

PARKCHESTER

NORTH

CONDOMINIUM

MAY, 1992

BY-LAWS

of

THE PARKCHESTER NORTH CONDOMINIUM

ARTICLE I

Plan of Apartment Unit Ownership

Section 1. *Apartment Unit Ownership.* The land situated in the Borough of The Bronx, City of New York, State of New York, more particularly described in Schedule A of the Declaration recorded in the office of the Register of the City of New York, County of The Bronx, simultaneously herewith, and the sixteen buildings constructed on said land (the land and buildings hereinafter collectively called the "Property") have been submitted to the provisions of Article 9-B of the Real Property Law of the State of New York by the Declaration and shall hereafter be known as "The Parkchester North Condominium" (hereinafter called the "Condominium").

Section 2. *Applicability of By-Laws.* The provisions of these By-Laws are applicable to the Property of the Condominium and to the use and occupancy thereof. The term "Property" as used herein shall include the land, the buildings and all other improvements thereon (including the apartment units and the common elements), owned in fee simple absolute, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, all of which are intended to be submitted to the provisions of said Article 9-B of the Real Property Law of the State of New York.

Section 3. *Application.* All present and future owners, mortgagees, lessees and occupants of apartment units and their employees, and any other persons who may use the facilities of the Property in any manner are subject to these By-Laws, the Declaration and the Rules and Regulations.

The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of an apartment unit shall constitute an agreement that these By-Laws, the Rules and Regulations and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified, and will be complied with.

Section 4. *Office.* The office of the Condominium and of the Board of Managers shall be located at 2000 East Tremont Avenue, Bronx, New York.

ARTICLE II

Board of Managers

Section 1. *Number and Qualification.* The affairs of the Condominium shall be governed by a Board of Managers. The Board of Managers shall consist of three persons designated by Parkchester Apts. Co. (the Sponsor of the Condominium) until their successors shall have been elected by the unit owners at the first meeting of unit owners held pursuant to Section 1 of Article III of these By-Laws. Thereafter the Board of Managers shall be composed of 27 persons, all of whom shall be owners or spouses of owners or mortgagees of apartment units or, in the case of partnership owners or mortgagees, shall be members or employees of such partnership or, in the case of corporate owners or mortgagees, shall be officers, directors, shareholders or employees of such corporations or, in the case of fiduciary owners or mortgagees, shall be the fiduciaries or officers or employees of such fiduciaries or, in the case of the Sponsor, shall be designees of the Sponsor. The unit owners in each Building will elect one member of the Board of Managers.

Section 2. *Powers and Duties.* The Board of Managers shall have the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things except as by law or by the Declaration or by these By-Laws may not be delegated to the Board of Managers by the unit owners. Such powers and duties of the Board of Managers shall include, but shall not be limited to, the following:

- (a) Operation, care, upkeep and maintenance of the common elements.
- (b) Determination of the common expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the Property.
- (c) Collection of the common charges and expenses from the unit owners.
- (d) Employment and dismissal of the personnel necessary for the maintenance and operation of the common elements.
- (e) Adoption and amendment of rules and regulations covering the details of the operation and use of the Property.
- (f) Opening of bank accounts on behalf of the Condominium and designating the signatories required therefor.
- (g) Purchasing or leasing or otherwise acquiring in the name of the Board of Managers, or its designee, corporate or otherwise, on behalf of all unit owners,

apartment units offered for sale or lease or surrendered by their owners to the Board of Managers.

(h) Purchasing of apartment units at foreclosure or other judicial sales in the name of the Board of Managers, or its designee, corporate or otherwise, on behalf of all unit owners.

(i) Selling, leasing, mortgaging, voting the votes appurtenant to (other than for the election of members of the Board of Managers), or otherwise dealing with apartment units acquired by, and subleasing apartment units leased by the Board of Managers or its designee, corporate or otherwise, on behalf of all unit owners.

(j) Organizing corporations to act as designees of the Board of Managers in acquiring title to or leasing of apartment units on behalf of all unit owners.

(k) Leasing of stores, laundry rooms and other portions of the common elements and granting of licenses for vending machines.

(l) Obtaining of insurance for the Property, including the apartment units, pursuant to the provisions of Article V, Section 2 hereof.

(m) Making of repairs, additions and improvements to or alterations of the Property and making of repairs to and restoration of the Property in accordance with the other provisions of these By-Laws after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

(n) Borrowing money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of the common elements, provided, however, that (i) the consent of at least 66-2/3% in number and in common interest of all unit owners, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these By-Laws, shall be required for the borrowing of any sum in excess of \$50,000 and (ii) no lien to secure repayment of any sum borrowed may be created on any apartment unit or its appurtenant interest in the common elements without the consent of the unit owner.

If any sum borrowed by the Board of Managers on behalf of the Condominium pursuant to the authority contained in this paragraph (n) is not repaid by the Board, a unit owner who pays to the creditor such proportion thereof as his interest in the common elements bears to the interest of all the unit owners in the common elements shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against the unit owner's unit.

Notwithstanding anything to the contrary contained in these By-Laws, so long as the Sponsor or its designee shall continue to own apartment units representing 50% or more in common interest, the Board of Managers may not, without the Sponsor's prior written consent, (i) make any addition, alteration or improvement to the common elements or to any apartment unit or (ii) assess any common charges for the creation of, addition to or replacement of all or part of a reserve, contingency or surplus fund in excess of \$200,000, or (iii) hire any employee in addition to the 101 employees referred to in the Plan of Condominium Ownership or (iv) enter into any service or maintenance contract for work not covered by contracts in existence on the date of the first closing of title to an apartment unit or (v) borrow money on behalf of the Condominium.

Section 3. *Managing Agent and Manager.* The Board of Managers may employ for the Condominium a managing agent and/or a manager at a compensation established by the Board of Managers, to perform such duties and services as the Board of Managers shall authorize, including, but not limited to the duties listed in subdivisions (a), (c), (d), (k), (l), and (m) of Section 2 of this Article II. The Board of Managers may delegate to the manager or managing agent, all of the powers granted to the Board of Managers by these By-Laws other than the powers set forth in subdivisions (b), (e), (f), (g), (h), (i), (j) and (n) of Section 2 of this Article II.

Section 4. *Election and Term of Office.* Except as provided in Section 1 of Article III, at the first meeting of the unit owners, the term of office of nine members of the Board of Managers shall be fixed at three (3) years, the term of office of nine members of the Board of Managers shall be fixed at two (2) years, and the term of office of nine members of the Board of Managers shall be fixed at one (1) year. At the expiration of the initial term of office of each respective member of the Board of Managers, his successor shall be elected to serve for a term of three (3) years. The members of the Board of Managers shall hold office until their respective successors shall have been elected by the unit owners.

Section 5. *Removal of Members of the Board of Managers.* At any regular or special meeting of unit owners, any one or more of the members of the Board of Managers may be removed with or without cause by a majority of the unit owners and a successor may then and there or thereafter be elected to fill the vacancy thus created. Any member of the Board of Managers whose removal has been proposed by the unit owners shall be given an opportunity to be heard at the meeting.

Section 6. *Vacancies.* Vacancies in the Board of Managers caused by any reason other than the removal of a member thereof by a vote of the unit owners, shall be filled by vote of a majority of the remaining members at a special meeting of the Board of Managers held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum, and each person so elected shall be a member of the Board of

Managers for the remainder of the term of the predecessor member and until a successor shall be elected at the next annual meeting of the unit owners.

Section 7. *Organization Meeting.* The first meeting of the members of the Board of Managers following the annual meeting of the unit owners shall be held within ten (10) days thereafter at such time and place as shall be fixed by a majority of the members of the Board of Managers and no notice shall be necessary to the newly elected members of the Board of Managers in order legally to constitute such meeting, providing a majority of the whole Board of Managers shall be present thereat.

Section 8. *Regular Meetings.* Regular meetings of the Board of Managers may be held at such time and place as shall be determined from time to time by a majority of the members of the Board of Managers, but at least four such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Managers shall be given to each member of the Board of Managers, by mail or telegraph, at least three (3) business days prior to the day named for such meeting.

Section 9. *Special Meetings.* Special meetings of the Board of Managers may be called by the President on three (3) business days' notice to each member of the Board of Managers, given by mail or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Managers shall be called by the President or Secretary in like manner and on like notice on the written request of at least three (3) members of the Board of Managers.

Section 10. *Waiver of Notice.* Any member of the Board of Managers may, at any time waive notice of any meeting of the Board of Managers in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board of Managers at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all the members of the Board of Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 11. *Quorum of Board of Managers.* At all meetings of the Board of Managers, a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the Board of Managers present at a meeting at which a quorum is present shall constitute the decision of the Board of Managers. If at any meeting of the Board of Managers there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 12. *Fidelity Bonds.* The Board of Managers shall obtain adequate fidelity bonds for all officers and employees of the Condominium and of the

managing agent handling or responsible for Condominium funds. The premiums on such bonds shall constitute a common expense.

Section 13. *Compensation.* No member of the Board of Managers shall receive any compensation from the Condominium for acting as such.

Section 14. *Liability of the Board of Managers.* The members of the Board of Managers shall not be liable to the unit owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The unit owners shall indemnify and hold harmless each of the members of the Board of Managers against all contractual liability to others arising out of contracts made by the Board of Managers on behalf of the Condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. It is intended that the members of the Board of Managers shall have no personal liability with respect to any contract made by them on behalf of the Condominium. It is also intended that the liability of any unit owner arising out of any contract made by the Board of Managers or out of the aforesaid indemnity in favor of the members of the Board of Managers shall be limited to such proportion of the total liability thereunder as his interest in the common elements bears to the interests of all the unit owners in the common elements. Every agreement made by the Board of Managers or by the managing agent or by the manager on behalf of the Condominium shall provide that the members of the Board of Managers, or the managing agent, or the manager, as the case may be, are acting only as agents for the unit owners and shall have no personal liability thereunder (except as unit owners), and that each unit owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the common elements bears to the interest of all unit owners in the common elements.

Section 15. *Executive Committee.* The Board of Managers, may, by resolution duly adopted, appoint an Executive Committee to consist of three (3) or more members of the Board of Managers. Such Executive Committee shall have and may exercise all the powers of the Board of Managers in the management of the business and affairs of the Condominium during the intervals between the meetings of the Board of Managers insofar as may be permitted by law, except that the Executive Committee shall not have power (a) to determine the common charges and expenses required for the affairs of the Condominium, (b) to determine the common charges payable by the unit owners to meet the common charges and expenses of the Condominium, or (c) to adopt or amend the rules and regulations covering the details of the operation and use of the Property.

ARTICLE III

Unit Owners

Section 1. *Annual Meetings.* Within 30 days after title has been conveyed by the Sponsor to the purchasers of 20% in number and in common interest of the apartment units, the Sponsor shall call the first meeting of the unit owners. Thereafter, annual meetings of the unit owners shall be held on the 15th day of May of each succeeding year, unless such date shall occur on a Saturday or Sunday, in which event the meeting shall be held on the succeeding Monday. At such meetings the Board of Managers shall be elected by ballot of the unit owners in accordance with the requirements of Section 4 of Article II of these By-Laws. So long as the Sponsor of the Condominium or its designee shall continue to own: (i) apartment units representing 40% or more in common interest, the Sponsor or its designee shall have the right to elect eleven of the 27 members of the Board of Managers; (ii) apartment units representing 20% but less than 40% in common interest, the Sponsor or its designee shall have the right to elect nine of the 27 members of the Board of Managers; (iii) apartment units representing 10% but less than 20% in common interest, the Sponsor or its designee shall have the right to elect six of the 27 members of the Board of Managers; or (iv) apartment units representing less than 10% in common interest, the Sponsor or its designee shall have the right to elect four of the 27 members of the Board of Managers. When the Sponsor or its designee no longer owns any apartment units it shall have no further right to elect any members of the Board of Managers. Members of the Board of Managers elected by the Sponsor or its designee shall serve for a term of one year. All other members of the Board of Managers shall be elected by the unit owners and shall serve for the terms prescribed by these By-Laws. The unit owners may transact such other business at such meetings as may properly come before them.

Section 2. *Place of Meetings.* Meetings of the unit owners shall be held at the principal office of the Condominium or at such other suitable place convenient to the unit owners as may be designated by the Board of Managers.

Section 3. *Special Meetings.* It shall be the duty of the President to call a special meeting of the unit owners if so directed by resolution of the Board of Managers or upon a petition signed and presented to the Secretary by not less than 25% in common interest, in the aggregate, of unit owners. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. *Notice of Meetings.* It shall be the duty of the Secretary to mail a notice of each annual or special meeting of the unit owners at least ten but not more than twenty days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each unit owner of record, at the building in which his unit is located or at such other address as such unit owner

shall have designated by notice in writing to the Secretary. If the purpose of any meeting shall be to act upon a proposed amendment to the Declaration or to these By-Laws, the notice of meeting shall be mailed at least thirty days prior to such meeting. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

Section 5. *Adjournment of Meetings.* If any meeting of unit owners cannot be held because a quorum has not attended, a majority in common interest of the unit owners who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 6. *Order of Business.* The order of business at all meetings of the unit owners shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Report of Board of Managers.
- (f) Reports of committees.
- (g) Election of inspectors of election (when so required).
- (h) Election of members of the Board of Managers (when so required).
- (i) Unfinished business.
- (j) New business.

Section 7. *Title to Apartment Units.* Title to apartment units may be taken in the name of an individual or in the names of two or more persons, as tenants in common or as joint tenants or as tenants by the entirety, or in the name of a corporation or partnership, or in the name of a fiduciary.

Section 8. *Voting.* The owner or owners of each apartment unit, or some person designated by such owner or owners to act as proxy on his or their behalf and who need not be an owner, shall be entitled to cast the votes appurtenant to such apartment unit at all meetings of unit owners. The designation of any such proxy shall be made in writing to the Secretary, and shall be revocable at any time

by written notice to the Secretary by the owner or owners so designating. Any or all of such owners may be present at any meeting of the unit owners and (those constituting a group acting unanimously) may vote or take any other action as a unit owner either in person or by proxy. The total number of votes of all unit owners shall be 1,000,000 and each unit owner (including the Sponsor and its designee and the Board of Managers, if the Sponsor or its designee shall then own, or the Board of Managers, or its designee, shall then hold title to one or more apartment units) shall be entitled to cast one vote at all meetings of the unit owners for each .0001 per cent of interest in the common elements applicable to his or their apartment unit. A fiduciary shall be the voting member with respect to any apartment unit owned in a fiduciary capacity.

Section 9. *Majority of Unit Owners.* As used in these By-Laws the term "majority of unit owners" shall mean those unit owners having more than 50% of the total authorized votes of all unit owners present in person or by proxy and voting at any meeting of the unit owners, determined in accordance with the provisions of Section 8 of this Article III.

Section 10. *Quorum.* Except as otherwise provided in these By-Laws, the presence in person or by proxy of unit owners having one-third of the total authorized votes of all unit owners shall constitute a quorum at all meetings of the unit owners.

Section 11. *Majority Vote.* The vote of a majority of unit owners at a meeting at which a quorum shall be present shall be binding upon all unit owners for all purposes except where in the Declaration or these By-Laws or by law, a higher percentage vote is required.

ARTICLE IV

Officers

Section 1. *Designation.* The principal officers of the Condominium shall be the President, the First Vice President, the Second Vice President, the Third Vice President, the Secretary, and the Treasurer, all of whom shall be elected by the Board of Managers. The Board of Managers may appoint an assistant treasurer, an assistant secretary, and such other officers as in its judgment may be necessary. The President and Vice Presidents, but no other officers, need be members of the Board of Managers.

Section 2. *Election of Officers.* The officers of the Condominium shall be elected annually by the Board of Managers at the organization meeting of each new Board of Managers and shall hold office at the pleasure of the Board of Managers.

Section 3. *Removal of Officers.* Upon the affirmative vote of a majority of the members of the Board of Managers, any officer may be removed, either with or without cause, and his successor may be elected at any regular meeting of the Board of Managers, or at any special meeting of the Board of Managers called for such purpose.

Section 4. *President.* The President shall be the chief executive officer of the Condominium. He shall preside at all meetings of the unit owners and of the Board of Managers. He shall have all of the general powers and duties which are incident to the office of president of a stock corporation organized under the Business Corporation Law of the State of New York, including but not limited to the power to appoint committees from among the unit owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Condominium.

Section 5. *Vice Presidents.* The First, Second, and Third Vice Presidents, in that order, shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor any of the Vice Presidents is able to act, the Board of Managers shall appoint some other member of the Board of Managers to act in the place of the President on an interim basis. The Vice Presidents shall also perform such other duties as shall from time to time be imposed upon them by the Board of Managers or by the President.

Section 6. *Secretary.* The Secretary shall keep the minutes of all meetings of the unit owners and of the Board of Managers; he shall have charge of such books and papers as the Board of Managers may direct; and he shall, in general, perform all the duties incident to the office of secretary of a stock corporation organized under the Business Corporation Law of the State of New York.

Section 7. *Treasurer.* The treasurer shall have the responsibility for Condominium funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data. He shall be responsible for the deposit of all moneys and other valuable effects in the name of the Board of Managers, or the managing agent, in such depositories as may from time to time be designated by the Board of Managers, and he shall, in general, perform all the duties incident to the office of treasurer of a stock corporation organized under the Business Corporation Law of the State of New York.

Section 8. *Agreements, Contracts, Deeds, Checks, etc.* All agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed by any two officers of the Condominium or by such other person or persons as may be designated by the Board of Managers.

Section 9. *Compensation of Officers.* No officer shall receive any compensation from the Condominium for acting as such.

ARTICLE V

Operation of the Property

Section 1. *Determination of Common Expenses and Fixing of Common Charges.* The Board of Managers shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of the common charges payable by the unit owners to meet the common expenses of the Condominium, and allocate and assess such common charges and expenses among the unit owners according to their respective common interests. The common expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Managers pursuant to the provisions of Section 2 of this Article V and the fees and disbursements of the Insurance Trustee. The common expenses may also include such amounts as the Board of Managers may deem proper for the operation and maintenance of the Property, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the common expenses for any prior year. The common expenses may also include such amounts as may be required for the purchase or lease by the Board of Managers or its designee, corporate or otherwise, on behalf of all unit owners, of any apartment unit whose owner has elected to sell or lease such apartment unit or of any apartment unit which is to be sold at a foreclosure or other judicial sale. The Board of Managers shall advise all unit owners promptly, in writing, of the amount of common charges and expenses payable by each of them, respectively, as determined by the Board of Managers, as aforesaid, and shall furnish copies of each budget on which such common charges and expenses are based, to all unit owners and to their mortgagees.

Section 2. *Insurance.* The Board of Managers shall be required to obtain and maintain, to the extent obtainable and to the extent determined by the Board of Managers to be appropriate or relevant, the following insurance: (1) fire insurance with extended coverage, vandalism and malicious mischief endorsements, insuring the Buildings (including all of the apartment units and the bathroom and kitchen fixtures installed therein on the date of recordation of the Declaration, but not including furniture, furnishings or other personal property supplied or installed by unit owners), together with all service machinery contained therein, and covering the interests of the Condominium, the Board of Managers and all unit owners and their mortgagees, as interest may appear, in an amount equal to the full replacement value of the Buildings, without deduction for depreciation; each of said policies shall contain a New York standard mortgagee clause in favor of each mortgagee of an apartment unit which shall provide that the loss, if any, thereunder shall be payable

to such mortgagee as its interest may appear, subject, however, to the loss payment provisions in favor of the Board of Managers and the Insurance Trustee hereinafter set forth; (2) rent insurance covering the rents of the commercial areas of the Buildings and the common charges and expenses payable by the unit owners; (3) workmen's compensation insurance; (4) boiler and machinery insurance; (5) plate glass insurance; (6) water damage insurance; and (7) such other insurance as the Board of Managers may determine. All such policies shall provide that adjustment of loss shall be made by the Board of Managers and that the net proceeds thereof, if \$50,000 or less, shall be payable to the Board of Managers, and if more than \$50,000 shall be payable to the Insurance Trustee.

The amount of fire insurance to be maintained until the first meeting of the Board of Managers following the first annual meeting of the unit owners shall be in at least the sum of \$60,000,000.

All policies of physical damage insurance shall contain waivers of subrogation and waivers of any defense based on co-insurance or of invalidity arising from any acts of the insured, and shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days' prior written notice to all of the insureds, including all mortgagees of apartment units. Duplicate originals of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all mortgagees of apartment units at least ten (10) days prior to expiration of the then current policies. Prior to obtaining any policy of fire insurance or any renewal thereof, the Board of Managers shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the Buildings, including all of the apartment units and all of the common elements therein, without deduction for depreciation, for the purpose of determining the amount of fire insurance to be effected pursuant to this Section.

The Board of Managers shall also be required to obtain and maintain, to the extent obtainable, public liability insurance in such limits as the Board of Managers may from time to time determine, covering each member of the Board of Managers, the managing agent, the manager, and each unit owner. Such public liability coverage shall also cover cross liability claims of one insured against another. The Board of Managers shall review such limits once each year. Until the first meeting of the Board of Managers following the first annual meeting of the unit owners, such public liability insurance shall be in a single limit of \$5,000,000 covering all claims for bodily injury or property damage arising out of one occurrence and in a limit of \$1,000,000 for each occurrence for water damage legal liability claims.

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

Section 3. *Repair or Reconstruction After Fire or Other Casualty.* In the event of damage to or destruction of the Buildings or any of them as a result of fire or other casualty (unless such damage or destruction shall give a unit owner or lienor a right of partition as provided by Article 9-B of the Real Property Law of the State of New York), the Board of Managers shall arrange for the prompt repair and restoration of the Building or Buildings (including any damaged apartment units, and any kitchen or bathroom fixtures installed therein on the date of recordation of the Declaration, but not including any wall, ceiling, or floor decorations or coverings or other furniture, furnishings, fixtures or equipment installed by unit owners in the apartment units), and the Board of Managers or the Insurance Trustee, as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute a common expense and the Board of Managers may assess all the unit owners for such deficit as part of the common charges.

If, as the result of damage to or destruction of the Buildings, or any of them, by fire or other casualty, the Property becomes subject to an action for partition at the suit of any unit owner or lienor as if owned in common, in accordance with the provisions of Article 9-B of the Real Property Law of the State of New York, the Property will not be repaired and the net proceeds of sale, together with the net proceeds of insurance policies (or if there shall have been a repair or restoration pursuant to the first paragraph of this Section 3, and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration, then the excess of such insurance proceeds) shall be divided by the Board of Managers or the Insurance Trustee, as the case may be, among all the unit owners in proportion to their respective common interests, after first paying out of the share of each unit owner the amount of any unpaid liens on his apartment unit, in the order of the priority of such liens.

Section 4. *Payment of Common Charges.* All unit owners shall be obligated to pay the common charges assessed by the Board of Managers pursuant to the provisions of Section 1 of this Article V at such time or times as the Board of Managers shall determine.

No unit owner shall be liable for the payment of any part of the common charges assessed against his apartment unit subsequent to a sale, transfer or other conveyance by him (made in accordance with the provisions of Section 1 of Article VII of these By-Laws) of such apartment unit, together with the Appurtenant Interests, as defined in Section 1 of Article VII hereof. In addition, any unit owner may, subject to the terms and conditions specified in these By-Laws, provided that his apartment unit is free and clear of liens and encumbrances other than a permissible mortgage and the statutory lien for unpaid common charges, convey his apartment unit, together with the "Appurtenant Interests" to the Board of Managers, or its designee, corporate or otherwise, on behalf of all other unit owners, and in such event be

exempt from common charges thereafter assessed. A purchaser of an apartment unit shall be liable for the payment of common charges assessed against such apartment unit prior to the acquisition by him of such apartment unit, except that a mortgagee (other than the Sponsor) or other purchaser of an apartment unit at a foreclosure sale of such apartment unit shall not be liable for and such apartment unit shall not be subject to a lien for the payment of common charges assessed prior to the foreclosure sale.

Section 5. *Collection of Assessments.* The Board of Managers shall assess common charges against the unit owners from time to time and at least annually and shall take prompt action to collect any common charge due from any unit owner which remains unpaid for more than 30 days from the due date for payment thereof.

Section 6. *Default in Payment of Common Charges.* In the event of default by any unit owner in paying to the Board of Managers the common charges as determined by the Board of Managers, such unit owner shall be obligated to pay interest at the legal rate on such common charges from the due date thereof, together with all expenses, including attorneys' fees, incurred by the Board of Managers in any proceeding brought to collect such unpaid common charges. The Board of Managers shall have the right and duty to attempt to recover such common charges, together with interest thereon, and the expenses of the proceeding, including attorneys' fees, in an action to recover the same brought against such unit owner, or by foreclosure of the lien on such apartment unit granted by Section 339-z of the Real Property Law of the State of New York, in the manner provided in Section 339-aa thereof.

Section 7. *Foreclosure of Liens for Unpaid Common Charges.* In any action brought by the Board of Managers to foreclose a lien on an apartment unit because of unpaid common charges, the unit owner shall be required to pay a reasonable rental for the use of his apartment unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board of Managers, acting on behalf of all unit owners, shall have power to purchase such apartment unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same. A suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

Section 8. *Statement of Common Charges.* The Board of Managers shall promptly provide any unit owner so requesting the same in writing, with a written statement of all unpaid common charges due from such unit owner.

Section 9. *Abatement and Enjoinment of Violations by Unit Owners.* The violation of any rule or regulation adopted by the Board of Managers, or the breach of any By-Law contained herein, or the breach of any provision of the Declaration,

shall give the Board of Managers the right, in addition to any other rights set forth in these By-Laws: (a) to enter the apartment unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Managers shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

Section 10. *Maintenance and Repair.* (a) All maintenance of and repairs to any apartment unit and any common elements exclusive thereto, structural or non-structural, ordinary or extraordinary, (other than maintenance of and repairs to any common elements contained therein and not necessitated by the negligence, misuse or neglect of the owner of such apartment unit) shall be made by the owner of such apartment unit. Each unit owner shall be responsible for all damages to any and all other apartment units and/or to the common elements that his failure so to do may engender.

(b) All maintenance, repairs and replacements to the common elements (other than the limited common elements exclusive to particular units), whether located inside or outside of the apartment units, (unless necessitated by the negligence, misuse or neglect of a unit owner, in which case such expense shall be charged to such unit owner), shall be made by the Board of Managers and be charged to all the unit owners as a common expense.

Section 11. *Steam.* Steam for heating shall be supplied to the apartment units in each Building through the Building meter or meters and the bills for the same shall be paid by the Board of Managers as a common expense.

Section 12. *Restrictions on Use of Apartment Units.* In order to provide for congenial occupancy of the Property and for the protection of the values of the apartment units, the use of the Property shall be restricted to and shall be in accordance with the following provisions:

(a) The apartment units shall be used for residences only and except upon the prior written consent of the Board of Managers occupants of an apartment unit must be members of the family of the unit owner or approved lessee (or if the unit owner or approved lessee is a partnership, a corporation or a trust, members of the family of a partner or of an officer, director, shareholder or employee of the corporation or of the beneficiary of the trust, as the case may be), but not more than one family may occupy a unit at one time. "Members of the family" as used herein shall be deemed to mean spouse, parents, parents-in-law, brothers, sisters, children and grandchildren.

(b) The common elements shall be used only for the furnishing of the services and facilities for which they are reasonably suited and capable and which are incident to the use and occupancy of apartment units.

(c) No nuisances shall be allowed on the Property nor shall any use or practice be allowed which is a source of annoyance to its residents or occupants or which interferes with the peaceful possession or proper use of the Property by its residents or occupants.

(d) No immoral, improper, offensive, or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with by and at the sole expense of the unit owners or the Board of Managers, whichever shall have the obligation to maintain or repair such portion of the Property.

(e) No portion of an apartment unit (other than the entire apartment unit) may be rented; and no transient tenants may be accommodated therein.

Section 13. *Additions, Alterations or Improvements by Board of Managers.* Whenever in the judgment of the Board of Managers the common elements shall require additions, alterations or improvements costing in excess of \$50,000, and the making of such additions, alterations or improvements shall have been approved by 50% in number and in common interest of the unit owners present in person and/or by proxy and voting at a meeting duly held in accordance with these By-Laws, and by the representative or representatives, if any, appointed pursuant to Section 5 of Article VI hereof by the holders of mortgages constituting first liens upon units, the Board of Managers shall proceed with such additions, alterations or improvements and shall assess all unit owners for the cost thereof as a common charge. Any additions, alterations or improvements costing \$50,000 or less may be made by the Board of Managers without approval of the unit owners, or the representative or representatives, if any, of mortgagees of units and the cost thereof (unless paid from the Reserve Fund supplied by the Sponsor in accordance with the Plan of Condominium Ownership) shall constitute part of the common expenses.

Section 14. *Additions, Alterations or Improvements by Unit Owners.* No unit owner shall install any appliance or make any structural addition, alteration or improvement in or to his apartment unit, without the prior written consent thereto of the Board of Managers. The Board of Managers shall have the obligation to answer any written request by a unit owner for approval of a proposed installation or structural addition, alteration or improvement in such unit owner's apartment unit within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board of Managers to the proposed installation, addition, alteration or improvement. Any application to any department

of the City of New York or to any other governmental authority for a permit to make an installation, addition, alteration or improvement in or to any apartment unit shall be executed by the Board of Managers only, without, however, incurring any liability on the part of the Board of Managers or any of them to any contractor, subcontractor, materialman, architect or engineer on account of such installation, addition, alteration or improvement, or to any person having any claim for injury to person or damage to property arising therefrom. The provisions of this Section 14 shall not apply to an apartment unit owned by the Sponsor or its designee until a deed to such unit has been delivered to a purchaser thereof.

The Board of Managers will execute any application or other document required to be filed with any governmental authority having or asserting jurisdiction in connection with any such installation or structural addition, alteration or improvement made by the Sponsor or its designee to any apartment unit, provided, however, that neither the Board of Managers nor the unit owners shall be subjected to any expense or liability by virtue of the execution of the application or such other document.

Section 15. *Use of Common Elements and Facilities.* (a) A unit owner shall not place or cause to be placed in the lobbies, vestibules, public halls, stairways, elevators or other common areas or common facilities, other than the areas designated as storage areas, any furniture, packages or objects of any kind. The lobbies, vestibules, public halls, stairways and elevators shall be used for no purpose other than for normal transit through them.

(b) Unit owners shall require their tradesmen to utilize exclusively the elevators designated by the Board of Managers for transporting packages, merchandise or any other objects which may affect the comfort or well-being of the passengers of the elevators used for transportation of owners, residents and guests.

(c) The common elements and facilities shall be used only for those purposes for which they are reasonably suited and capable.

Section 16. *Right of Access.* A unit owner shall grant a right of access to his apartment unit to the manager and/or the managing agent and/or any other person authorized by the Board of Managers, the manager or the managing agent, for the purpose of making inspections or for the purpose of correcting any condition originating in his apartment unit and threatening another apartment unit or a common element, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other common elements in his apartment unit or elsewhere in the Building, or to correct any condition which violates the provisions of any mortgage covering another apartment unit, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the unit owner. In case of an emergency, such right of entry shall be immediate, whether the unit owner is present at the time or not.

Section 17. *Rules of Conduct.* Rules and regulations concerning the use of the apartment units and the common elements may be promulgated and amended by the Board of Managers. Copies of such rules and regulations shall be furnished by the Board of Managers to each unit owner prior to the time when the same shall become effective. Initial rules and regulations, which shall be effective until amended by the Board of Managers, are annexed hereto and made a part hereof.

Section 18. *Water Charges and Sewer Rents.* Water shall be supplied to all of the apartment units and the common elements through one or more building meters and the Board of Managers shall pay, as a common expense, all charges for water consumed on the Property, including the apartment units, together with all related sewer rents arising therefrom, promptly after the bills for the same shall have been rendered. In the event of a proposed sale of an apartment unit by the owner thereof, the Board of Managers on request of the selling unit owner shall execute and deliver to the purchaser of such apartment unit or to the purchaser's title insurance company a letter agreeing to pay all charges for water and sewer rents affecting the apartment unit as of the date of closing of title to such apartment unit, promptly after such charges shall have been billed by the City Collector.

Section 19. *Gas.* Gas shall be supplied to the apartment units in each Building through the Building meter or meters and the bills for the same shall be paid by the Board of Managers as a common expense.

Section 20. *Electricity.* Electricity shall be supplied to the apartment units in each Building through the Building meter or meters and the bills for the same shall be paid by the Board of Managers as a common expense.

ARTICLE VI

Mortgages

Section 1. *Notice to Board of Managers.* A unit owner who mortgages his apartment unit, shall notify the Board of Managers of the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the Board of Managers; the Board of Managers shall maintain such information in a book entitled "Mortgages of Apartment Units".

Section 2. *Notice of Unpaid Common Charges or Other Default.* The Board of Managers, whenever so requested in writing by a mortgagee of an apartment unit, shall promptly report any then unpaid common charges due from or any other default by the owner of the mortgaged apartment unit.

Section 3. *Notice of Default.* The Board of Managers, when giving notice to a unit owner of a default in paying common charges or other default, shall send

a copy of such notice to each holder of a mortgage covering such apartment unit whose name and address has theretofore been furnished to the Board of Managers.

Section 4. Examination of Books. Each unit owner and each mortgagee of an apartment unit shall be permitted to examine the books of account of the Condominium at reasonable times, on business days, but not more often than once a month.

Section 5. Representative of Mortgagees. The holders of mortgages constituting first liens on the units may, at their election, appoint one or more (but not more than three) representatives who shall be empowered to act on behalf of all mortgagees (first or subordinate) with respect to any matter requiring the consent or approval of mortgagees under the Declaration or these By-Laws. If such representative or representatives are appointed and notice thereof given to the Board of Managers the act of such representative or representatives shall be deemed binding upon the holders of all mortgages which shall be liens on units. If no such representative shall be appointed or written notice of the appointment shall not be given to the Board of Managers, then notwithstanding any other provision of the Declaration or these By-Laws, the consent of mortgagees shall not be required to any act of the Board of Managers or the unit owners.

ARTICLE VII

Sales, Leases and Mortgages of Units

Section 1. Sales and Leases. (a) No apartment unit owner may sell his unit or any interest therein except by complying with the following provisions:

Any apartment unit owner who receives a bona fide offer (hereinafter called an "Outside Offer") for the sale of his unit together with: (i) the undivided interest in the common elements appurtenant thereto; (ii) the interest of such unit owner in any units theretofore acquired by the Board of Managers, or its designee, on behalf of all unit owners, or the proceeds of the sale or lease thereof, if any; and (iii) the interest of such unit owner in any other assets of the Condominium, (hereinafter collectively called the "Appurtenant Interests"), which he intends to accept, shall give notice to the Board of Managers of such offer and of such intention, the name and address of the proposed purchaser, the terms of the proposed transaction and such other information as the Board of Managers may reasonably require, and shall offer to sell such apartment unit, together with the Appurtenant Interests, to the Board of Managers, or its designee, corporate or otherwise, on behalf of the owners of all other units, on the same terms and conditions as contained in such Outside Offer. The giving of such notice shall constitute a warranty and representation by the unit owner who has received such offer, to the Board of Managers on behalf of the other unit owners, that such unit owner believes the Outside Offer to be bona

vide in all respects. Within thirty days after receipt of such notice, the Board of Managers may elect, by notice to such unit owner, to purchase such apartment unit, together with the Appurtenant Interests, (or to cause the same to be purchased by its designee, corporate or otherwise), on behalf of all other unit owners, on the same terms and conditions as contained in the Outside Offer and as stated in the notice from the offering unit owner. In the event the Board of Managers shall elect to purchase such apartment unit, together with the Appurtenant Interests, or to cause the same to be purchased by its designee, corporate or otherwise, title shall close at the office of the attorneys for the Condominium forty-five (45) days after the giving of notice by the Board of Managers of its election to accept such offer. At the closing, the unit owner shall convey the apartment unit to the Board of Managers or to its designee, on behalf of all other unit owners, by deed in the form required by Section 339-o of the Real Property Law of the State of New York, with all transfer stamps affixed, and shall pay all New York City Real Property Transfer taxes and all other taxes arising out of such sale. Real estate taxes, mortgage interest and common charges and expenses shall be apportioned between the unit owner and the Board of Managers, or its designee, as of the closing date. In the event the Board of Managers or its designee shall fail to accept such offer within thirty days as aforesaid, the offering unit owner shall be free to contract to sell such apartment unit, together with the Appurtenant Interests, within sixty days after the expiration of the period in which the Board of Managers or its designee might have accepted such offer, to the Outside Offeror, on the terms and conditions set forth in the notice from the offering unit owner to the Board of Managers of such Outside Offer. Any such deed to an Outside Offeror shall provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the Declaration, the By-Laws and the Rules and Regulations, as the same may be amended from time to time. In the event the offering unit owner shall not, within such 60 day period, contract to sell such apartment unit, together with the Appurtenant Interests, to the Outside Offeror on the terms and conditions contained in the Outside Offer, or if the unit owner shall so contract to sell his apartment unit within such sixty day period, but such sale shall not be consummated pursuant to the terms of such contract, then should such offering unit owner thereafter elect to sell such apartment unit, together with the Appurtenant Interests, to the same or another Outside Offeror on the same or other terms and conditions, the offering unit owner shall be required to again comply with all of the terms and provisions of this Section 1 of this Article VII.

Any purported sale of a unit in violation of this Section shall be voidable at the election of the Board of Managers.

(b) No apartment unit owner may lease his apartment unit except by complying with the following provisions:

Any apartment unit owner who receives a bona fide offer for a lease of his apartment unit which he intends to accept shall give notice to the Board of Managers

of such offer and of such intention, the name and address of the proposed lessee, the terms of the proposed lease, references, and such other information as the Board of Managers may reasonably require. The Board of Managers shall from time to time prescribe a form upon which the aforesaid information shall be listed. No such lease of the apartment unit shall be made without the prior written consent thereto of the Board of Managers. The Board of Managers shall, within 30 days after receipt of a fully completed application form, advise the apartment unit owner in writing of its consent or refusal to consent, and failure to so advise the unit owner within said period shall be deemed a consent to the said lease. In the event the Board of Managers consents to the proposed lease, the offering unit owner shall be free to lease such apartment unit to the lessee named in said notice upon the terms and conditions set forth therein. The consent of the Board of Managers to a lease shall not in anywise be construed to relieve the apartment unit owner from obtaining the consent of the Board of Managers to another lease and a unit owner who subsequently desires to lease such apartment unit shall be required again to comply with all the terms and provisions of this Section 2 of Article VII. Any such lease shall be consistent with these By-Laws and shall provide that it may not be modified, amended, extended or assigned, without the prior consent in writing of the Board of Managers, that the tenant shall not sublet the demised premises, or any part thereof, without the prior consent in writing of the Board of Managers, that the Board of Managers shall have 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 default by the tenant in the performance of such lease, and that the Board of Managers shall have the right to terminate the lease on not less than 30 days' prior written notice upon foreclosure of the lien granted by Section 339-z of the Real Property Law of the State of New York. Except as hereinbefore set forth, the form of any such lease shall be the then current form of apartment lease recommended by The Real Estate Board of New York, Inc., with such modifications as shall be approved in writing by the Board of Managers.

Any purported lease of an apartment unit in violation of this Section shall be voidable at the election of the Board of Managers.

Section 2. Consent of Unit Owners to Purchase of Apartment Units By Board of Managers. The Board of Managers shall not exercise any option hereinabove set forth to purchase any apartment unit without the prior approval of a majority of the unit owners.

Section 3. No Severance of Ownership. No unit owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to his apartment unit without including therein the Appurtenant Interests, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or

described therein. No part of the Appurtenant Interests of any apartment unit may be sold, transferred or otherwise disposed of, except as part of a sale, transfer or other disposition of the apartment unit to which such interests are appurtenant, or as part of a sale, transfer or other disposition of such part of the Appurtenant Interests of all apartment units.

Section 4. *Release by Board of Managers of Right of First Refusal.* The right of first refusal contained in Section 1 of this Article VII may be released or waived by the Board of Managers, in which event the apartment unit together with the Appurtenant Interests, may be sold or conveyed, free and clear of the provisions of such section.

Section 5. *Certificate of Termination of Right of First Refusal.* A certificate, executed and acknowledged by the Secretary of the Condominium, stating that the provisions of Section 1 of this Article VII have been met by a unit owner, or have been duly waived by the Board of Managers, and that the rights of the Board of Managers thereunder have terminated, shall be conclusive upon the Board of Managers and the unit owners in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any unit owner who has in fact complied with the provisions of Section 1 of this Article VII or in respect to whom the provisions of such section have been waived, upon request.

Section 6. *Financing of Purchase of Apartment Units By Board of Managers.* Acquisition of apartment units by the Board of Managers, or its designee, on behalf of all unit owners, may be made from the working capital and common charges in the hands of the Board of Managers, or if such funds are insufficient, the Board of Managers may levy an assessment against each unit owner in proportion to his ownership in the common elements, as a common charge, which assessment shall be enforceable in the same manner as provided in Sections 6 and 7 of Article V, or the Board of Managers, in its discretion, may borrow money to finance the acquisition of such apartment unit, provided, however, that no financing may be secured by an encumbrance or hypothecation of any property other than the apartment unit, together with the Appurtenant Interests, so to be acquired by the Board of Managers.

Section 7. *Exceptions.* The provisions of Section 1 of this Article VII shall not apply with respect to (a) any sale or conveyance by a unit owner of his apartment unit, together with the Appurtenant Interests, to his spouse or to any of his adult children or to his parent or parents or to his brothers or sisters, or any one or more of them, or (b) a sale or lease of an apartment unit owned by the Sponsor or a designee of the Sponsor, or (c) the acquisition, sale or lease of an apartment unit, together with the Appurtenant Interests, by a mortgagee herein authorized who shall acquire title to such unit by foreclosure or by deed in lieu of foreclosure.

Section 8. *Gifts and Devises, etc.* Any unit owner shall be free to convey or transfer his apartment unit by gift, or to devise his apartment unit by will, or to pass the same by intestacy, without restriction.

Section 9. *Waiver of Right of Partition With Respect to Such Apartment Units as Are Acquired by the Board of Managers, Or Its Designee, on Behalf of All Unit Owners as Tenants in Common.* In the event that an apartment unit shall be acquired by the Board of Managers, or its designee, on behalf of all unit owners as tenants in common, all such unit owners shall be deemed to have waived all rights of partition with respect to such apartment unit and if the Board should so elect, the unit owner shall be deemed to have authorized and empowered the Board of Managers to institute legal proceedings to evict the purported tenant in the name of the said unit owner as the purported landlord.

Section 10. *Payment of Assessments.* No unit owner shall be permitted to convey, mortgage, pledge, hypothecate, sell or lease his apartment unit unless and until he shall have paid in full to the Board of Managers all unpaid common charges and expenses theretofore assessed by the Board of Managers against his apartment unit and until he shall have satisfied all unpaid liens against such apartment unit, except permitted mortgages.

Section 11. *Mortgage of Units.* Each unit owner shall have the right to mortgage his unit without restriction provided that any such mortgage shall be substantially in the form of the New York statutory form of mortgage, except for such changes or additions as may be necessary in order to permit a particular bank, trust company, insurance company, savings and loan association or other institutional lender to make the mortgage loan.

ARTICLE VIII

Condemnation

Section 1. *Condemnation.* In the event of a taking in condemnation or by eminent domain of part or all of the common elements, the award made for such taking shall be payable to the Board of Managers if such award amounts to \$50,000 or less, and to the Insurance Trustee if such award amounts to more than \$50,000. If 75% or more of the unit owners duly and promptly approve the repair and restoration of such common elements, the Board of Managers shall arrange for the repair and restoration of such common elements, and the Board of Managers or the Insurance Trustee, as the case may be, shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that 75% or more of unit owners do not duly and promptly approve the repair and restoration of such common elements, the Board of Managers or the Insurance Trustee, as the case may be, shall disburse the net proceeds of such

award in the same manner as they are required to distribute insurance proceeds where there is no repair or restoration of the damage, as provided in Section 3 of Article V of these By-Laws.

ARTICLE IX

Records

Section 1. *Records and Audits.* The Board of Managers or the managing agent shall keep detailed records of the actions of the Board of Managers and the managing agent, minutes of the meetings of the Board of Managers, minutes of the meetings of the unit owners, and financial records and books of account of the Condominium, including a chronological listing of receipts and expenditures, as well as a separate account for each apartment unit which, among other things, shall contain the amount of each assessment of common charges against such apartment unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. An annual report of the receipts and expenditures of the Condominium audited by an independent certified public accountant, shall be rendered by the Board of Managers to all unit owners and to all mortgagees of apartment units who have requested the same, promptly after the end of each fiscal year. The cost of such report shall be paid by the Board of Managers as a common expense.

ARTICLE X

Miscellaneous

Section 1. *Notices.* All notices hereunder shall be sent by registered or certified mail to the Board of Managers c/o the managing agent, or if there be no managing agent, to the office of the Board of Managers or to such other address as the Board of Managers may hereafter designate from time to time, by notice in writing to all unit owners and to all mortgagees of apartment units. All notices to any unit owner shall be sent by registered or certified mail to the Building in which the unit is located or to such other address as may have been designated by him from time to time, in writing, to the Board of Managers. All notices to mortgagees of apartment units shall be sent by registered or certified mail to their respective addresses, as designated by them from time to time, in writing, to the Board of Managers. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

Section 2. *Invalidity.* The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

Section 3. *Captions.* The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws, or the intent of any provision thereof.

Section 4. *Gender.* The use of the masculine gender in these By-Laws shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

Section 5. *Waiver.* No restriction, condition, obligation, or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

Section 6. *Insurance Trustee.* The Insurance Trustee shall be a bank or trust company in the City of New York, designated by the Board of Managers and having a capital, surplus and undivided profits of \$50,000,000 or more. In the event that the Insurance Trustee shall resign, the new Insurance Trustee shall also be a bank or trust company in the City of New York, designated by the Board of Managers and having a capital, surplus and undivided profits of \$50,000,000 or more. The Board of Managers shall pay the fees and disbursements of any Insurance Trustee and such fees and disbursements shall constitute a common expense of the Condominium.

ARTICLE XI

Amendments to By-Laws

Section 1. *Amendments to By-Laws.* Except as hereinafter provided otherwise, these By-Laws may be modified or amended by the vote of 66 2/3% in number and in common interest of all unit owners at a meeting of unit owners duly held for such purpose, but only with the written approval of the representative or representatives, if any, appointed pursuant to Section 5 of Article VI hereof by the holders of mortgages constituting first liens on units. Section 1 of Article III, in so far as it provides that the Sponsor or its designee, so long as it is the owner of apartment units, shall be entitled to elect at least four members of the Board of Managers, Section 2 of Article II, insofar as it provides that the Board of Managers may not exercise certain powers without the Sponsor's prior written consent so long as the Sponsor or its designee shall continue to own apartment units representing 50% or more in common interest, Section 8 of Article III, in so far as it provides that the Sponsor, or its designee, so long as it is the owner of apartment units, may vote the votes appurtenant thereto, Section 14 of Article V, in so far as it provides that the provisions of such Section shall not apply to any units owned by the Sponsor or its designee, Section 1 of Article VII, in so far as it provides for a right of first refusal to the Board of Managers, Section 7 of Article VII in so far as it provides

that the provisions of Section 1 of such Article shall not apply with respect to a sale or lease of an apartment unit owned by the Sponsor or its designee, and this Section 1 of Article XI, however, may not be amended without the consent in writing of the Sponsor or its designee so long as the Sponsor or its designee shall be the owner of one or more apartment units. Notwithstanding anything to the contrary herein contained, no provision of these By-Laws relating to the use of the units may be amended without the consent of every unit owner affected by such amendment.

ARTICLE XII

Conflicts

Section 1. *Conflicts.* These By-Laws are set forth to comply with the requirements of Article 9-B of the Real Property Law of the State of New York. In case any of these By-Laws conflict with the provisions of said statute or of the Declaration, the provisions of said statute or of the Declaration, as the case may be, shall control.

**FIRST AMENDMENT TO
DECLARATION OF CONDOMINIUM
AND BY-LAWS**

Premises known as:

THE PARKCHESTER NORTH CONDOMINIUM
The North Quadrant
of the Parkchester Apartment Complex
Bronx, New York

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

Name: **THE PARKCHESTER NORTH CONDOMINIUM**

Declaration dated: December 7, 1972
Recorded on: December 11, 1972
In Reel 198, Page 65

Date of First Amendment: June 1, 2003

Prepared by: Wolf Haldenstein Adler Freeman
& Herz LLP
270 Madison Avenue
New York, New York 10016

The land affected by the within instrument lies in

Section: *as listed on the Schedule Annexed hereto*
Blocks: *as listed on the Schedule Annexed hereto*
Lots: As listed on the Schedule Annexed hereto

V
A

**FIRST AMENDMENT TO
DECLARATION OF CONDOMINIUM
AND BY-LAWS OF
THE PARKCHESTER NORTH CONDOMINIUM**

The Board of Managers of the Parkchester North Condominium on behalf of all Unit Owners of the Parkchester North Condominium, located at the North Quadrant of the Parkchester Apartment Complex, Bronx, New York, with offices at 1970 East Tremont Avenue, Bronx, New York by Esther Monge, as Secretary of the Board of Managers.

NOTICE IS HEREBY GIVEN that at the Annual Meeting of Unit Owners of The Parkchester North Condominium held on August 12, 2002, the following amendments to By-Laws of the Condominium, were enacted by an affirmative vote of the holders of over two-thirds of the Unit Owners in number and in Common Interests:

CHANGES TO BY-LAWS OF THE PARKCHESTER NORTH CONDOMINIUM

1. **Definitions.** All terms not expressly defined herein shall have the same meanings given to them in the Declaration of Condominium dated December 7, 1972, recorded in the Bronx County Register's office on December 11, 1972 in Reel 198, page 65 (the "**Declaration**") establishing The Parkchester North Condominium (the "**Condominium**") and the By-Laws of the Condominium.

"Condominium Board": The Board of Managers of The Parkchester North Condominium

"Loan": A loan in the approximate amount of \$20 million, more or less, to be made by the Lender to the Condominium Board, as agent for and on behalf of the unit owners, as the same may be modified, amended, reduced, increased and/or refinanced, from time to time.

"Loan Documents": All documents executed and/or delivered in connection with the Loan.

"Borrower": The Condominium Board as agent for and on behalf of the unit owners.

"Lender": The Community Preservation Corporation or the holder of the Loan from time to time.

"Loan Period": The term of the Loan as agreed to by the Condominium Board in the Loan Documents and until the indebtedness under the Loan (including the principal amount, interest and all other

sums payable under the Loan Documents) is paid in full by the Borrower to the Lender.

2. **Amendment is Paramount.** This First Amendment to the Declaration modifies and/or supplements the By-Laws and the Rules and Regulations of the Condominium. This First Amendment shall be paramount and shall govern and supersede any and all provisions of the By-Laws or Rules and Regulations which are inconsistent herewith. During the Loan Period, the By-Laws and Rules and Regulations may not be amended to affect adversely any of the rights of the Lender under the By-Laws as amended by this First Amendment or to change any of the provisions of this First Amendment without first obtaining the written consent of Lender thereto.
3. **Board of Managers-Powers and Duties.** Section 2(n) is hereby amended as follows (additions are **underlined and bold**):

"Section 2. Powers and Duties. The Board of Managers shall have the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things except as by law or by the Declaration or by these By-Laws may not be delegated to the Board of Managers by the unit owners. Such powers and duties of the Board of Managers shall include, but shall not be limited to, the following:

- a. Borrowing money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of the common elements, provided, however, that (i) the consent of at least ~~66 2/3%~~ **a majority (more than 50%)** in number and in common interest of all unit owners, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these By-Laws, shall be required for the borrowing of any sum in excess of \$50,000 and (ii) no lien to secure repayment of any sum borrowed may be created on any apartment unit or its appurtenant interest in the common elements without the consent of the unit owner.
4. **Bankruptcy Remote Board Member.** The following Section 16 is hereby added to Article II of the By-laws:

"Section 16. Bankruptcy Remote Board Member/Director. During the Loan Period, the board of managers (and any executive committee thereof) of the Condominium shall include either (i) a member of the Board who shall comply with the Independence Requirements (as hereinafter defined) or (ii) an ex officio manager ("ex officio manager") who shall be appointed and removed, and shall serve and have the powers as set forth below. If an ex officio manager is appointed in order to comply with the provisions of this Section 16, then such manager shall be in addition to the number of managers and Board Members presently elected, appointed or designated under the By-Laws prior to this Amendment and shall have the status of a manager and Board Member for the sole purpose of exercising the bankruptcy remote powers to be granted the ex officio manager as described below and for no other purpose. A manager (including the ex officio manager) shall be presumed to have acted in good faith and in the best interests of the unit owners when exercising the powers granted

under this Section 16, including, without limitation, electing not to file or defending against the filing of a Bankruptcy proceeding with respect to the Condominium and/or the Condominium Board. The manager selected in order to comply with the provisions of this Section 16 (including, without limitation, any ex officio manager appointed hereunder) shall not at the time of initial appointment nor at any time during the preceding five (5) years, or at any time during his or her tenure be: (a) a manager, officer, employee or partner of the Condominium Board, a unit owner, any guarantor of the Loan, any partnership in which the Condominium Board is a partner or any affiliate of any of them; (b) a customer of, or supplier to, the Condominium Board or any guarantor of the Loan or any affiliate of any of them; (c) a person or other entity controlling or under common control with any such manager, partner, customer or supplier; or (d) a member of the immediate family of any such manager, officer, employee, partner, customer, supplier or other person referred to in clause "(c)" above. The foregoing requirements as contained in the preceding sentence are collectively referred to as the "Independence Requirements". As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a person or entity, whether through ownership of voting securities, by contract or otherwise.

A unanimous vote of the Condominium Board shall be required for the Condominium:

- (a) To take any "Bankruptcy Action" (as defined below);
- (b) To dissolve, liquidate, consolidate, merge or sell all or substantially all of its assets;
and
- (c) To amend this Section 16 of the By-laws;

"Bankruptcy Action" means:

- A. Commencing any case, proceeding or other action on behalf of the Condominium under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors;
- B. Instituting or soliciting the institution of proceedings to have the Condominium adjudicated as bankrupt or insolvent;
- C. Consenting to the institution of bankruptcy or insolvency proceedings against the Condominium;
- D. Filing a petition or consent to a petition seeking reorganization, arrangement, adjustment, winding-up, dissolution, composition, liquidation or other relief on behalf of the Condominium under any federal or state law relating to bankruptcy;

E. Seeking or consenting to the appointment (except at the request of Lender) of a receiver, liquidator, assignee, trustee, sequestrator, custodian or similar official for the Condominium or a substantial portion of its properties; or

F. Making any assignment for the benefit of the creditors of the Condominium (except, at the request of Lender, to Lender or its designee).

The ex officio manager shall be appointed, removed and (in case of vacancy caused by resignation, disability, removal or otherwise) replaced by the Condominium Board, subject, in each case, to the written approval of Lender. Each ex officio manager so appointed and each replacement therefor must satisfy the Independence Requirements. The individual serving as an ex officio manager, if any, shall continue in office until removed."

5. **Balanced Budget; Trust Funds.** Article V, Section 1 of the By-laws is hereby amended to add additional language at the end (additions are **underlined and in bold**):

"Section 1. Determination of Common Expenses and Fixing of Common Charges.

Balanced Budget. During the Loan Period the Condominium Board shall adopt before the start of each calendar year, implement and at all times have and maintain throughout the year, a Balanced Budget (as defined below). During each calendar year, the Lender may make or require periodic audits of Condominium operations to determine whether the projections in the adopted Balanced Budget are being met. In the event an audit discloses a deficit, the Condominium Board shall promptly (i) reduce common expenses and/or (ii) increase the common charges for the remainder of such calendar year by amounts sufficient to achieve or maintain a Balanced Budget for the whole of such calendar year, including payment of any deficit for the period covered by such audit. A "Balanced Budget" is a budget of operations of the Property by the Condominium Board for a calendar year in which the projected income shall equal or exceed the projected expenses for such calendar year. The projected expenses shall include any amounts due under the Loan Documents."

"During the Loan Period, the Condominium Board shall (except in the case of an emergency, to the extent required in order to comply with law) comply with the trust fund provisions of Section 339-jj of the Real Property Law. Any court order appointing a receiver may authorize the receiver to, in the place and stead of the Condominium Board, adopt a Balanced Budget for the Condominium under Paragraph 5 of this Amendment and fix common charges in amounts sufficient to pay the common expenses provided in such Balanced Budget, including, without limitation, amounts due under the Loan Documents."

6. **Loan Documents.** Article V of the By-laws is hereby amended to add the following Sections 21 and 22:

"Section 21. Loan. By adoption of this First Amendment, the unit owners hereby consent to the Loan, and the Condominium Board is authorized, without any further consent of the unit owners, as agent for and on behalf of the unit owners, to enter into the Loan. The provisions hereof shall also constitute a consent to the Loan pursuant to Section 339-jj of the Real Property Law. However, the provisions hereof shall not be construed to constitute the consent by the unit owners to any borrowing by the Condominium Board other than the Loan."

"Section 22. Loan Documents. The Condominium Board is authorized, without any further consent of the unit owners, as agent for and on behalf of the unit owners, by any of its officers, to execute and deliver such instruments or other documents, take such acts and do such things, as may be necessary or appropriate, in order to obtain the Loan and enter into Loan Documents, upon such terms and conditions as shall be agreed to by the Condominium Board or any of its officers, provided, however, that with respect to the Loan Documents, the limitation of liability of each unit owner set forth in Article II, Section 2(n) of the By-Laws is not modified or waived.

It shall not be deemed that upon making of the Loan that there is a special assessment in the amount thereof against the unit owners. Rather, the debt service payments due from time to time in connection with the Loan shall be assessed against the unit owners as part of the monthly common charges pursuant to the Balanced Budget and not as a special assessment."

7. **Repair or Reconstruction.** Article V, Section 3 of the By-laws is hereby amended to add additional language at the end (additions are underlined and in bold):

"Section 3 Repair or Reconstruction After Fire or Other Casualty.

Notwithstanding anything to the contrary contained herein and except as set forth below, damage to or destruction of any building(s) as a result of fire or other casualty, a taking in condemnation or by eminent domain, or otherwise, shall be "promptly repaired and reconstructed" (as defined below) by the Condominium Board and shall not give a unit owner or lienor a right of partition under the Condominium Act.

The term "promptly repaired and reconstructed" shall mean that: the work shall begin within 90 days after collection of the net proceeds of insurance (in the case of a casualty) or award (in the case of condemnation or eminent domain), but in no event later than 6 months from the occurrence of the damage or destruction; and thereafter the work shall proceed to be completed with due diligence (subject only to delays occasioned by events or circumstances beyond reasonable control).

If the Loan Period has expired and if buildings containing 75% or more of the floor area of all buildings on the Property are destroyed or are so substantially damaged as to be uninhabitable ("Substantial Destruction or Damage") and the "required number of unit owners" do not duly and "promptly resolve" (as such quoted terms are defined below) to proceed to repair or restore same, then the Property or so much of thereof as

shall remain shall be subject to an action for partition at the suit of any unit owner or lienor as if owned in common, in accordance with the Condominium Act. The term "promptly resolve" shall mean a resolution adopted at a meeting of unit owners called for such purpose or in writing without a meeting, or a combination thereof, within 90 days after unit owners are notified of the actual or projected costs to repair or restore the Substantial Destruction or Damage and the source of funds to pay such costs. The term "required number of unit owners" shall mean the owners of 75% or more of all units (in number or in common interest)."

8. **Electric.** Article V, Section 20 of the By-laws is hereby amended and restated to read as follows (additions are **underlined and in bold**):

"Section 20. Electricity. Electricity shall be supplied to the apartment units in each building through the Building meter or meters and the bills for the same shall be paid by the Board of Managers as a common expense.

At such time as individual meters are installed, the cost of electricity supplied to all apartment units shall not be included in the common expenses and such costs (collectively, "unit costs") shall be borne and paid separately by each apartment unit owner. The utility costs for a unit shall be determined by a separate meter measuring consumption in that unit, which meter shall be installed by the Condominium Board, and each unit owner shall make arrangements to pay for the electricity consumed in a unit directly to the provider of the electrical service to the unit."

9. **Insurance Trustee.** Article X, Section 6 of the By-laws is hereby amended to add additional language at the end so that it would then read in its entirety as follows (additions are **underlined and in bold**):

"Section 6. Insurance Trustee. The Insurance Trustee shall be a bank or trust company in the City of New York, designated by the Board of Managers and having a capital, surplus and undivided profits of \$50,000,000 or more. In the event that the Insurance Trustee shall resign, the new Insurance Trustee shall also be a bank or trust company in the City of New York, designated by the Board of Managers and having a capital, surplus and undivided profits of \$50,000,000 or more. The Board of Managers shall pay the fees and disbursements of any Insurance Trustee and such fees and disbursements shall constitute a common expense of the Condominium.

During the Loan Period, the Insurance Trustee shall be approved in writing by the Lender (which approval shall not be unreasonably withheld) prior to being engaged by the Condominium Board. The designation, appointment or engagement of an Insurance Trustee without first obtaining such required written approval shall be invalid, null and void and of no effect."

10. **Miscellaneous**

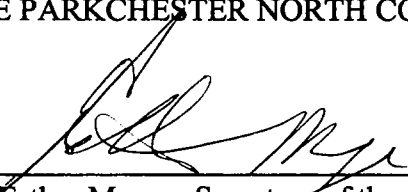
- a. By-Laws of Corporation. This First Amendment to the Declaration shall be deemed to amend the substance of the by-laws to the Corporation to conform to the provisions of the By-Laws as amended thereby where appropriate in order to confirm or otherwise effectuate the terms and provisions of this First Amendment.

- b. No Other Changes. This First Amendment provides that all terms and provisions of the Declaration, including the By-Laws not amended by this First Amendment, shall continue in full force and effect and are ratified and confirmed by this First Amendment.

Original Declaration dated December 7, 1972 was recorded December 11, 1972 in Reel 198, page 65 in the Bronx County Register's office.

This Amendment was authorized by a vote of over two-thirds of the Unit Owners in number and common interests as required by the By-Laws.

THE PARKCHESTER NORTH CONDOMINIUM

By: 

Esther Monge, Secretary of the
Board of Managers

