unit; and installing or mounting or removing finishes, coverings and cabinetry to a depth that does not affect the structural integrity or soundness of a Building component.

5. Article 7 of the By-laws is amended by deleting Section 7.5 and replacing it with the following:

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

(A) A certificate executed and acknowledged by the Secretary of the Condominium or the Managing Agent, stating that the provisions of Section 7.2 hereof have been met by a Unit Owner or that the right of first refusal provided for therein has been duly released or waived by the Condominium Board and that, as a result thereof, the rights of the Condominium Board thereunder have terminated, shall be conclusive upon the Condominium Board and all Unit Owners in favor of all persons who rely upon such certificate in good faith. After the due issuance of such a certificate, the Unit to which the same shall relate, together with its Appurtenant Interests, may be sold, conveyed, or leased free and clear of the terms and conditions contained in Section 7.2 hereof. The Condominium Board shall furnish or cause the Managing Agent to furnish, without charge, upon written request such certificate to any Unit Owner in respect to whom the provisions of Section 7.2 hereof have, in fact, been terminated, provided, that at or before the delivery of such certificate, the Offeree Unit Owner, as defined in Section 7.2 of this Article, shall pay to the Board of Managers the Working Capital Contribution Fee required by Section 7.7. Notice that the Board will provide such certificate at the closing of title of such Unit, subject to such payment, shall be provided to the Unit Owner. In no event, however, shall the right of first refusal described in Section 7.2 hereof be deemed released or waived by the Condominium Board (as opposed to satisfied pursuant to the express terms of Sections 7.2, 7.3 and 7.4 hereof) in the absence of a certificate that has been duly executed, acknowledged and issued by the Condominium Board or the Managing Agent as aforesaid.

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

(i) the owner of such Unit to any of his adult Family Members, to any combination of the same, or to a trust for the benefit of any of them



or, with respect to a Unit Owner that is not an individual, to any entity or individual that owns more than fifty (50%) percent of the legal and beneficial interest of such Unit Owner or to any entity with respect to which such Unit Owner (individual or otherwise) owns more than fifty (50%) percent of the legal and beneficial interest thereof;

(ii) Declarant or its designee, Unsold Units;

(iii) the Condominium Board;

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

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

(vi) the owner of a restricted Unit, for so long as the Unit is designated a Restricted Unit;

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

6. Article 7 of the By-laws is also amended by deleting Section 7.7 and replacing it with the following:

**Section 7.7** Payment of Common Charges and Contribution to Working Capital. A Unit Owner shall not be permitted to convey or lease his Unit unless he shall have paid in full to the Condominium Board all unpaid Common Charges and Special Assessments theretofore assessed against such Unit and shall have satisfied all unpaid liens, other than that of Permitted Mortgages, levied against such Unit. In addition, except with respect to a conveyance described in any of Paragraphs (B)(i), (iii), (iv) or (v) of Section 7.5, a Unit Owner shall not be permitted to convey his Unit unless the transferee pays to the Board of Managers, at or before the delivery of title, a Working Capital Contribution Fee equal to two months of the then current Common Charges payable with respect to the Unit on the date of delivery of title.

7. This Second Amendment amending the By-laws, Exhibit D to the Declaration of the Condominium, as amended, was approved by the affirmative vote of seventy five percent (75%) of the Unit Owners of the Condominium in both number and in common interest, in accordance with the Condominium By-laws.

8. Except as amended herein, the Declaration shall remain in full force and effect.



9. The provisions of this Second Amendment to the Declaration shall be perpetual and be construed to be covenants running with the land and every part thereof and interest therein, and all provisions hereof shall be binding upon and inure to the benefit of the owner of all or any part of the property, or interest therein, and his heirs, executors, administrators, legal representatives, successors and assigns.

10. If any provision of this Second Amendment to the Declaration, or any section, sentence, clause, phrase or word, or the application thereof shall in any circumstances be judicially held in conflict with the laws of the State of New York, then the said laws shall be deemed controlling and the validity, force and effect of the remainder of this Second Amendment to the Declaration and the application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby.

IN WITNESS WHEREOF, this Second Amendment to the Declaration has been executed as of the day and year first above written.

*[Faint signature and notary stamp]*

The Board of Managers of Odell Clark Place  
Condominium 1

By: *Sue Markham*  
Susan Markham  
President

NOTARY PUBLIC  
Kiyomi Hirose  
Notary Public - State of New York  
No. 0116276834  
Qualified in New York County  
My Commission Expires 02/28/2021

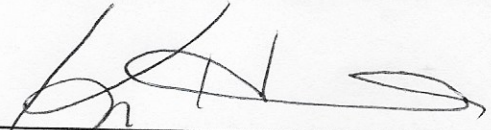


STATE OF NEW YORK )

) ss.:

COUNTY OF NEW YORK )

On the 7 day of March in the year 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared **Susan Markham**, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
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NOTARY PUBLIC

KIYOMI HIROSE  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01HI6276934  
Qualified in New York County  
My Commission Expires 02/25/2021