

AGREEMENT

421 KENT DEVELOPMENT, LLC

Sponsor-Seller

TO

UPRETS Oosten Property I LLC

Purchaser(s)

RESIDENTIAL UNIT NUMBER 730

**OOSTEN CONDOMINIUM
429 KENT AVENUE
BROOKLYN, NEW YORK 11249**

Table of Contents

	Page
Introduction	
1. THE PLAN	1
2. THE UNIT	1
3. THE AGREEMENT	1
4. PURCHASE PRICE	2
5. AGREEMENT NOT CONTINGENT UPON FINANCING	3
6. CLOSING OF TITLE	3
7. DELIVERY OF THE DEED AND RESIDENTIAL UNIT POWER OF ATTORNEY	4
8. MARKETABLE TITLE	4
9. CLOSING ADJUSTMENTS	5
10. MORTGAGE TAX CREDIT	6
11. CLOSING COSTS	7
12. OPTION PAYMENT	7
13. BINDING EFFECT OF DECLARATION, BY-LAWS AND RULES AND REGULATIONS	11
14. AGREEMENT SUBJECT TO MORTGAGE	11
15. DEFAULT BY PURCHASER	12
16. CLOSING CONTINGENT UPON PLAN BEING DECLARED EFFECTIVE	14
17. WITHDRAWAL OR ABANDONMENT OF PLAN	14
18. SPONSOR'S INABILITY TO CONVEY THE UNITS	14
19. FIXTURES, APPLIANCES AND PERSONAL PROPERTY	15
20. ACCEPTANCE OF CONDITION OF PROPERTY	15
21. DAMAGE TO THE UNIT	16
22. NO REPRESENTATIONS	16
23. PROHIBITION AGAINST SALES OR ADVERTISING	17
24. BROKER	17
25. AGREEMENT MAY NOT BE ASSIGNED	17
26. BINDING EFFECT	19
27. NOTICES	19
28. JOINT PURCHASERS	19

29.	PURCHASER'S REPRESENTATIONS	19
30.	WAIVER OF DIPLOMATIC OR SOVEREIGN IMMUNITY.....	20
31.	SECTION 1031 EXCHANGE.....	22
32.	PERFORMANCE BY AND LIABILITY OF SPONSOR.....	22
33.	FURTHER ASSURANCES	23
34.	COSTS OF ENFORCING AND DEFENDING AGREEMENT.....	23
35.	SEVERABILITY.....	23
36.	STRICT COMPLIANCE.....	23
37.	GOVERNING LAW.....	23
38.	WAIVER OF JURY	23
39.	ENTIRE AGREEMENT.....	24
40.	CERTAIN REFERENCES.....	24
41.	CAPTIONS.....	24
42.	RULE OF CONSTRUCTION.....	24
43.	SUCCESSORS AND ASSIGNS.....	24
44.	NO ORAL CHANGES.....	24
45.	AMENDMENTS TO THE PLAN.....	24
46.	LETTER OF CREDIT IN LIEU OF DEPOSITS IN ESCROW	24
47.	PRINCIPALS OF SPONSOR HAVE EXECUTED THE CERTIFICATION OF SPONSOR AND PRINCIPALS FOR COMPLIANCE WITH THE MARTIN ACT AND GOVERNING REGULATIONS.....	24
48.	NO RECORDING	25
49.	CONFIDENTIALITY.....	25
50.	COUNTERPARTS	25
51.	LIS PENDENS.....	25
52.	OPTION AGREEMENT	25
53.	MOLD.....	26

RESIDENTIAL UNIT NUMBER(S) 730

**OOSTEN CONDOMINIUM
429 KENT AVENUE
BROOKLYN, NEW YORK 11249**

(to be executed in quadruplicate)

AGREEMENT, made as of April 23, 2020, 2020, between 421 Kent Development, LLC, a Delaware limited liability company, having an office at 150 East 52nd Street, Suite 6002, New York, New York 10022, and UPRETS Oosten Property I LLC having an address at _____ ("Purchaser").

WITNESSETH:

1. **THE PLAN.** Purchaser acknowledges having received and read a copy of the Offering Plan for Oosten Condominium and all amendments thereto, if any, filed with the Department of Law of the State of New York (hereinafter, collectively, referred to as the "Plan") at least three (3) days prior to Purchaser's signing this Agreement. If Purchaser has not received the Plan and all amendments thereto at least three (3) full days prior to Purchaser's signing this Agreement, Purchaser shall have the right to rescind this Agreement within seven (7) days from the date of this Agreement. The Plan is incorporated herein by reference and made a part hereof with the same force and effect as if set forth at length. In the event of any inconsistency between the provisions of this Agreement and the Plan, the provisions of the Plan will govern and be binding. Purchaser hereby adopts, accepts and approves the Plan (including, without limitation, the Declaration, By-Laws and Rules and Regulations contained therein) and agrees to abide and be bound by the terms and conditions thereof, as well as amendments to the Plan duly filed by Sponsor. Terms used herein which are also used in the Plan shall have the same meanings herein as therein unless the context otherwise requires.

2. **THE UNIT.** Upon and subject to the terms and conditions set forth herein, Sponsor agrees to sell and convey, and Purchaser agrees to purchase, the unit(s) **730** ("Unit"), together with the percentage of undivided interest in the Common Elements of the Condominium appurtenant thereto.

3. THE AGREEMENT.

~~3.1 This Agreement is a combination Option Agreement and Purchase Agreement. By executing this Agreement, Sponsor is hereby granting Purchaser an option to purchase the Unit for the Purchase Price described in paragraph 4.1 (the "Option"). The payment for the option is the option payment described in 4.1(a) (the "Option Payment"). The Option Payment is in payment of the Option and the Option Payment is nonrefundable regardless of whether or not the Purchaser exercises the Option except as otherwise provided in the Plan. At least thirty (30) days prior to the Closing Date for the purchase of the Unit (the "Option Exercise Notice"), Sponsor shall give Purchaser written notice that Purchaser shall have the right to~~

~~exercise or terminate the Option within fifteen (15) calendar days after the date of the Option Exercise Notice (the "Notice Period"). During the Notice Period, Purchaser shall either exercise or not exercise the Option by sending Sponsor written notice that the option is either being exercised or being terminated. Purchaser's failure to respond within the Notice Period shall be deemed to mean that Purchaser is exercising the Option and will proceed to purchase the Unit.~~

~~3.2 In the event that a) the Purchaser exercises the Option (or fails to respond during the Notice Period), the Closing of the Purchaser's acquisition of the Unit shall proceed and the Option Payment shall be applied toward the Purchase Price pursuant to the terms of this Agreement, or b) the Purchaser notifies the Sponsor during the Notice Period that Purchaser is not exercising the Option, i) the Option Payment shall be retained by the Sponsor as payment in full for the Option, ii) the Purchaser shall have no further obligation under this Agreement, and iii) Sponsor and Purchaser shall be deemed to have waived any claims against the other arising from this Agreement or the purchase of the Unit. Notwithstanding anything contained herein to the contrary, the Option Payment shall not be refundable, except as specifically provided in the Plan.~~

4. PURCHASE PRICE.

4.1 The purchase price for the Unit (the "Purchase Price") is \$927,700.00.

The Purchase Price is payable as follows:

~~(a) An Option Payment of \$0.00 [an amount that is at least 15% of the Purchase Price unless the purchaser is a foreign government or a person with a diplomatic immunity in which event the Option Payment is 50%], due upon Purchaser's signing and submitting this Agreement, by check (subject to collection) or wire transfer, receipt of which is hereby acknowledged and, applied to the Purchase Price, if Purchaser exercises the Option to purchase the Unit or fails to provide notice of Purchaser's exercise of the Option during the Notice Period; and~~

~~(b) \$927,700.00, constituting the balance of the Purchase Price, by good certified check of Purchaser or official bank check, or, at Sponsor's option, by wire transfer payable on the delivery of the deed as hereinafter provided.~~

4.2 All checks shall represent United States currency and shall be drawn on or issued by a New York bank or trust company which is a member of The New York Clearing House Association, unless otherwise agreed to by Sponsor. Checks for the Option Payment shall be made payable to "Holland & Knight LLP, Escrow Agent". Checks for the balance of the Purchase Price shall be made payable to the direct order of "421 Kent Development, LLC" or such other party as Sponsor may designate upon not less than two (2) days prior notice. If any check is returned for insufficient funds or any other reason, Sponsor at its option, may declare this Agreement void ab initio and of no further force and effect and may institute an action against Purchaser for the collection of the Option Payment as liquidated damages or may declare a default by Purchaser under this Agreement which shall entitle Sponsor to exercise any of the remedies set forth in Article 15 hereof.

5. **AGREEMENT NOT CONTINGENT UPON FINANCING.** The terms and provisions of this Agreement and Purchaser's obligations hereunder are not contingent upon Purchaser securing financing of the Purchase Price (or any portion thereof) stated in Section 4 of this Agreement, and Purchaser understands and agrees that the Purchaser's failure to obtain such financing will not relieve the Purchaser of the Purchaser's obligations hereunder. Purchaser further understands and agrees that if the Purchaser chooses to finance the Purchaser's purchase of the Unit through a lending institution and obtain a commitment therefrom, neither a subsequent change in the terms of such commitment, the expiration or other termination of such commitment, nor any change in his financial status or condition shall release or relieve the Purchaser of the Purchaser's obligations pursuant to this Agreement.

6. **CLOSING OF TITLE.**

6.1 The closing of title shall be held at such place in the City and State of New York and on such date and hour as Sponsor may designate to Purchaser on not less than thirty (30) days' prior written notice. In the event this Agreement is executed prior to the Plan being declared effective, the Closing shall not occur until at least thirty (30) days' notice is provided after the Plan is declared effective. Notwithstanding the foregoing, Purchaser may waive such prior notice period. If Sponsor consents to close at any other location as an accommodation to Purchaser, Purchaser shall pay to Sponsor's attorneys at closing an additional fee as set forth in the Plan. Sponsor, from time to time, may adjourn the date and hour for closing on written notice to Purchaser, which notice shall fix a new date, hour and place for the closing of title and will be given not less than two (2) business days prior to the new scheduled date and time for closing.

6.2 The closing of title shall occur only after or concurrently with the compliance with the prerequisites as set forth under "Terms of Sale" in Part I of the Plan.

6.3 The term "Closing Date" or "closing of title" or words of similar import, whenever used herein, shall mean the date designated by Sponsor on which the deed to the Unit is delivered to Purchaser, or any adjourned date fixed by Sponsor pursuant to subsection 6.1 hereof.

6.4 Sponsor has projected that, based upon currently anticipated schedules, construction of the Building will be sufficiently completed to permit closings of Units to begin on or about December 1, 2015. The actual date for the First Closing is only an estimate and is not guaranteed or warranted, and may be earlier or later depending on the progress of construction and compliance with other prerequisites described in the Plan. Purchaser acknowledges that construction may be delayed by weather, casualty, labor difficulties (including work stoppages and strikes), late delivery or inability to obtain on a timely basis or otherwise materials or equipment, governmental restrictions, or other events beyond Sponsor's reasonable control. Purchaser further acknowledges that the Units in the Building will be completed at varying times over a period that could extend well beyond the First Closing. The order in which these Units will be completed is in the discretion of the Sponsor. Purchaser acknowledges that except as otherwise expressly provided in the Plan, Purchaser shall not be excused from paying the full Purchase Price, without credit or set-off, and shall have no claim against Sponsor for damages or losses, in the event that the First Closing occurs substantially

earlier or later than the projected date or the time to complete or to close title to the Unit is accelerated, delayed or is postponed by Sponsor, Purchaser's rights as set forth in the Plan in respect thereof being in lieu of any other rights or remedies which may be available pursuant to any applicable law, regulation, statute or otherwise, all of hereby expressly waived by Purchaser.

7. DELIVERY OF THE DEED AND RESIDENTIAL UNIT POWER OF ATTORNEY.

7.1 At the closing of title, Sponsor shall deliver to Purchaser a bargain and sale deed with covenants against grantor's acts conveying title to the Unit to Purchaser. The deed shall be prepared by Sponsor in substantially the form set forth in Part II of the Plan and shall be executed and acknowledged by Sponsor in form for recording. Purchaser shall pay all New York State and New York City Real Property Transfer Taxes, and Sponsor and Purchaser shall duly execute a New York City Real Property Transfer Tax return and any other forms then required by law, all of which shall be prepared by Sponsor.

7.2 At the closing of title and simultaneously with the delivery of the deed conveying the Unit to Purchaser, Purchaser shall execute and acknowledge a power of attorney to the Condominium Board and Sponsor substantially in the form set forth in Part II of the Plan.

7.3 The deed and power of attorney to the Condominium Board and Sponsor shall be delivered to the representative of the title company insuring Purchaser's title (or, if no such representative is present, then to Sponsor's attorney) for recording in the City Register's Office, which recording shall be at Purchaser's expense. After being recorded, the deed shall be returned to Purchaser and the power of attorney shall be sent to the Managing Agent.

7.4 Sponsor shall deliver to Purchaser a certification stating that Sponsor is not a foreign person in the form then required by the Code Withholding Section and each party shall execute, acknowledge and deliver to the other party such instruments, and take such other actions, as such other party may reasonably request in order to comply with IRS §6045(e), as amended, or any successor provision or any regulations promulgated pursuant thereto, insofar as the same requires reporting of information in respect of real estate transactions.

8. MARKETABLE TITLE.

8.1 Purchaser shall order a title report within ten (10) days of receiving a fully executed Agreement and Purchaser must deliver any title objections to Sponsor's attorney at least twenty (20) days prior to the Closing or any such objections shall be deemed waived. At the closing of title, Sponsor shall convey to Purchaser fee simple title to the Unit, free and clear of all encumbrances other than those expressly agreed to or waived by Purchaser or set forth in Schedule A annexed hereto and made a part hereof. Any encumbrance to which title is not to be subject shall not be an objection to title if (a) the instrument required to remove it of record is delivered at or prior to the closing of title to the proper party or to Purchaser's title insurance company, together with the attendant recording or filing fee, if any, or (b) Commonwealth Land Title Insurance Services, LLC, having an address at Two Grand Central Tower, 140 East 45th Street, 22nd Floor, New York, New York 10017 (Tel: (212) 949-0100 (or such other title

insurance company as Purchaser may utilize) (the "Title Company"), is or would be willing, in a fee policy issued by it to the Purchaser, to insure Purchaser that it will not be collected out of the Unit if it is a lien, or will not be enforced against the Unit if it is not a lien.

8.2 The title conveyed by Sponsor to Purchaser shall be subject only to the liens, encumbrances and title conditions set forth in Schedule A annexed hereto and made a part hereof. Any lien, encumbrance or condition to which title is not to be subject shall not be an objection to title if: (a) the instrument required to remove it of record is delivered at or prior to the closing of title to the proper party or to the Title Company, together with the recording or filing fee; or (b) Purchaser's Title Company will insure Purchaser, at the Title Company's regular rates and without additional premium, that it will not be collected out of, or enforced against, the Unit; or (c) Purchaser's Title Company is unwilling to issue the affirmative insurance described in subsection (b) at its regular rates and without additional premium, and the Title Company would be willing to do so at its regular rates and without additional premium (as evidenced by the issuance of the same by the Title Company in connection with the closing of any other Units in the Condominium).

8.3 Sponsor shall be entitled to adjourn the closing to remove or correct and defect in title which is not set forth in Schedule A. However, if such defect existed at least 10 days prior to the closing and Purchaser, or Purchaser's attorney, failed to send Sponsor's attorney written notice of such defect in title at least 10 days prior to the Closing, then, for purposes of Article 15 below, Purchaser shall be deemed at fault for not having sent timely notice, and the closing adjournment to allow Sponsor to correct or remove such title defect shall be considered as having been requested by Purchaser.

8.4 The covenants in the deed will be solely for the personal benefit of Purchaser and will not inure to the benefit of Purchaser's successors or subrogees. In the event of a claimed breach of any covenant of the grantor contained in the deed, Purchaser must first seek recovery against Purchaser's Title Company before proceeding against Sponsor, it being agreed that the liability of Sponsor will be limited to any loss or damage not covered by such title insurance. In the event Purchaser elects not to purchase title insurance, then the liability of Sponsor shall be limited to any loss or damage which would not have been covered by the title insurance that was available to Purchaser at the closing. The terms of any marked-up title binder of any title insurance company authorized to do business in New York State issued in connection with any Unit shall be conclusive evidence of the title insurance coverage that was available to Purchaser. The provisions of this Section 8.4 shall survive the closing of title or the termination of this Agreement.

9. CLOSING ADJUSTMENTS.

9.1 The following adjustments shall be made as of midnight of the day preceding the Closing Date with respect to the Unit:

(a) real estate taxes and assessments, if any (including water charges and sewer rents, if separately assessed), on the basis of the period for which assessed;

- (b) Common Charges for the month in which title closes; and
- (c) accrued rent and any other charges pursuant to an interim lease or use and occupancy agreement, if any, covering the Unit.

9.2 If a Unit has been separately assessed but the closing of title occurs before the tax rate is fixed, adjustment of taxes shall be based upon the latest tax rate applied to the most recent applicable assessed valuation. Installments for tax assessments due after the delivery of the deed, if any, shall be paid by Purchaser and shall not be considered a defect in title. If a Unit has not been separately assessed as of the Closing Date for the then current tax period, the adjustment under subsection 9.1(a) hereof shall be based upon the assessment for the Property and the percentage interest in the Common Elements appurtenant to the Unit.

9.3 Purchaser hereby agrees that, if Sponsor obtains a refund for real estate taxes paid (or a credit for such taxes to be paid) on Purchaser's Unit, Purchaser and Sponsor will apportion the refund (as well as the costs and/or fees for obtaining the refund or credit) based on the percentage of time for which the refund or credit is obtained during which each party hereto owned the Unit in question. The provisions of this subsection shall survive the closing of title.

9.4 The "Customs in Respect of Title Closings" recommended by The Real Estate Board of New York, Inc., as amended to date, shall apply to the adjustments and other matters therein mentioned except as otherwise provided herein.

9.5 Any errors or omissions in computing adjustments shall be corrected and payment made to the proper party after discovery. The provisions of this subsection shall survive the Closing.

9.6 In the event that Purchaser fails to close title to the Unit on the date originally scheduled for the closing of title, postpones the closing for any reason, or is deemed at fault for not timely sending notice of a title defect as provided in Article 7 above, and title thereafter closes, then:

(a) the closing apportionments shall be made as of the originally scheduled closing date regardless of when the actual closing of title occurs; and

(b) Purchaser shall pay Sponsor interest at the rate of 0.03% per day (or such lower rate per day which is the legal limit, if 0.03% per day exceeds the legal limit) on the total purchase price, computed from the original Closing Date until this transaction is actually closed. If, through no fault of Purchaser, Sponsor postpones the originally scheduled Closing Date, the foregoing provisions shall apply to the rescheduled Closing Date if Purchaser fails for any reason to close title on the rescheduled Closing Date.

10. **MORTGAGE TAX CREDIT.** In the event a mortgage recording tax credit becomes available pursuant to Section 339-ee(2) of the Condominium Act, it is specifically understood that such credit shall inure to the benefit of Sponsor. Accordingly, at Closing, a Purchaser who elects mortgage financing will be responsible to pay the full amount (but not in excess thereof) of the mortgage recording tax chargeable on the entire amount being financed.

Sponsor at Closing will be reimbursed by Purchaser to the extent of any mortgage tax credit allowed.

11. CLOSING COSTS.

11.1 In addition to those costs and adjustments described in Articles 9 and 10 herein, Purchaser shall be required to pay the other closing costs which are Purchaser's responsibility as more particularly described in Part I of the Plan entitled "Closing Costs and Adjustments."

11.2 At the closing, Purchaser shall duly complete and sign before a notary public the real property transfer tax return required to be filed with The City of New York ("RPT Form") and Purchaser shall duly complete and sign the New York State Real Estate Transfer Tax Return ("NYS Tax Form"), or such other forms as may then be required by law. The RPT Form and NYS Tax Form shall be delivered at closing to the representative of Purchaser's title insurance company (or, if none, to Sponsor's attorney) for filing with the proper governmental officer. Sponsor will similarly execute all of such forms and other documents required in connection with recording of the deed including, without limitation, smoke detector and multiple-dwelling affidavits.

11.3 Purchaser shall pay all New York City Real Property Transfer Taxes and New York State Real Estate Transfer Taxes (and, if applicable, the so-called "mansion tax"), and any other real property transfer tax due to the City or State of New York and the cost of any stock transfer stamps. Purchaser agrees to indemnify and hold Sponsor harmless from and against any and all liabilities and expenses (including, without limitation, reasonable legal fees and disbursements) incurred by Sponsor by reason of the non-payment by Purchaser of any of the taxes Purchaser is obligated to pay hereunder in connection with the purchase of the Unit. Purchaser's obligations to pay the taxes described in this Article and to indemnify Sponsor as herein provided shall survive the closing or the termination of this Agreement.

12. OPTION PAYMENT. The Option Payment made pursuant to this Agreement is subject to the requirements of Section 71-a(3) of the State of New York Lien Law and Sections 352-e(2)(b) and 352-h of the General Business Law of the State of New York. Any Option Payment received from Purchaser will be held in accordance with the provisions of the Subsection entitled "Escrow and Trust Fund Requirements" under the Section entitled "Procedure to Purchase" set forth in Part I of the Plan and as set forth in this section below. By signing this Agreement, Purchaser will not object and will be deemed to have agreed, without the need for a further written agreement, to the release of the Option Payment to Sponsor in the event Sponsor and Purchaser close title under this Agreement. Sponsor is required by law to submit a Form 1099 to the Internal Revenue Service reporting interest earned on Purchaser's Option Payment, if any. Purchaser will be taxed accordingly on such interest, whether or not Purchaser ultimately receives the interest in accordance with the terms of this paragraph.

12.1 The law firm of Holland & Knight LLP, with an address at 31 W. 52nd Street, New York, New York, telephone number (212) 513-3200, shall serve as escrow agent ("Escrow Agent") for Sponsor and Purchaser. Neither Escrow Agent nor any authorized

signatories on the account are the Sponsor, Selling Agent, Managing Agent, or any principal thereof, or have any beneficial interest in any of the foregoing.

12.2 Escrow Agent and all authorized signatories hereby submit to the jurisdiction of the State of New York and its courts for any cause of action arising out of the Agreement or otherwise concerning the maintenance of release of the Option Payment from escrow.

12.3 The Escrow Agent has established master escrow accounts at Bank of China, at its branch located at 410 Madison Avenue, New York, New York 10017 and at HSBC, at its branch located at 666 Fifth Avenue, New York, New York 10019 (collectively, the "Bank"), both banks authorized to do business in the State of New York. The master escrow account is entitled "Holland & Knight LLP - Oosten Condominium, Escrow Account" or similar name (the "Master Escrow Account"). All Option Payments will be placed initially in a non-interest bearing checking portion of the Master Escrow Account. Each Purchaser is required to deliver a completed and signed Form W-9 (Request for Taxpayer Identification Number) in the form set forth in Part II of the Plan or a Form W-8 (Certificate of Foreign Status) in the form set forth in Part II of the Plan, as applicable, to Sponsor or Selling Agent at the time Purchaser tenders the Option Payment and the Agreement. If a Option Payment is accompanied by a completed and signed Form W-9 or Form W-8, the Option Payment will thereafter be promptly transferred to an individual interest bearing sub-escrow savings account in the name of Purchaser. The Master Escrow Account is federally insured by the FDIC at the maximum amount of \$250,000.00 per deposit.

12.4 The Option Payment shall be paid by good certified check of Purchaser or official bank check or, at Sponsor's sole option, by wire transfer. All Option Payment checks must be made payable to the direct order of "Holland & Knight LLP, Escrow Agent". All checks delivered in payment of the Option Payment shall be accepted by Sponsor subject to collection, and if any such check is returned for insufficient funds or any other reason, Sponsor shall have the right, among other things, to deem this Agreement to be canceled and of no further force or effect.

12.5 If an Option Payment is accompanied by a completed and signed Form W-9 or Form W-8, the Option Payment will thereafter be promptly transferred to an individual interest bearing sub-escrow savings account in the name of Purchaser. The interest rate for all Option Payments transferred to an individual interest bearing sub-escrow savings account shall be the prevailing rate for such accounts, which as of January, 2015 is approximately .20%. Interest shall begin to accrue upon placing the Option Payment into the individual interest bearing sub-escrow savings account. All interest earned thereon shall be paid to Purchaser at Closing. If a Purchaser does not deliver the Form W-9 or Form W-8, the Option Payment will remain in the non-interest bearing checking portion of the Master Escrow Account. No fees of any kind may be deducted from the Master Escrow Account or individual escrow accounts, and Sponsor shall bear all costs associated with the maintenance of the Master Escrow Account and individual escrow accounts.

12.6 Within five (5) business days after the fully executed Agreement has been tendered to Escrow Agent along with the Option Payment, the Escrow Agent shall sign the Agreement and place the Option Payment into the Master Escrow Account. Within ten (10) business days after deposit of the first portion of the Option Payment into the Master Escrow Account, Escrow Agent will notify Purchaser and Sponsor that such funds have been deposited into escrow and will provide the account number and the initial interest rate, if any. Any deposits made for upgrades, extras, or custom work shall be initially deposited into the Master Escrow Account, and released in accordance to the terms of a written agreement between Purchaser and Sponsor.

12.7 The Escrow Agent is obligated to send notice to the Purchaser once the Option Payment is placed in the Master Escrow Account. If Purchaser does not receive notice of such deposit within fifteen (15) business days after tender of the first portion of the Option Payment, Purchaser may cancel the purchase and rescind so long as the right to rescind is exercised within ninety (90) days after tender of the Agreement and Option Payment to Escrow Agent or may apply to the Attorney General for relief. Complaints concerning the failure to honor such cancellation requests may be referred to the New York State Department of Law, Real Estate Finance Bureau, 120 Broadway, 23rd Floor, New York, N.Y. 10271. Rescission shall not be afforded where proof satisfactory to the Attorney General is submitted establishing that the Option Payment was timely deposited in the Master Escrow Account in accordance with the New York State Department of Law's regulations concerning Option Payments and requisite notice was timely mailed to Purchaser.

12.8 All Option Payments, except for advances made for upgrades, extras, or custom work received in connection with the Agreement, are and shall continue to be the Purchaser's money, and may not be comingled with any other money or pledged or hypothecated by Sponsor, as per GBL § 352-h.

12.9 Under no circumstances shall Sponsor seek or accept release of the Option Payment of a defaulting Purchaser until after consummation of the Plan, as evidenced by acceptance of post-closing amendment by the New York State Department of Law. Consummation of the Plan does not relieve the Sponsor of its obligations pursuant to GBL §§ 352-3(2-b) and 352-h.

12.10 Escrow Agent will hold the Option Payment in escrow until otherwise directed in:

- (a) pursuant to terms and conditions set forth in Article 12 of this Agreement upon closing of title to the Unit; or
- (b) in a subsequent writing signed by both Sponsor and Purchaser; or
- (c) a final, non-appealable order or judgment or a court.

If the Escrow Agent is not directed to release the Option Payment pursuant to paragraphs (a) through (c) above, and the Escrow Agent receives a request by either party to

release the Option Payment, then the Escrow Agent must give both the Purchaser and Sponsor prior written notice of not fewer than thirty (30) days before releasing the Option Payment. If the Escrow Agent has not received notice of objection to the release of the Option Payment prior to the expiration of the thirty (30) day period, the Option Payment shall be released and the Escrow Agent shall provide further written notice to both parties informing them of said release. If the Escrow Agent receives a written notice from either party objecting to the release of the Option Payment within said thirty (30) day period, the Escrow Agent shall continue to hold the Option Payment until otherwise directed pursuant to paragraphs (a) through (c) above. Notwithstanding the foregoing, the Escrow Agent shall have the right at any time to deposit the Option Payment contained in the Escrow Account with the clerk of the county where the Building is located and shall give written notice to both parties of such deposit.

Sponsor will not object to the release of the Option Payment to:

- (a) all Purchasers after an amendment abandoning the Plan is accepted for filing by the Department of Law; or
- (b) a Purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an amendment to the Plan.

12.11 Any provision of any Agreement or separate agreement, whether oral or in writing, by which a Purchaser purports to waive or indemnify any obligation of the Escrow Agent holding any Option Payment in trust is absolutely void. The provisions of the Attorney General's regulations and GBL §§ 352-e(2-b) and 352-h concerning escrow trust funds shall prevail over any conflict or inconsistent provisions in the Agreement, Plan or any amendment thereto.

12.12 Escrow Agent shall maintain the Master Escrow Account under its direct supervision and control.

12.13 A fiduciary relationship shall exist between Escrow Agent and Purchaser, and Escrow Agent acknowledges its fiduciary and statutory obligations pursuant to GBL §§ 352(e)(2-b) and 352(h).

12.14 Escrow Agent may rely upon any paper or document which may be submitted to it in connection with its duties under this Agreement and which is believed by Escrow Agent to be genuine and to have been signed or presented by the proper party or parties and shall have no liability or responsibility with respect to the form, execution or validity thereof.

12.15 Sponsor agrees that Sponsor and its agents, including any selling agents, shall deliver the Option Payment received by them prior to closing of the Unit to a designated attorney who is a member of or employed by Escrow Agent, within two (2) business days of tender of the Option Payment by Purchaser.

12.16 Sponsor agrees that it shall not interfere with Escrow Agent's performance of its fiduciary duties and statutory obligations as set forth in GBL §§ 352-(e)(2-b) and 352-(h) and the New York State Department of Law's regulations.

12.17 Sponsor shall obtain or cause the selling agent under the Plan to obtain a completed and signed Form W-9 or W-8, as applicable, and deliver such form to Escrow Agent together with the Option Payment and this Agreement. Failure to receive a completed and signed Form W-9 or W-8, as applicable, at the time the Escrow Agent receives the Option Payment and this Agreement, shall not prevent the consummation of this Agreement. Within five (5) days following receipt of the Form W-9 or W-8, as applicable, the Option Payment will be transferred to an individual interest bearing sub-escrow savings account in the name of Purchaser, and within ten (10) days following receipt of the Form W-9 or W-8, as applicable, Escrow Agent shall notify Purchaser of the deposit of the Option Payment into the individual interest bearing sub-escrow savings account.

12.18 Prior to the release of the Option Payment, Escrow Agent's fees and disbursements shall neither be paid by Sponsor from the Option Payment nor deducted from the Option Payment by any financial institution under any circumstance.

12.19 Sponsor agrees to defend, indemnify and hold Escrow Agent harmless from and against all costs, claims, expenses and damages incurred in connection with or arising out of Escrow Agent's responsibilities arising in connection with this Agreement or the performance or non-performance of Escrow Agent's duties under this Agreement, except with respect to actions or omissions taken or suffered by Escrow Agent in bad faith or in willful disregard of the obligations set forth in this Agreement or involving gross negligence of Escrow Agent. This indemnity includes, without limitation, disbursements and attorneys' fees either paid to retain attorneys or representing the hourly billing rates with respect to legal services rendered by Escrow Agent itself.

13. BINDING EFFECT OF DECLARATION, BY-LAWS AND RULES AND REGULATIONS. Purchaser hereby accepts and approves the Plan (including the Declaration, By-Laws and Rules and Regulations contained therein) and agrees to abide and be bound by the terms and conditions thereof

14. AGREEMENT SUBJECT TO MORTGAGE. No encumbrance shall arise against the Property as a result of this Agreement or any monies deposited hereunder. In furtherance and not in limitation of the provisions of the preceding sentence, Purchaser agrees that the provisions of this Agreement are and shall be subject and subordinate to the lien of any mortgage, including, but not limited to, any construction or building loan mortgage, refinancing, extension or assignment of mortgage, heretofore or hereafter made any advances heretofore or hereafter made thereon and any payments or expenses made or incurred or which hereafter may be made or incurred, pursuant to the terms thereof, or incidental thereto, or to protect the security thereof, to the full extent thereof without the execution of any further legal documents by Purchaser. This subordination shall apply in all cases, regardless of the timing of, or cause for, the making of advances of money or the incurring of expenses. Sponsor shall, at its option, either satisfy such mortgages or obtain a release of each Unit and its undivided interest in the Common

Elements from the lien of such mortgages on or prior to the Closing Date, unless Purchaser voluntarily assumes such mortgage or consents to the continuation of the lien thereof. The existence of any mortgage or mortgages encumbering the Property, or portions thereof, other than the Unit and its (their) undivided interest in the Common Elements, shall not constitute an objection to title or excuse Purchaser from completing payment of the Purchase Price or performing all of its other obligations hereunder or be the basis of any claim against, or liability of, Sponsor, provided that any such mortgage(s) is subordinated to the Declaration.

15. DEFAULT BY PURCHASER.

15.1 The following shall constitute "Events of Default" hereunder:

- (a) Purchaser's failure to pay the balance of the Purchase Price on the Closing Date designated by Sponsor; or
- (b) Purchaser's failure to duly complete and sign before a notary public and deliver on the Closing Date the New York State and City transfer tax returns; or
- (c) If Purchaser is or becomes the tenant of record of the Unit, Purchaser's failure to pay rent or to otherwise comply with Purchaser's lease or tenancy obligations; or
- (d) If Purchaser is or becomes the tenant of record of the Unit and Purchaser vacates or abandons the Unit; or
- (e) Purchaser's assignment of any of Purchaser's property for the benefit of creditors, or Purchaser's filing a voluntary petition in bankruptcy; or
- (f) If a non-bankruptcy trustee or receiver is appointed over Purchaser or Purchaser's property, or an involuntary petition in bankruptcy is filed against Purchaser; or
- (g) If a judgment or tax lien is filed against Purchaser and Purchaser does not pay or bond the same; or
- (h) Purchaser's failure to pay any closing costs set forth in this Agreement or the Plan, on the Closing Date designated by Sponsor; or
- (i) The failure to pay, perform or observe any of Purchaser's other obligations hereunder;
- (j) the occurrence of any Events of Default under any other Agreement between Sponsor and Purchaser, or between Sponsor and any member or members of Purchaser's immediate family or between Sponsor and any parent, affiliate or subsidiary of Purchaser.

15.2 TIME IS OF THE ESSENCE with regard to Purchaser's obligations to pay the balance of the Purchase Price and to perform Purchaser's other obligations under this

Agreement. If Purchaser fails to make such payment when required as herein provided or fails to perform any of Purchaser's other obligations hereunder, Sponsor shall give written notice to Purchaser of such default. If such default shall not be cured within thirty (30) days thereafter, Sponsor may, at its option, cancel this Agreement by notice of cancellation to Purchaser. If Sponsor elects to cancel this Agreement, (a) Sponsor may retain all sums deposited by Purchaser hereunder (including any amounts paid by Purchaser for additional work in the Unit), together with interest earned thereon, as liquidated damages (Sponsor's actual damages being difficult or impossible to ascertain) and, upon retaining such sum, this Agreement shall be terminated and neither party hereto shall have any further rights, obligations or liability to or against the other under this Agreement or the Plan and (b) Sponsor may sell the Unit to any third party as though this Agreement had never been made (without any obligation to account to Purchaser for any part of the proceeds of such sale).

15.3 If Purchaser fails for any reason to close title to his or her Unit on the originally scheduled Closing Date (a) the closing adjustments described in Section 9.1 of this Agreement will be made as of midnight of the day preceding the originally scheduled Closing Date, regardless of when the actual closing of title occurs, and (b) Purchaser will be required to pay to Sponsor, as a reimbursement of Sponsor's higher carrying costs for the Unit by virtue of the delay, and in addition to the other payments to be made to Sponsor under this Agreement and the Plan, an amount equal to 0.03% of the Purchase Price for each day starting from (and including) the originally scheduled Closing Date to (and including) the day before the actual Closing Date. If, through no fault of Purchaser, Sponsor postpones the originally scheduled Closing Date, these provisions shall apply to the rescheduled Closing Date if Purchaser fails for any reason to close title to his Unit on the rescheduled Closing Date.

15.4 Sponsor and Purchaser each hereby agree and acknowledge that it would be impractical and/or extremely difficult to fix or establish the actual damage sustained by Sponsor as a result of a default by Purchaser hereunder, and that the Option Payment (including all interest) shall constitute and shall be deemed to be the reasonable and agreed upon liquidated damages of Sponsor in respect of the possible loss of a timely closing, the possible fluctuation of values, additional carrying costs of the Unit and other expenses that may be incurred, including, without limitation, attorneys' fees, and shall be paid by Purchaser to Sponsor as Sponsor's sole and exclusive remedy. The payment of the Option Payment (including all interest) as liquidated damages is not intended to be a forfeiture or penalty, but is intended to constitute liquidated damages to Sponsor.

15.5 NEITHER SPONSOR NOR PURCHASER SHALL CHALLENGE THE VALIDITY OF THE PROVISIONS OF THE AGREEMENT OR THE PLAN WITH RESPECT TO LIQUIDATED DAMAGES OR ANY RIGHT OF SPONSOR SET FORTH HEREIN OR THEREIN TO RETAIN THE OPTION PAYMENT IN THE EVENT OF A PURCHASER DEFAULT. SUCH PROVISIONS HAVE BEEN AGREED TO VOLUNTARILY, AFTER NEGOTIATION, WITHOUT DURESS OR COERCION BY ANY PARTY UPON ANY OTHER PARTY, AND WITH EACH PARTY HAVING BEEN (OR HAVING HAD FULL AND ADEQUATE OPPORTUNITY TO BE) REPRESENTED AND ADVISED BY COUNSEL, ACCOUNTANTS, BROKERS, APPRAISERS AND OTHER EXPERTS AND ADVISORS OF ITS OWN CHOOSING.

16. CLOSING CONTINGENT UPON PLAN BEING DECLARED EFFECTIVE.

The respective obligations of Purchaser and Sponsor hereunder are contingent upon the Plan being declared effective. The Plan shall not be declared effective except in accordance with the prerequisites set forth in the Plan, as same may be amended from time to time. Purchaser understands and agrees that Sponsor shall have the right to abandon the Plan at any time prior to its being declared effective or thereafter in certain limited cases set forth in the Plan (see the Section in the Plan entitled "Effective Date" for full details). Purchasers shall be required to cooperate with the NYS Department of Law, Real Estate Finance Bureau's procedures relating to the Plan being declared effective. The Plan will be abandoned or deemed abandoned if it has not been declared effective within the time limits prescribed in the Plan. Sponsor shall notify Purchaser, in writing or by a duly filed amendment to the Plan, when the Plan becomes effective or is abandoned.

17. WITHDRAWAL OR ABANDONMENT OF PLAN. The Plan may be withdrawn or abandoned by Sponsor only under certain conditions and at certain times, as set forth in Part I of the Plan. Provided Purchaser is not then in default under this Agreement beyond any applicable grace period, if the Plan is withdrawn or abandoned or Sponsor elects not to declare the Plan effective or if after being declared effective the Plan will not be consummated for any reason, this Agreement shall be deemed canceled and, not later than ten (10) days thereafter, Sponsor shall return to Purchaser the Option Payment paid by Purchaser hereunder, together with interest earned thereon, if any, subject to Sponsor's rights to retain certain funds deposited by Purchaser for special work in the Unit, as more particularly described in the Section entitled "Effective Date" in Part I of the Plan. After the monies are so disbursed, Purchaser and Sponsor will have no claim against each other or the Selling Agent or Escrow Agent in connection with this Agreement or the Plan, and all of same will be released and discharged from all liabilities and obligations hereunder and under the Plan.

18. SPONSOR'S INABILITY TO CONVEY THE UNITS.

18.1 If Sponsor is unable to deliver title to the Unit to Purchaser in accordance with the provisions of this Agreement and the Plan, Sponsor shall not be obligated to bring any action or proceeding or otherwise incur any cost or expense of any nature whatsoever in excess of its obligations set forth in the Plan in order to cure such inability, and, in such case, if Sponsor notifies Purchaser of its refusal to cure such inability and if Purchaser is not in default hereunder, Purchaser's sole remedy shall be to either (a) take title to the Unit subject to such inability (without any abatement in, or credit against, the Purchase Price, or any claim or right of action against Sponsor for damages or otherwise) or (b) terminate this Agreement. If Purchaser so elects to terminate this Agreement, Sponsor shall, within thirty (30) days after receipt of notice of termination from Purchaser, return to Purchaser all sums deposited by Purchaser hereunder, together with interest earned thereon, if any, subject to Sponsor's rights to retain certain funds deposited by Purchaser for special work in the Unit, and, upon making such payment, this Agreement shall be terminated and neither party hereto shall have any further rights, obligations or liability to or against the other under this Agreement or the Plan. The foregoing remedy must be exercised by notice of Purchaser in writing to Sponsor within fifteen (15) days after the giving of Sponsor's notice of refusal to cure such inability, failing which it shall be conclusively

deemed that Purchaser elected the remedy described in clause (a) above (i.e., to acquire title subject to such inability).

18.2 LIABILITY OF SPONSOR. Sponsor shall be excused from performing any obligation or undertaking provided for in this Agreement for so long as such performance is prevented, delayed or hindered by an act of God, fire, flood, explosion, war, riot, sabotage, inability to procure or general shortage of energy, labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strike, lockout, action of labor unions, or any other cause (whether similar or dissimilar to the foregoing) not within the reasonable control of Sponsor. Sponsor's time to perform such obligation or undertaking shall be tolled for the length of the period during which such performance was excused.

19. FIXTURES, APPLIANCES AND PERSONAL PROPERTY. Only those fixtures, appliances and items of personal property which are described in the Description of the Property in Part II of the Plan as being part of the Unit are included in the sale of the Unit pursuant to the provisions of this Agreement. At the Closing, Sponsor shall transfer to Purchaser any assignable warranties and undertakings received by Sponsor in its possession which relate to appliances, equipment or fixtures located in the Unit.

20. ACCEPTANCE OF CONDITION OF PROPERTY. Purchaser shall accept title (without abatement in, or credit against, the Purchase Price or any provision for escrow deposits at the closing of title) notwithstanding the failure to complete construction of (a) minor details of the Unit or the Property, (b) other Units or (c) the Common Elements of the Property which do not prevent Purchaser's use of the Unit. Purchaser shall have a reasonable opportunity, upon written request of Purchaser, for Purchaser to examine the Unit and the Property, during normal business hours and in the company of Sponsor's agent prior to the Closing. Purchaser shall carefully inspect the Unit prior to the closing of title and shall execute at such time an inspection statement acknowledging Purchaser's acceptance of the Unit in good condition and in accordance with the terms of the Plan. However, if Purchaser finds that Sponsor's improvements have not been completed, although such improvements have been substantially completed, then Sponsor and Purchaser will agree to include on the inspection statement a list of incomplete work of a material nature to be completed in the Unit by Sponsor following the closing of title, but all such obligations to complete work in the Unit shall cease once the work has been completed. Notwithstanding the foregoing, Sponsor's obligations to perform work in any Unit shall not survive beyond one (1) year after the Closing Date. Sponsor shall have no obligation to complete any work to the Unit which is not specifically designated on the inspection statement by Purchaser, except for work necessary to cure violations and to obtain a temporary or permanent certificate of occupancy covering the Unit. Purchaser shall provide written notice that he or she wishes to inspect the Unit pursuant to this Paragraph at least ten (10) days prior to Closing and Sponsor shall respond prior to Closing. If Purchaser fails to inspect such Unit prior to the Closing, Purchaser shall be deemed to have accepted the Unit in good condition and in accordance with the terms of the Plan. Except as expressly provided in this Agreement or the Plan, including but not limited to subparagraph (1) of the subsection entitled "Sponsor's Obligations with Respect to the Building" of the Section entitled "Rights and Obligations of Sponsor," Sponsor shall have no obligation to repair or improve the Unit, any portion of the

Property, or the appliances, equipment or fixtures attached to or used in connection with the Unit or the Property.

Sponsor will not be obligated to correct, and will not be liable to any Board or Unit Owner as a result of any defects in construction, or in the installation or operation of any mechanical equipment, appliances, other equipment, finishes, materials or fixtures (including kitchen appliances and bathroom fixtures), as specifically set forth in the Section of the Plan entitled "Rights and Obligations of Sponsor".

Notwithstanding the foregoing, prior to Closing, Sponsor will be obligated to repair abnormal scratches in plastic laminate, vitreous china, natural stone, wood, porcelain and metallic surfaces by filling or refinishing the same, but Sponsor will not be obligated to replace any such surfaces.

21. **DAMAGE TO THE UNIT.** If between the date of this Agreement and the closing of title the Unit is damaged by fire or other casualty, the following shall apply:

21.1 The risk of loss to the Unit by fire or other casualty is assumed by Sponsor until the earlier of closing of title or possession of the Unit by Purchaser, but without any obligation or liability by Sponsor to repair or restore the Unit. If Sponsor elects to repair or restore the Unit, this Agreement shall continue in full force and effect, Purchaser shall not have the right to reject title or receive a credit against, or abatement in, the Purchase Price and Sponsor shall be entitled to a reasonable period of time within which to complete the repair or restoration. Any proceeds received from insurance or in satisfaction of any claim or action in connection with such loss shall, subject to the rights of the respective Boards and other Unit Owners if the Declaration has theretofore been recorded, belong entirely to Sponsor and, if such proceeds are paid to Purchaser, Purchaser shall promptly upon receipt thereof turn them over to Sponsor. The provisions of the preceding sentence shall survive the closing of title.

21.2 In the event Sponsor notifies Purchaser that it does not elect to repair or restore the Unit, or, if the Declaration has been recorded prior thereto, the Unit Owners do not resolve to make such repairs or restoration pursuant to the By-Laws, this Agreement shall be deemed canceled and of no further force and effect and Sponsor shall return to Purchaser all sums deposited by Purchaser hereunder, together with interest earned thereon, if any, subject to Sponsor's rights to retain certain funds deposited by Purchaser for special work in the Unit, and neither party hereto shall have any further rights, obligations or liability to or against the other hereunder or under the Plan, except that if Purchaser is then in default hereunder (beyond any applicable grace period), Sponsor shall retain all such sums deposited by Purchaser hereunder, together with any interest earned thereon, as and for liquidated damages.

22. **NO REPRESENTATIONS.** Purchaser acknowledges that Purchaser has not relied upon any architect's plans, sales plans, selling brochures, advertisements, representations, warranties, statements or estimates of any nature whatsoever, whether written or oral, made by Sponsor, Selling Agent, Sponsor's Counsel, Sponsor's attorneys, Escrow Agent or otherwise, including, but not limited to, any relating to the description or physical condition of the Property, the Building or the Unit, or the size or the dimensions of the Unit or the rooms therein contained

or any other physical characteristics thereof, the services to be provided to Unit Owners, the estimated Common Charges allocable to the Unit, the estimated real estate taxes on the Unit, the right to any income tax deduction for any real estate taxes or mortgage interest paid by Purchaser, the right to any income tax credit with respect to the purchase of the Unit, or any other data, except as herein or in the Plan specifically represented, Purchaser having relied solely on his own judgment and investigation in deciding to enter into this Agreement and purchase the Unit. No person has been authorized to make any representations on behalf of Sponsor except as herein or in the Plan specifically set forth. No oral representations or statements shall be considered a part of this Agreement. Sponsor makes no representation or warranty as to the work, materials, appliances, equipment or fixtures in the Unit, the Common Elements or any other part of the Property other than as set forth herein or in the Plan. Purchaser agrees (a) to purchase the Unit, without offset or any claim against, or liability of, Sponsor, whether or not any layout or dimension of the Unit or any part thereof, or of the Common Elements, as shown on the Floor Plans on file in Sponsor's office and [to be] filed in the City Register's Office, is accurate or correct, and (b) that Purchaser shall not be relieved of any of Purchaser's obligations hereunder by reason of any immaterial or insubstantial inaccuracy or error. The provisions of this Article 22 shall survive the closing of title or the termination of this Agreement.

23. **PROHIBITION AGAINST SALES OR ADVERTISING.** Prior to (a) one (1) year after Purchaser's closing on its Unit, Purchaser will not be permitted to sell his or her Unit(s) without obtaining the Sponsor's written approval, and (b) Purchaser's closing of a Unit, the Purchaser may not (i) list the Unit for resale with any broker or otherwise, or (ii) advertise, promote or publicize the availability of his or her Unit for sale or lease.

24. **BROKER.** Purchaser represents to Sponsor that Sponsor and Sponsor's Selling Agent are the only brokers or sales agents with whom Purchaser has dealt in connection with this transaction, and Sponsor agrees to pay the commission earned by said broker pursuant to a separate agreement. Purchaser agrees that should any claim be made against Sponsor for commissions by any broker, other than the aforementioned brokers, on account of any acts of Purchaser or Purchaser's representatives, Purchaser will indemnify and hold Sponsor free and harmless from and against any and all liabilities and expenses in connection therewith, including reasonable legal fees. The provisions of this Article 24 shall survive the closing of title.

25. **AGREEMENT MAY NOT BE ASSIGNED.**

25.1 Purchaser does not have the right to assign this Agreement without the prior written consent of Sponsor. Any purported assignment by Purchaser in violation of this Agreement will be voidable at the option of Sponsor. Sponsor's refusal to consent to an assignment will not entitle Purchaser to cancel this Agreement or give rise to any claim for damages against Sponsor. If Sponsor, in its sole discretion, consents to a Purchaser's request for an assignment of this Agreement, or for the addition, deletion or substitution of names on this Agreement, then Purchaser shall be required to pay Sponsor's reasonable attorneys' fees in advance, for preparation of an assignment agreement and otherwise comply with the Section of the Plan entitled "Assignment of Purchase Agreements".

25.2 Notwithstanding the provisions of Section 25.1 above, Sponsor will not unreasonably withhold its consent to the assignment by Purchaser, on one (1) occasion only, of all the Purchaser's rights under this Agreement to a Purchaser affiliate or to member(s) of Purchaser's immediate family. For purposes of this Section 25.2 only: (i) "Purchaser affiliate" means an entity, as of the date of the assignment and at all times thereafter through and including the Closing controlled by or under common control with Purchaser; (ii) "immediate family" means Purchaser's spouse, domestic partner, children, parents, grandchildren, brothers or sisters, stepchildren and stepparents; and (iii) "control" means the ownership of fifty-one percent (51%) or more of the interests in such entity and possession of the power to direct the management and policies of such entity and distribution of its profits.

25.3 Notwithstanding any consent by Sponsor pursuant to the terms of this Article to any such change of name or assignment, in no event shall Purchaser, as assignor, be released or relieved from any obligations, promises, covenants and liabilities under or in respect of this Agreement.

25.4 If Purchaser is a corporation, any sale, assignment, transfer, pledge, encumbrance or other disposition of any of the stock of Purchaser, or if Purchaser is a partnership, limited liability company or other entity, any sale, assignment, transfer, pledge, encumbrance or other disposition of any interest in such partnership, limited liability company or other entity shall, for purposes of this Agreement, be considered an assignment and shall be subject to the provisions, prohibitions and terms of this Article concerning assignment of this Agreement, except that a sale of 49% or less of the stock, or in the case of a partnership, limited liability company, trust or other entity, 49% or less than of the ownership interests, of Purchaser which does not result in a change in control of Purchaser shall not be considered an assignment. For purposes of the preceding sentence only, "control" shall mean the ownership of fifty-one percent (51%) or more of the interests in such entity and possession of the power to direct the management and policies of such entity and the distribution of its profits.

25.5 If a Purchaser desires to assign its rights under this Agreement or to take title in the name of an affiliate of, or entity related to, or controlled by Purchaser that differs from that reflected in this Agreement, or to add, delete or substitute the name of a member of the Purchaser's family, then, if such assignment, alteration, addition, deletion or substitution is permitted by Sponsor (in Sponsor's sole discretion), Purchaser shall deliver to Selling Agent or Sponsor's counsel, four (4) signed forms of assignment of this Agreement (to be prepared by Sponsor's counsel at Purchaser's expense and in form and content acceptable to Sponsor, in its sole discretion), four (4) Affidavits of Intention to Reside (the form of which is attached hereto as Schedule B) signed and notarized by the assignee, and three (3) completed and signed copies of either Form W-9 (Request for Taxpayer Identification Number and Certification), Form W-8BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding), or other appropriate Form W-8, as applicable, in the form required by law. Upon each assignment or other change permitted by Sponsor (in its sole discretion), the assignments, affidavits and Form W-8 or Form W-9, as applicable, must be delivered to Selling Agent or Sponsor's counsel, together with a personal certified check, or an official bank or cashier's check, in the amount of \$1,500 made payable to Holland & Knight LLP (for services rendered in connection with the assignment), not less than twenty (20) days prior to the date scheduled for the Purchaser's

closing. In no event shall Purchaser or its assignee (or any added or substituted party) have any right to adjourn or postpone the closing as a result of any such change or assignment. Sponsor is not obligated to consent to any such change or assignment and, Sponsor's refusal to consent to an assignment or change in name will not entitle Purchaser to cancel this Agreement or excuse Purchaser from any of its obligations hereunder or give rise to any claim for damages against Sponsor; and the prohibition against advertising or publicizing the availability of Purchaser's Unit as set forth in Article 23 above and in the Plan will remain in effect.

26. **BINDING EFFECT.** This Agreement shall not be binding on Sponsor until a fully executed counterpart hereof has been delivered to Purchaser. If this Agreement is not accepted within thirty (30) days from the date hereof by the delivery to Purchaser of a fully executed counterpart, this Agreement shall be deemed to have been rejected and canceled—and the Option Payment paid on the execution hereof shall be promptly returned to Purchaser. If Purchaser has not received the Plan and all amendments thereto at least three full (3) days prior to Purchaser's signing this Agreement, the Purchaser shall have the right to rescind this Agreement within seven (7) days from the date of this Agreement.

27. **NOTICES.**

27.1 Any notice, request, letter, consent or other communication hereunder or under the Plan shall be in writing and hand delivered or sent, postage prepaid, by registered or certified mail, to Purchaser at the address given at the beginning of this Agreement, and to Sponsor at the address given at the beginning of this Agreement, with a copy to Holland & Knight LLP, 31 West 52nd Street, New York, New York 10019, Attn: Stephanie Rainaud, in the same manner as notice is given to Sponsor, or to such other address as either party may hereafter designate to the other in writing. Except as otherwise expressly provided herein, the date of hand delivery or mailing shall be deemed to be the date of the giving of notice, except that the date of actual receipt shall be deemed to be the date of the giving of any notice of change of address. Any notice either of the parties hereto receives from the other party's attorneys shall be deemed to be notice from such party itself. A failure by Purchaser to acknowledge receipt of any notice, request, letter, consent or other communication hereunder shall not in any way invalidate such communication.

27.2 Sponsor hereby designates and empowers both Selling Agent and Sponsor's counsel (Holland & Knight LLP) as Sponsor's agents to give any notice to Purchaser under this Agreement (including, without limitation, a notice of default) in Sponsor's name, which notice so given shall have the same force and effect as if given by Sponsor itself.

28. **JOINT PURCHASERS.** The term "Purchaser" shall be read as "Purchasers" if the Unit is being purchased by more than one person, in which case their obligations shall be joint and several.

29. **PURCHASER'S REPRESENTATIONS.**

29.1 Purchaser represents that Purchaser has full right and authority to execute this Agreement and perform Purchaser's obligations hereunder. If Purchaser is not a natural

person, Purchaser agrees to deliver at Closing, such documents evidencing Purchaser's authority as may be required by Purchaser's title company. Purchaser further represents that the Option Payment represents Purchaser's own funds and that no other party (other than Purchaser or Seller, as provided herein) has any right or claim to all or any portion of the Option Payment.

29.2 Purchaser is not now, nor shall it be at any time prior to or at the Closing of title, an individual, corporation, partnership, joint venture, trust, trustee, limited liability company, unincorporated organization, real estate investment trust or any other form of entity (collectively, a "Person") with whom a United States citizen, entity organized under the laws of the United States or its territories or entity having its principal place of business within the United States or any of its territories (collectively, a "U.S. Person"), is prohibited from transacting business of the type contemplated by this Agreement, whether such prohibition arises under United States law, regulation, executive orders and lists published by the Office of Foreign Assets Control, Department of the Treasury ("OFAC") including those executive orders and lists published by OFAC with respect to Persons that have been designated by executive order or by the sanction regulations of OFAC as Persons with whom U.S. Persons may not transact business or must limit their interactions to types approved by OFAC or otherwise. Neither Purchaser nor any Person who owns an interest in Purchaser is now nor shall be at any time prior to or at the closing of title a Person with whom a U.S. Person, including a "financial institution" as defined in 31 U.S.C. 5312 (a)(z), as periodically amended, is prohibited from transacting business of the type contemplated by this Agreement, whether such prohibition arises under United States law, regulation, executive orders and lists published by the OFAC or otherwise.

29.3 Purchaser has taken, and shall continue to take until the closing of title, such measures as are required by applicable law to assure that the funds used to pay to Sponsor the Purchase Price are derived: (i) from transactions that do not violate United States law nor, to the extent such funds originate outside the United States, do not violate the laws of the jurisdiction in which they originated; and (ii) from permissible sources under United States law and to the extent such funds originate outside the United States, under the laws of the jurisdiction in which they originated. Purchaser is, and will at Closing be, in compliance with any and all applicable provisions of the USA PATRIOT Act of 2001, Pub. L. No. 107-56, the Bank Secrecy Act of 1970, as amended, 31 U.S.C 5312 et. seq., the Trading with the Enemy Act, 50 U.S.C. App. Section 1 et. seq., and the sanction regulations promulgated pursuant thereto by the OFAC, as well as laws relating to prevention and detection of money laundering in 18 U.S.C Sections 1956 and 1957.

29.4 The provisions of this Article shall survive the closing of the title to the Unit or termination of this Agreement.

30. WAIVER OF DIPLOMATIC OR SOVEREIGN IMMUNITY.

30.1 Purchaser hereby waives any and all immunity from suit or other actions or proceedings and agrees that, should Sponsor or any of its successors or assigns bring any suit, action or proceeding in New York or any other jurisdiction to enforce any obligation or liability

of Purchaser arising, directly or indirectly, out of or relating to this Agreement, no immunity from such suit, action or proceeding will be claimed by or on behalf of Purchaser.

30.2 As of the execution of this Agreement, Purchaser acknowledges and agrees that all disputes arising, directly or indirectly, out of or relating to this Agreement may be dealt with and adjudicated in the state courts of New York or the federal courts sitting in New York, and hereby expressly and irrevocably submits the person of Purchaser to the jurisdiction of such courts in any suit, action or proceeding arising, directly or indirectly, out of or relating to this Agreement. So far as is permitted under the applicable law, this consent to personal jurisdiction shall be self-operative and no further instrument or action shall be necessary in order to confer jurisdiction upon the person of Purchaser in any such court.

30.3 Purchaser irrevocably waives, to the fullest extent permitted by law, and agrees not to assert, by way of motion, as to a defense or otherwise in any suit, action or proceeding arising, directly or indirectly out of relating to this Agreement brought in the state courts in New York or the federal courts sitting in New York: (i) any objection which it may have or may hereafter have to the laying of the venue of any such suit, action or proceeding in any such court (ii) any claim that any such suit, action or proceeding has been brought in an inconvenient forum; or (iii) any claim that it is not personally subject to the jurisdiction of such courts. Purchaser agrees that final judgment from which Purchaser has not or may not appeal or further appeal in any such suit, action or proceeding brought in such a court shall be conclusive and binding upon Purchaser and, may so far as is permitted under the applicable law, be enforced in the courts of any state or any federal court and in any other courts to the jurisdiction of which Purchaser is subject, by a suit upon such judgment and that Purchaser will not assert any defense, counterclaim, or set off in any such suit upon such judgment.

30.4 Purchaser agrees to execute, deliver and file all such further instruments as may be necessary under the laws of the State of New York, in order to make effective the consent of Purchaser to jurisdiction of the state courts of New York and the federal courts sitting in New York and any other provisions of this Article 30.

30.5 Nothing in this Article 30 shall affect the ability of Sponsor to bring proceedings against Purchaser in the courts of any jurisdiction or jurisdictions.

30.6 The provisions of this Article 30 shall survive the closing of title or the termination of this Agreement for the purpose of any suit, action, or proceeding arising directly or indirectly, out of or relating to this Agreement.

30.7 In the event Purchaser is a foreign government, a resident representative of a foreign government or such other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity), such Purchaser shall hereby be deemed to have designated and hereby designates C.T. Corporation System, having its offices, at the date hereof, at 111 Eighth Avenue, New York, New York 10011 as its duly authorized and lawful agent to receive process for and on behalf of Purchaser in any state or Federal suit, action or proceeding in the State of New York based on, arising out of or connected with this Agreement.

30.8 If Purchaser is a foreign mission, as such term is defined under the Foreign Missions Act, 22 U.S.C. 4305, Purchaser shall notify the United States Department of State prior to purchasing a Unit and provide a copy of such notice to Sponsor, Sponsor shall not be bound under this Agreement unless and until the earlier to occur of: (i) a notification of approval is received from the Department of State; or (ii) sixty (60) days after Purchaser's notice of received by the Department of State.

31. **SECTION 1031 EXCHANGE.** Sponsor hereby acknowledges that the acquisition of the Unit hereunder may be in connection with a tax deferred exchange under §1031 of the Internal Revenue Code and that Purchaser may be assigning all of its rights and obligations hereunder to a qualified intermediary as part of, and in furtherance of, such tax deferred exchange. Sponsor hereby agrees to reasonably assist and cooperate in such tax deferred exchange, provided, however, that: (i) any action taken in connection with such tax deferred exchange or requested of Sponsor shall not result in any cost, expense or liability on the part of Sponsor or increased risk to Sponsor relating to the transaction contemplated by this Agreement (and, among other things, Purchaser acknowledges that a fee shall be payable to Sponsor's Counsel in connection with the review of any documentation related to such tax-deferred exchange); (ii) no action or failure on the part of Sponsor in connection with or related to such tax deferred exchange or cooperation on the part of Sponsor in connection with or related to said tax deferred exchange will frustrate the purpose of this Agreement or otherwise result in a reduction of Sponsor's rights, remedies and privileges under this Agreement or increase any of Sponsor's obligations or duties under this Agreement or otherwise; and (iii) Sponsor shall not be obligated, as part of any tax deferred exchange, to convey any property (other than the Unit), acquire any property, or accept any form of payment in respect of the amounts due hereunder other than as set forth herein. Purchaser shall indemnify and shall hold Sponsor harmless from and against any and all costs, expenses, fees (including, without limitation, reasonable attorneys' fees) or liabilities incurred by Sponsor in connection with or resulting from the said tax deferred exchange, and such indemnity shall survive the closing of title or the termination of this Agreement. Notwithstanding the foregoing, Sponsor makes no representation and expresses no opinion with respect to the applicability of §1031 of the Internal Revenue Code to the purchase or acquisition of the Unit.

32. **PERFORMANCE BY AND LIABILITY OF SPONSOR.**

32.1 Other than those obligations on the part of Sponsor that have been expressly stated to survive the delivery of the deed in this Agreement, the Plan, 13 NYCRR, Part 20 (the regulations of the Attorney General of the State of New York governing the acceptance for filing of the Plan) and General Business Law §352-e, Purchaser's acceptance of the deed for the Unit shall be deemed to be a full performance and discharge of each and every agreement and obligation on the part of Sponsor to be performed pursuant to the provisions of this Agreement, the Plan, 13 NYCRR, Part 20 (the regulations of the Attorney General of the State of New York governing the acceptance for filing of the Plan) and General Business Law §352-e.

32.2 Sponsor shall be excused from performing any obligation or undertaking provided for in this Agreement for so long as such performance is prevented, delayed or hindered by an act of God, fire, flood, explosion, war, riot, sabotage, inability to procure or general

shortage of energy, labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strike, lockout, action of labor unions, or any other cause (whether similar or dissimilar to the foregoing) not within the reasonable control of Sponsor. Sponsor's time to perform such obligation or undertaking shall be tolled for the length of the period during which such performance was excused.

33. FURTHER ASSURANCES. Either party shall execute, acknowledge and deliver to the other party such instruments, and take such other actions, in addition to the instruments and actions specifically provided for herein, as such other party may reasonably request in order to effectuate the provisions of this Agreement or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

34. COSTS OF ENFORCING AND DEFENDING AGREEMENT. Purchaser shall be obligated to reimburse Sponsor for any legal fees and disbursements incurred by Sponsor in defending Sponsor's rights under this Agreement or, in the event Purchaser defaults under this Agreement beyond any applicable grace period, in canceling this Agreement or otherwise enforcing Purchaser's obligations hereunder.

35. SEVERABILITY. If any provision of this Agreement or the Plan is invalid or unenforceable as against any person or under certain circumstances, the remainder of this Agreement or the Plan and the applicability of such provision to other persons or circumstances shall not be affected thereby. Each provision of this Agreement or the Plan, except as otherwise herein or therein provided, shall be valid and enforced to the fullest extent permitted by law.

36. STRICT COMPLIANCE. Any failure by Sponsor to insist upon the strict performance by Purchaser of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions hereof, and Sponsor, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by Purchaser of any and all of the provisions of this Agreement to be performed by Purchaser.

37. GOVERNING LAW. The provisions of this Agreement shall be governed by and construed in accordance with the internal laws of the State of New York applicable to agreements made and to be performed wholly in the State of New York, without regard to principles of conflicts of law. Purchaser hereby grants jurisdiction to the Supreme Court of the State of New York in New York County and the United States District Court for the Southern District of New York for all disputes relating to the Condominium including this Agreement.

38. WAIVER OF JURY. Except as prohibited by law, the parties shall, and they hereby do, expressly waive trial by jury in any litigation arising out of, or connected with, or relating to, this Agreement or the relationship created hereby. With respect to any matter for which a jury trial cannot be waived, the parties agree not to assert any such claim as a counterclaim in, nor move to consolidate such claim with, any action or proceeding in which a jury trial is waived. The provisions of this Article shall survive closing of title or the termination of this Agreement.

39. ENTIRE AGREEMENT. This Agreement supersedes any and all understandings and agreements between the parties with respect to the subject matter hereof.

40. CERTAIN REFERENCES. A reference in this Agreement 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. The terms "herein," "hereof" or "hereunder" or similar terms used in this Agreement refer to this entire Agreement and not to the particular provision in which the term is used, unless the context otherwise requires. Unless otherwise stated, all references herein to Articles, Sections, subsections or other provisions are references to Articles, Sections, subsections or other provisions of this Agreement.

41. CAPTIONS. The captions in this Agreement are for convenience of reference only and in no way define, limit or describe the scope of this Agreement or the intent of any provision hereof

42. RULE OF CONSTRUCTION. There shall be no presumption against the draftsman of this Agreement.

43. SUCCESSORS AND ASSIGNS. The provisions of this Agreement shall bind and inure to the benefit of Purchaser and his heirs, legal representatives, successors and permitted assigns and shall bind and inure to the benefit of Sponsor and its successors and assigns.

44. NO ORAL CHANGES. THIS AGREEMENT CANNOT BE CHANGED OR TERMINATED ORALLY. ANY CHANGES OR ADDITIONAL PROVISIONS MUST BE SET FORTH IN A RIDER ATTACHED HERETO OR IN A SEPARATE WRITTEN AGREEMENT SIGNED BY THE PARTIES HERETO OR BY AN AMENDMENT TO THE PLAN.

45. AMENDMENTS TO THE PLAN. Subject to any provision of the Plan to the contrary, if there is a substantial amendment to the Plan that materially and adversely affects Purchaser, Purchaser will have a period of fifteen (15) days from the date of presentation of said amendment within which to rescind this Agreement and, if Purchaser exercises such right of rescission, Sponsor shall return the Option Payment, together with any interest thereon, pursuant to this Agreement within thirty (30) days.

46. LETTER OF CREDIT IN LIEU OF DEPOSITS IN ESCROW. Purchaser acknowledges and agrees that Sponsor has the right, in its sole discretion, to elect to withdraw the Deposit and secure it with a Letter of Credit as more fully set forth in the Plan and Purchaser hereby consents to such withdrawal of the funds from escrow.

47. PRINCIPALS OF SPONSOR HAVE EXECUTED THE CERTIFICATION OF SPONSOR AND PRINCIPALS FOR COMPLIANCE WITH THE MARTIN ACT AND GOVERNING REGULATIONS. Consistent with a recent First Department decision, the principals of Sponsor expressly disclaim the existence of any private right of action for contract claims by individual Unit Owners (or a board on their behalf) in connection with or arising solely

from their execution of the Certification of Sponsor and Principals, absent liability under another statute or under an alter-ego or other veil piercing theory. See Board of Managers of 184 Thompson Street Condominium v. 184 Thompson Street Owner LLC, et al. 2013 N.Y. Slip Op 03574 (1st Dept. May 16, 2013).

48. NO RECORDING. Neither this Agreement nor a memorandum of this Agreement shall be recorded against the Property, the Building or the Unit.

49. CONFIDENTIALITY. Sponsor and Purchaser hereby acknowledge and agree to keep all of the terms and conditions of this Agreement confidential, except that Sponsor shall be permitted to disclose that this Agreement has been executed for the Unit and the purchase price thereunder, but not the identity of Purchaser or its principals. Sponsor and Purchaser agree that any information which is required to be disclosed to the parties respective lawyers, brokers, architects/engineers, accountants, individuals who "need to know" or governmental agencies shall not be deemed to be a breach by Sponsor or Purchaser of the parties undertaking of confidentiality contained in this Agreement. Any failure by Purchaser to keep the terms and conditions of this Agreement confidential shall be a default by Purchaser, entitling Sponsor to the default remedies set forth in this Agreement.

50. COUNTERPARTS. This Agreement and any Rider(s) which may be annexed hereto may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same document. A facsimile signature on this Agreement (or any such Rider(s)) shall be acceptable and be deemed binding. The party tendering such facsimile signature shall provide the other party with original counterparts of the signature page promptly after delivery of the facsimile signature page, although the failure to do so shall not invalidate the effectiveness of the facsimile signature.

51. LIS PENDENS. Purchaser waives any right to place a Lis Pendens against the Unit or the Building. In the event of the Sponsor's failure to substantially complete the Unit in accordance with the terms of the Plan and this Agreement, Purchaser's sole remedy shall be the return of Purchaser's Option Payment. The Option Payment shall only be returned if Purchaser has complied with the conditions contained in the Plan and this Agreement. Purchaser acknowledges that if Purchaser has not acted in compliance with the foregoing, Purchaser may not have the right to have the Purchaser's Option Payment refunded.

52. OPTION AGREEMENT. The parties acknowledge that, for federal income tax purposes only, this Agreement is sometimes referred to as an "option agreement." This characterization is consistent with Sponsor's intention to treat the Agreement for purposes of applicable provisions of the Internal Revenue Code as similar to an option and to obtain the same tax treatment that the Sponsor would be entitled to under certain proposed treasury regulations that were promulgated by the Internal Revenue Service on August 4, 2008 (the "Proposed Regulation). If this characterization is respected, Sponsor will be able to account for the sale of the Residential Unit for federal income tax purposes in the same manner as it would be able to account for such sale if the Residential Unit had constituted a separate townhouse or other separate dwelling. If the Purchaser does not close on the Agreement, Purchaser will forfeit the Option Payment as liquidated damages. Purchasers should note that Sponsor's characterization

~~of this Agreement is not binding on the Internal Revenue Service (“IRS”) which may challenge such characterization. However, even if the IRS were to successfully challenge Sponsor’s tax characterization of this Agreement and the Option Payment, as described above, there will be no adverse tax or other consequences to Purchaser.~~

53. MOLD. Purchasers are advised that the prevention of the growth of mold in a Unit is the responsibility of each Unit Owner. Construction is not, and cannot be, designed to exclude mold spores. Whether a Unit Owner experiences mold growth depends largely on how such Unit Owner manages and maintains his/her Unit. Unit Owners will need to take actions to prevent conditions which cause the mold or mildew, and it is the responsibility of each Unit Owner to ensure that he/she has taken the necessary precautions to prevent mold from becoming a problem in such Unit Owner’s Unit. Sponsor will not be liable for and Purchaser hereby waives any claim for any actual, special, incidental or consequential damages based on any legal theory whatsoever, including, but not limited to, strict liability, breach of express or implied warranty, negligence or any other legal theory with respect to the presence and/or existence of molds, mildew and/or microscopic spores unless caused by the gross negligence or willful misconduct of Sponsor. The provisions of this Article shall survive closing of title or the termination of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

SPONSOR:

421 KENT DEVELOPMENT, LLC

By: Peter Amato

Name: PETER AMATO

Title: AUTHORIZED SIGNATORY

PURCHASER:

UPRETS Oosten Property I LLC

Jian Zhang

Name: Jian Zhang

Title: Authorized Signatory

(Social Security or Federal I.D. Number)

Telephone No. _____

ESCROW AGENT:

Accepted and agreed as to the provisions of Article 12:

HOLLAND & KNIGHT LLP

By: _____

Name: _____

Title: Partner

SCHEDULE A
PERMITTED ENCUMBRANCES

1. Building restrictions and zoning and other regulations, resolutions and ordinances and any amendments thereto now or hereafter adopted.
2. Any state of facts which an accurate survey of the Building and the Unit would show, or such other items as a personal inspection of the Property would show, provided such facts would not make title to the Unit unmarketable, except as otherwise permitted herein.
3. The terms, burdens, covenants, restrictions, conditions, easements and rules and regulations, all as set forth in the Declaration, the By-Laws and the Rules and Regulations, the Power of Attorney from the Purchaser to the Residential Board and other parties, and the Floor Plans; as all of the same may be amended from time to time.
4. Consents by the Sponsor or any former owner of the Land for the erection of any structure or structures on, under or above any street or streets on which the Property may abut.
5. Any easement or right of use in favor of any utility company for construction, use, maintenance or repair of utility lines, wires, terminal boxes, mains, pipes, cables, conduits, poles and other equipment and facilities on, under and across the Property.
6. Revocability of licenses for vault space, if any, under the sidewalks and streets.
7. Any easement or right of use required by Sponsor or its designee to obtain a temporary, permanent or amended Certificate of Occupancy for the Building or any part of same.
8. Encroachments of stoops, areas, cellar steps or doors, trim, copings, retaining walls, bay windows, balconies, sidewalk elevators, fences, fire escapes, cornices, foundations, footings and similar projections, if any, on, over, or under the Property or the streets or sidewalks abutting the Property, and the rights of governmental authorities to require the removal of any such projections and variations between record lines of the Property and retaining walls and the like, if any.
9. Leases and service, maintenance, employment, concessionaire and license agreements, if any, of other Units or portions of the Common Elements.
10. The lien of any unpaid Common Charge, real estate tax, water charge or sewer rent, or vault charge, provided the same are adjusted at the closing of title.
11. The lien of any unpaid assessment payable in installments (other than assessments levied by the Board), except that the Sponsor shall pay all such assessments due prior to the Closing Date (with the then current installment to be apportioned as of the Closing Date) and the Purchaser shall pay all assessments due from and after the Closing Date.
12. Any declaration or other instrument affecting the Property which the Sponsor deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution

or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the demolition, construction, alteration, repair or restoration of the Building.

13. Any encumbrance as to which Commonwealth Title Insurance Company (or such other New York Board of Title Underwriters member title insurance company which insures the Purchaser's title to the Unit) would be willing, in a fee policy issued by it to the Purchaser, to insure the Purchaser that such encumbrance (1) will not be collected out of the Unit if it is a lien or (2) will not be enforced against the Unit if it is not a lien.

14. Any other encumbrance, covenant, easement, agreement, or restriction against the Property other than a mortgage or other lien for the payment of money, which does not prevent the use of the Residential Unit for residential purposes.

15. Any lease covering the Unit made from the Sponsor to the Purchaser.

16. Any violation against the Property (other than the Unit) which is the obligation of the Condominium Board, or another Unit Owner to correct.

17. Standard printed exceptions contained in the form of fee title insurance policy then issued by Commonwealth Title Insurance Company.

18. Any Temporary or Permanent Certificate of Occupancy for the Building, so long as the same permits, or does not prohibit, use of the Unit for its stated purposes.

19. Any encumbrance, covenant, easement, agreement, or restriction against the Property set forth in the form of Unit Owner's Specimen Title Policy prepared by the Title Company set forth in Part II of the Plan, as the same may be updated from time to time prior to the Closing.