

LOTLINE WINDOW RESTRICTIVE DECLARATION

DECLARATION, made this _____ day of _____, 20____, by

hereinafter referred to as the "Declarant," having an office/residing at

WHEREAS, the Declarant is the fee owner of certain land located in the City and State of New York, Borough of _____, designated as Block _____ Lot _____ on the Tax Map of the City of New York, hereinafter referred to as Parcel A, more particularly described by a metes and bounds description on Schedule A annexed hereto and by this reference made a part hereof;

WHEREAS, the Declarant is desirous of constructing/altering a certain building on Parcel A (the "Building") which upon completion will have _____ stories [with one basement or cellar] and will be used for residential purposes on floors _____ [and for commercial and other business purposes on the other floor];

WHEREAS, the Declarant has requested the New York City Department of Buildings (the "Department of Buildings") to act upon Application No. _____ to construct exterior wall openings on floors _____ through _____ of the [direction wall faces (e.g., northerly, southerly)] _____ wall of the Building, as shown in the diagram annexed hereto as Schedule B, in excess of the permitted area established by Table 3-4 of Title 27, Chapter 1, Subchapter 3 of the 1968 Building Code (27-280), Section BC 704.8 of the 2008 Building Code, or Section BC 705.8.1 of the 2014 Building Code, as applicable;

WHEREAS, pursuant to footnote (b) of Table 3-4 and footnote (1) of Table 705.8, the Department of Buildings may permit exterior wall openings to be constructed in excess of the permitted area established by Table 3-4 and Table 705.8 under the conditions set forth in such footnote; and

WHEREAS, the Department of Buildings has advised the Declarant that one of the conditions for obtaining authorization allowing construction of said exterior wall openings is that Declarant must execute a restrictive declaration setting forth the conditions under which such exterior wall openings in excess of the permitted area would be closed with construction meeting the requirements of the Administrative Code of the City of New York.

NOW, THEREFORE, in consideration of the issuance by the Department of Buildings of a building permit for the Building, the Declarant does hereby declare, create, impose and establish the following:

1. If any building neighboring the Building is hereafter altered or constructed to come within a distance of less than 60 feet in a direct line (whether horizontally, vertically or diagonally) of any exterior openings in the _____ wall of the Building from the _____ to the _____ above-grade floors, then said exterior wall openings which fall within said distance

limitation shall promptly be closed with construction meeting the fire resistance rating requirements for an exterior wall of the Building as provided in the Building Code and all other applicable laws, ordinances, codes rules and regulations;

2. The declaration may not be modified, amended or terminated without the prior written consent of the Department of Buildings
3. The covenants set forth herein shall run with the land and be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns;
4. Failure to comply with the terms of this declaration may result in the revocation of a building permit or certificate of occupancy; and
5. This declaration shall be recorded at the city register's (county clerk's) office against all affected parcels of land and the cross-reference number and title of the declaration shall be recorded on each temporary and permanent certificate of occupancy hereafter issued to building location on the affected parcels and in any deed for the conveyance thereof.

IN WITNESS WHEREOF, Declarant has made and executed the foregoing restrictive declaration as of the date hereinabove written.

Declarant

By:

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

On the _____ day of _____, in the year _____, before me, the undersigned, personally appeared [Declarant] _____, personally known to me or proved to me on the basis of satisfactory evidence to the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public