

**FIRST AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS  
ENABLING DECLARATION ESTABLISHING  
A PLAN FOR CONDOMINIUM OWNERSHIP  
OF PHASE I AND PHASE II, TRACT 30743 FOR  
ROWLAND HEIGHTS VILLAS HOMEOWNERS ASSOCIATION**

The Owners of all that certain real property subject to this Declaration, located in the County of Los Angeles, State of California, more particularly described as:

Lots 1 to 54, inclusive, and Lots 72, 73 and 74 of Tract No. 30743 in the Count, of Los Angeles, State of California, as per Map recorded in Book 789, Pages 43 to 50, inclusive, Maps, in the office of the County Recorder of said County,

(hereafter referred to as the “Property”) and do hereby declare and certify as follows:

**R E C I T A L S :**

A. All of the real property, including all structures and other improvements thereon, is hereby defined and shall herein be referred to as the “Project.”

B. The Original Declaration, established a plan for the individual ownership of the real property estates consisting of the area or space contained in each of the Units in each multifamily structure, and the co-ownership by the individual and separate Owners thereof, as tenants in common and as hereafter set forth, of all of the remaining real property which is hereinafter defined and referred to herein as the “*Common Areas*.”

The Members have determined that the Original Declaration is no longer in substantial compliance with current law and/or industry standards and, on that basis have adopted this First Amended and Restated Declaration which shall constitute covenants which run with the land and shall be binding on Owners of all or any part of the Project, together with their grantees, successors, heirs, executors, administrators, devisees or assigns.

A. The Project had been divided into the following separate freehold estates:

1. Each of the four apartment Units in each multifamily structure, each separately shown, numbered and designated on the Condominium Plan referred to in paragraph G hereof, is a separate freehold estate consisting of the space bounded by and contained within the interior surfaces of the perimeter walls, floors, ceilings, windows and doors of each apartment Unit, each of such spaces being defined and referred to herein as a “Unit.” Each Unit includes both the portions of the building so described and the airspace so encompassed, but the following are not part of the Unit: bearing walls, columns, floors, roofs, foundations, reservoirs, tanks, pumps, and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located except the outlets thereof when located within the Unit. In interpreting deeds, declarations and

plans, the existing physical boundaries of the Unit or a Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds (or other description) expressed in the deed, plan or declaration, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or in the deed and declaration and those of the building.

2. A freehold estate consisting of the remaining portion of the Project is described and referred to herein as Common Area A and Common Area B. Common Area A shall include, without limitation, each multifamily structure (except for the Units), the solid earth of the Lot upon which the structure is located and the air space above the structure, all bearing walls, columns, floors, roofs, slabs, foundations, storage spaces, balconies, lobbies, common halls and common stairways, reservoirs, tanks, pumps, and other central services, pipes, ducts, chutes, conduits, wires and other utility installations of the multifamily structures, wherever located, except the outlets thereof when located within the Units, parking spaces, lawns, pavements, trees and all other landscaping on the lots on which the multifamily structures are located. Common Area B being Lots 72, 73 and 74 shall include a swimming pool or pools, play areas and all other community facilities.

B. Each Unit together with the respective undivided interest in the Common Areas specified and established in paragraph E hereof is defined and hereinafter referred to as a "Condominium," and the ownership of each Condominium shall include a Unit and such undivided interests in the Common Areas.

C. Portions of Common Area A had been hereby set aside and allocated for the restricted uses of the respective Units as shown on the Condominium Plan referred to in paragraph G hereof, and such areas shall be known as "Restricted Common Areas," and such restricted Units for the exclusive uses and purposes as are set forth on said Condominium Plan.

D. The project consists of two hundred and sixteen (216) individual Units which had been individually conveyed are described as Units numbers 1 through 4 each of Lots 32 to 47, inclusive.

E. The undivided interests in Common Areas hereby established and which shall be conveyed with each respective Unit are as follows: As to Common Area A, one-fourth of each of such Common Area of the respective Lots on which is located the multifamily structure in which the Unit is situated; and as to Common Area B, 1/216 thereof.

F. The proportionate shares of the separate Owners of the respective Condominiums in the profits and Common Expenses in the Common Area, as well as their proportionate representation for voting purposes in ROWLAND HEIGHTS VILLAS HOMEOWNERS ASSOCIATION, a California nonprofit corporation (the "Association"), shall be 1/216.

G. Incorporated herein by this reference thereto is that certain Condominium Plan referred to as "Tract B, 30743 for Condominium Purposes," consisting of 8 sheets, as per Map recorded in Book 789, Pages 43 to 50, inclusive, of Maps in the Office of the County Recorder of Los Angeles County, California.

H. All current and future Owners of the Condominiums, by their acceptance of their respective deeds, covenant and agree as follows:

1. The Common Areas shall remain undivided as set forth above; and no Owner shall bring any action for partition, excepting as otherwise hereinafter provided, it being agreed that this restriction is necessary in order to preserve the rights of Owners with respect to the operation and management of the Project.
2. The Units shall be occupied and used by the respective Owners only as a private dwelling for the owners, his or her family, tenants and guests and for no other purpose.
3. Each Condominium Owner shall have the exclusive right to pant, repaint, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his or her own Unit.
4. If any portion of Common Area A encroaches upon the Units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event the multifamily structure is partially or totally destroyed, and then rebuilt, the Owners of Units agree that minor encroachments of parts of Common Area A due to construction shall be permitted and that valid easements for such encroachment and the maintenance thereof shall exist. Common Area A is and shall always be subject to easements for minor encroachments thereon of the Unit; and a nonexclusive easement for ingress, egress and support through Common Area A is appurtenant to each Unit and Common Area A is subject to such easements.
5. An Owner of a Condominium shall automatically upon acquisition of title, become a Member of the Association, and shall remain a Member thereof until such time as his or her ownership ceases for any reason, at which time his or her Membership in the Association shall automatically cease.
6. The Owners of all of the Condominiums covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration, the Articles and Bylaws of the Association a Regulatory Agreement had been executed by the Association and the Commissioner of the Federal Housing Administration, which Agreement had been attached to the Original Declaration as Exhibit "B" is made a part hereof. To the extent that the Regulatory Agreement remains in force and effect,

in whole or in part, the, in the case of an inconsistency with any matter in Exhibit “B,” then the provisions of Exhibit “B” shall prevail.

7. Each Owner, tenant or occupant of a Condominium shall comply with the provisions of this Declaration, the Bylaws, decisions and resolutions of the Association or its duly authorized representative, [and the Regulatory Agreement], all as lawfully amended from time to time, and failure to comply with any such provisions, decisions, or resolutions, shall be grounds for an action to recover sums due, for damages, or for injunctive relief.
8. This Declaration shall not be revoked or any of the provisions herein amended except as provided for in of the California Civil Code, or other applicable law.
9. No Owner of a Condominium may exempt himself of herself from liability for his or her contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of his or her Condominium.

## **ARTICLE I DEFINITIONS**

Unless the context clearly indicates otherwise, the following terms used in this Declaration are defined as follows:

### ***Section 1.1     Articles and Bylaws.***

“*Articles*” and “*Bylaws*” shall mean and refer to the Articles of Incorporation and Bylaws of the Association as the same may from time to time be duly amended.

### ***Section 1.2     Assessments.***

“*Assessments*” shall mean and refer to any or all of the following:

### ***Section 1.3     Regular Assessment.***

“*Regular Assessment*” shall mean the amount which is to be paid by each Member to the Association for Common Expenses.

### ***Section 1.4     Special Assessment.***

“*Special Assessment*” shall mean a charge against a particular Owner and his or her Unit, directly attributable to the Owner, to reimburse the Association for costs incurred in bringing the Owner and his or her Unit into compliance with the provisions of this Declaration, the Articles, Bylaws or Association Rules, or any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or Association Rules, together with attorneys’ fees and other

charges payable by such Owner, pursuant to the provisions of this Declaration, plus interest thereon and other fees and costs as provided for herein.

***Section 1.5     Capital Improvement Assessment.***

“*Capital Improvement Assessment*” shall mean a charge against each Owner and his or her Unit representing a portion of the cost to the Association for installation or construction of any capital improvements on the Common Area which the Association may from time to time authorize pursuant to the provisions of this Declaration.

***Section 1.6     Association.***

“*Association*” shall mean and refer to ROWLAND HEIGHTS VILLAS ASSOCIATION, a nonprofit mutual benefit corporation, incorporated under the laws of the State of California, its successors and assigns.

***Section 1.7     Association Rules.***

“*Association Rules*” shall mean and refer to rules adopted by the Board of Directors pursuant to the Article hereof entitled “Duties and Powers of the Association.”

***Section 1.8     Board.***

“*Board*” shall mean and refer to the Board of Directors of the Association.

***Section 1.9     Common Area.***

“*Common Area*” shall mean and refer to all portions of the Project except the Units.

***Section 1.10    Common Expenses.***

“*Common Expenses*” shall mean and refer to the actual and estimated costs of:

- (a) maintenance, management, operation, repair and replacement of the Common Area (unless repair and replacement is otherwise provided for elsewhere in this Declaration, including the Articles hereof entitled “Destruction of Improvements” and “Eminent Domain”);
- (b) unpaid Assessments;
- (c) maintenance by the Association of areas not within the Project if provided for in this Declaration or pursuant to one or more separate agreements;
- (d) management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;
- (e) utilities, trash pickup and disposal, gardening and other services not separately billed to Units which generally benefit and enhance the value and desirability of the Project;

- (f) fire, casualty, liability, workmen’s compensation and other insurance covering the Common Area;
- (g) any other insurance obtained by the Association;
- (h) reasonable reserves in accordance with a professionally prepared and current Reserve Study;
- (i) bonding of the members of the Board, any professional managing agent or any other person handling the funds of the Association;
- (j) taxes paid by the Association;
- (k) amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Area, or portions thereof;
- (l) obligations incurred by committees established by the Board; and
- (m) other expenses incurred by the Association for any reason whatsoever in connection with the Common Area, or any other item or items designated by this Declaration, the Articles, Bylaws or Association Rules or incurred in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

***Section 1.11 First Mortgage.***

“*First Mortgage*” shall mean and refer to a Mortgage which has priority over any other Mortgage encumbering a specific Unit.

***Section 1.12 First Mortgagee.***

“*First Mortgagee*” shall mean and refer to a Mortgagee under a First Mortgage.

***Section 1.13 Member.***

“*Member*” shall mean and refer to every person or entity who qualifies for membership pursuant to the Article hereof entitled “Membership.”

***Section 1.14 Mortgage.***

“*Mortgage*” shall mean and refer to any duly recorded mortgage or deed of trust encumbering a Unit.

***Section 1.15 Mortgagee.***

“*Mortgagee*” shall mean and refer to the mortgagee or beneficiary under any Mortgage, or assignee thereof.

***Section 1.16***    **Owner.**

“Owner” shall mean and refer to one or more persons or entities who are alone or collectively the record owner of a fee simple title to a Unit, but excluding those having any such interest merely as security for the performance of an obligation.

***Section 1.17***    **Unit.**

“Unit” shall mean the elements of a Condominium not owned in common with the Owners of other Units in the Project. Each Unit shall be defined, identified and designated in the Condominium Plan. In interpreting recorded instruments, including deeds, declarations and plans, the existing physical boundaries of a Unit constructed in substantial accordance with the Condominium Plan shall be conclusively presumed to be its boundaries rather than the description expressed in any such recorded instrument; regardless of settling or lateral movement of any building and regardless of minor variances between boundaries as shown on any such recorded instrument and those of any building as constructed. For purposes of this Declaration, any appurtenant exclusive easements forming a portion of a Condominium shall be treated as if same were part of the Unit of such Condominium except as otherwise expressly provided in this Declaration.

**ARTICLE II**  
**MEMBERSHIP**

***Section 2.1***    **Membership.**

Every Owner shall be a Member of the Association. The terms and provisions set forth in this Declaration which are binding upon all Owners are not exclusive, as Owners shall, in addition, be subject to the terms and provisions of the Articles, Bylaws and Rules to the extent the provisions thereof are not in conflict with this Declaration. Membership of Owners shall be appurtenant to and may not be separated from the interest of such Owner in any Unit. Ownership of a Unit shall be the sole qualification for membership.

***Section 2.2***    **Transfer.**

The Membership held by any Owner shall not be transferred, pledged or alienated in any way, except that such membership shall automatically be transferred to the transferee of the interest of an Owner required for membership. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. The Association shall have the right to record the transfer upon the books of the Association without any further action or consent by the transferring Owner.

***Section 2.3***    **Voting Rights.**

All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles, Bylaws and the Rules.

***Section 2.4***     ***Classes of Voting Membership.***

The Association shall have one (1) class of voting membership.

***Section 2.5***     ***Approval of Members.***

Unless elsewhere otherwise specifically provided in California law, this Declaration or the Bylaws, any provision of this Declaration or the Bylaws which requires the vote or written assent of a specified majority of the voting power of the Association shall be deemed satisfied by the following:

- (a) The vote of the specified percentage at a meeting duly called and noticed pursuant to the provisions of the Bylaws dealing with annual or special meetings of the Members, and such percentage must include the specified number of all Members entitled to vote at such meeting and not such a percentage of those Members present;
- (b) A writing or writings signed by the specified percentage; and
- (c) In any matter requiring the consent of the Members, but not specifically provided for in this Declaration or the Articles, Bylaws or any contract executed by the Association, a simple majority of the voting power of Members entitled to vote on such matters shall suffice.

**ARTICLE III**  
**COVENANTS FOR ASSESSMENTS**

***Section 3.1***     ***Creation of Lien and Personal Obligation for Assessments.*** Each Owner of a Unit, by acceptance of a deed or other instrument creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other instrument, had been, is, or shall be deemed to covenant and agree to pay to the Association: Regular Assessments, Special Assessments, Capital Improvement Assessments and Reconstruction Assessments, such Assessments to be fixed, established and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, late charges, attorneys' fees, court costs and other costs of collection as hereinafter provided, shall, upon recordation of a notice of claim of lien or copy thereof in the office of the County Recorder as described in the Section entitled "Notice of Lien" of the Article hereof entitled "Nonpayment of Assessments," become a lien upon, the Unit against which each such Assessment is made. Each such Assessment, together with such interest, late charges, costs and attorneys' fees, shall also be the personal obligation of the Owner of such Unit at the time the Assessment becomes due. The personal obligation shall not pass to the successors in title of an Owner unless expressly assumed by such successors.

***Section 3.2***     ***Purpose of Assessments.*** The Assessments levied by the Association shall be used exclusively for the purposes of promoting the recreation, health, safety and welfare of the Members, the management, maintenance, care, preservation, protection and architectural control of the Project, enhancing the quality of life in the Project and value of the Project including, without limitation, the improvement and maintenance of the properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, or in furtherance of any other duty or power of the Association.

**Section 3.3 Regular Assessments.** The Board shall determine the amount of the Regular Assessment to be paid by each Member based upon the proposed Budget. Each Member shall thereafter pay to the Association his or her Regular Assessment in installments as established by the Board. Each such installment shall be due and payable on a date established by the Board in the written notice sent to Members. In the event the Board shall determine that the estimate of total charges for the current year is, or will become, inadequate to meet all Common Expenses for any reason, it shall then immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessment against each Member, and the date or dates when due. The Board shall not impose a Regular Assessment which is increased by more than twenty percent (20%) over the amount of the Regular Assessment for the immediately preceding fiscal year without the approval of a majority of a quorum of the Members.

**Section 3.4 Capital Improvement Assessments.** In addition to Regular Assessments, the Association may levy in any fiscal year a Capital Improvement Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or replacement (other than due to destruction) of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, to the extent the same is not covered by the provisions affecting Reconstruction Assessments of the Article hereof entitled "Destruction of Improvements." The Association shall not impose a Capital Improvement Assessment the total amount of which exceeds five percent (5%) of the estimated Common Expenses, without the approval of a majority of a quorum of the Members. All amounts collected as Capital Improvement Assessments may only be used for capital improvements and shall be deposited by the Board in a separate bank account to be held in trust for such purposes. Said funds shall not be commingled with any other funds of the Association and shall be deemed a contribution to the capital account of the Association by the Members.

**Section 3.5 Rate of Assessments.** Regular Assessments and Capital Improvement Assessments shall be fixed for each Unit.

**Section 3.6 Certificate of Payment.** The Association shall, upon demand, furnish to any Member liable for Assessments a certificate in writing signed by an officer or authorized agent of the Association setting forth whether the Assessments relating to a specified Unit have been paid and the amount of delinquency, if any. A reasonable charge not to exceed Fifteen Dollars (\$15.00) may be collected by the Board for the issuance of each such certificate. Each certificate shall be prima facie evidence of payment of any Assessment therein stated to have been paid.

**Section 3.7 Special Assessments.** Special Assessments shall be levied by the Board against a Unit and its Owner to reimburse the Association for:

(a) costs incurred in bringing an Owner and his or her Unit into compliance with the provisions of this Declaration, the Articles, Bylaws or Association Rules;

(b) any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or Association Rules; and

(c) attorneys' fees, interest and other charges relating thereto as provided in this Declaration.

In the event the Association undertakes to provide materials or services which benefit individual Units and which can be accepted or not by individual Owners, such Owners, in accepting such materials or services, agree that the costs thereof shall be a Special Assessment.

**Section 3.8 Reserves.** At least once every three (3) years, the Board shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the Major Components within the Project for which the Association is responsible and which have a remaining useful life of thirty (30) years or less as part of a study of the Association's Reserve Account requirements. The Board shall review this Reserve Study, or cause it to be reviewed, annually and shall consider and implement necessary adjustments to the Board's analysis of the Reserve Account requirements as a result of that review.

The Reserve Study required by this Section shall at a minimum include the following information:

(a) Identification of each of the Major Components within the Project that the Association is obligated to repair, replace, restore or maintain that, as of the date of the Reserve Study, have a remaining useful life of less than thirty (30) years. Components with an estimated remaining useful life of more than thirty (30) years may be included in the Reserve Study as a capital asset or disregarded from the Reserve calculation, so long as the decision is revealed in the Reserve Study report and reported in the Assessment and Reserve Funding Disclosure Summary;

(b) Identification of the probable remaining useful life of those Major Components identified in subparagraph (a) as of the date of the Reserve Study;

(c) An estimate of the cost of repair, replacement, restoration, or maintenance of the Major Components identified in subparagraph (a).

(d) An estimate of the total annual contribution necessary to defray the cost the Association Capital Replacement Projects identified in subparagraph (a) during and at the end of the useful life of the Major Components, after subtracting total reserve funds as of the date of the study.

(e) A Reserve Funding Plan that indicates how the Association plans to fund the contribution identified in subparagraph (d) to meet the Association's obligation for the repair and replacement of the Major Components which have an expected remaining life of thirty (30) years or less, not including those components that the Board has determined will not be replaced or repaired. This Reserve Funding Plan shall also include a schedule of the date and amount of any change in Regular or Special Assessments that would be needed to sufficiently fund the Reserve Funding Plan. The Reserve Funding Plan shall be adopted by the Board of Directors at a meeting that is open to attendance to the Members.

If the Board determines that an Assessment increase is necessary to fund the Reserve Funding Plan, any increase shall be approved in a separate action of the Board that is consistent with the procedure described in Civil Code Section 5605.

#### **ARTICLE IV NONPAYMENT OF ASSESSMENTS**

***Section 4.1*** **Delinquency.** Any Assessment provided for in this Declaration which is not paid when due shall be delinquent on said date (the “delinquency date”). If any such Assessment is not paid within thirty (30) days after delivery of notice of such delinquency from the Association, a late charge of Ten Dollars (\$10.00) or ten percent (10%) of the delinquent sum, whichever is greater, shall be levied and the Assessment shall bear interest from the delinquency date at the rate of ten percent (10%) per annum. The Association may, at its option, and without waiving the right to judicially foreclose its lien against the Unit, pursue any available remedies, including, without limitation, the bringing of an action at law against the Member personally obligated to pay the same and/or, upon compliance with the notice provisions set forth in the Section entitled “Notice of Lien” of this Article, foreclose the Lien against the Unit. If an action at law is commenced, there shall be added to the amount of such Assessment the late charge, interest, costs of such action, costs of collection and attorneys’ fees incurred in connection with such action; and in the event a judgment is obtained, such judgment shall include said late charge, interest and attorney’s fees, together with such costs. Each Member vests in the Association or its assigns, the exclusive right and power to bring all actions at law or lien foreclosures against such Member for the collection of such delinquent Assessments.

***Section 4.2*** **Notice of Lien.** No action shall be brought to foreclose said Assessment lien or to proceed under the power of sale herein provided until thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Unit, and a copy thereof is recorded by the Association in the office of the Los Angeles County Recorder; said notice of claim of lien must recite a good and sufficient legal description of such Unit, the record Owner or reputed Owner thereof, the amount claimed (which shall include interest on the unpaid Assessment at the rate of twelve percent (12%) per annum commencing thirty (30) days after the assessment becomes due, a late charge of Ten Dollars (\$10.00) or ten percent (10%) of the delinquent assessment, whichever is greater, plus attorneys’ fees and costs of collection incurred in connection with the debt secured by said lien) and the name and address of the claimant.

***Section 4.3*** **Foreclosure Sale.** Said Assessment lien may be enforced by sale by the Association, its attorney or any other person authorized by the Board to make the sale, in accordance with the then applicable provisions of California law. Any such sale provided for above is to be conducted in accordance with the provisions of the California law, as said sections may from time to time be amended, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted or provided by law. The Association, through the Board or through the Association’s duly authorized agents, shall have the power to bid on the Unit at the sale using Association funds or funds borrowed for such purpose, and to acquire and hold, lease, mortgage and convey the same.

**Section 4.4 Curing of Default.** Upon the timely payment or other satisfaction of: (i) all delinquent Assessments specified in the notice of claim of lien, (ii) all other Assessments which have become due and payable with respect to the Unit as to which such notice of claim of lien was recorded, and (iii) interest, late charges, attorneys' fees and other costs pursuant to this Declaration and the notice of claim of lien which have accrued, officers of the Association or any other persons designated by Board are hereby authorized to file or record, as the case may be, in the office of the County Recorder an appropriate release of such notice. Each defaulting Owner shall pay to the Association a fee, to be determined by the Board, but not to exceed Twenty-five Dollars (\$25.00), to cover the costs of preparing and filing or recording such release. If such fee is not timely paid, the same may be collected by Special Assessment or in any other manner permitted by law or hereunder.

**ARTICLE V  
DUTIES AND POWERS OF THE ASSOCIATION**

**Section 5.1 General Duties of the Association.** The Association through the Board shall have the duty and obligation:

- (a) to enforce the provisions of this Declaration, the Articles, Bylaws and Association Rules by appropriate means and carry out the obligations of the Association hereunder and thereunder, including collection of Assessments and foreclosure of the liens therefor;
- (b) to maintain and otherwise manage the following:
  - (i) all personal property in which the Association holds an interest, subject to the terms of any instrument transferring such interest to the Association; and
  - (ii) all property, real or personal, which the Association is obligated to repair or maintain or replace pursuant to this Declaration;
- (c) to pay any real and personal property taxes and other charges assessed to or payable by the Association;
- (d) to obtain and pay for the benefit of the Common Area, and for the benefit of Units when they are not separately billed therefor, water, gas, electricity and other utilities and services;
- (e) to establish and maintain working capital and contingency funds and asset replacement accounts; and
- (f) to employ a manager or other persons and contract with independent contractors or managing agents who have professional experience in the management of residential developments similar to the Project to perform all or any part of the duties and responsibilities of the Association;

(g) to acquire interests in real or personal property that may be necessary or convenient for the management of the Project, the administration of the affairs of the Association or for the benefit of the Members;

(h) to borrow money as may be needed in connection with the discharge by the Association of its powers and duties;

In addition to the documents that the Association is required to distribute to the Members as described above, the following disclosures and information must be provided to the Members:

***Section 5.2     Annual Policy Statement.***

Within thirty (30) to ninety (90) days before the end of the Association’s fiscal year, the Board of Directors shall distribute to the Members, by Individual Delivery, an Annual Policy Statement that provides the Members with information about Association policies. The Annual Policy Statement shall include all of the following information:

(a) Information Regarding Designated Association Contact Person. The name and address of the person designated to receive official communications to the Association.

(b) Right to Request Sending of Information to Two Addresses. A statement explaining that a Member may submit a request to have certain notices sent to up to two different specified addresses.

(c) Location for Posting of General Notices. The location, if any, designated for posting of a General Notice in a prominent location in the Development that is accessible to all Members and designated for the posting of General Notices.

(d) Notice of Right to Receive Notices by “Individual Delivery”. Notice of a Member’s option to receive General Notices by Individual Delivery.

(e) Notice of Right to Receive Minutes. Notice of a Member’s right to receive copies of meeting minutes, draft minutes or a summary of the minutes within thirty (30) days of the meeting.

(f) Annual Notice Form Regarding Assessments & Foreclosure Remedies. The notice, in at least 12-point type, entitled “NOTICE OF ASSESSMENTS AND FORECLOSURE” that the Association is required to deliver to its Members as part of the Annual Policy Statement, in the form set forth in Civil Code Section 5730.

(g) Policy Statement Regarding Enforcement of Lien Rights. A statement describing the Association’s policies and practices in enforcing lien rights or other legal remedies for default in the payment of Assessments.

(h) Policy Statement Regarding Member Discipline & Fine Schedule. A statement describing the Association’s discipline policy, if any, including any schedule of penalties for violations of the Governing Documents.

(i) Summary of Association Dispute Resolution Procedures. A summary of the Association’s dispute resolution procedures (ADR and IDR) adopted by the Board pursuant and distributed to the Members in accordance with Civil Code Sections 5920 and 5965. This notice must specifically reference Article 3 of Chapter 10 of the Davis-Stirling Common Interest Development Act and must include this statement:

“Failure by any Member of the Association to comply with the pre-filing requirements of Civil Code Section 5930 may result in the loss of your rights to sue the Association or another Member of the Association regarding enforcement of the Governing Documents or the applicable law.”

(j) Summary of Requirements for Obtaining Architectural Approval of Improvement Projects. A summary of any requirements for approval of Improvement projects by the Architectural Committee pursuant to the Declaration.

(k) Mailing Address for Over-Night Payment of Assessments. The mailing address for overnight payment of Assessments which the Association must provide as convenience to its Members.

(l) Other Appropriate Information. Any other information that is required by law or the Governing Documents or that the Board determines to be appropriate for inclusion in the Annual Policy Statement.

The Association may deliver copies of the full report and if a summary is provided, the summary shall include instructions on how to request a complete copy of the report at no cost to the Member shall be printed in at least 10-point boldface type on the first page of the summary and if a particular Member has requested that all reports be sent in full, the Association must deliver the full report to that Member, rather than a summary of the report.

***Section 5.3      Notification to the Members of Rule Changes.***

(a) *Rule Changes Requiring Notification to Members.* For purposes of this Section, a “Rule Change” is defined as any proposed action by the Board of Directors to adopt, amend, or repeal an Operating Rule. An Operating Rule is one that pertains to one of the following subjects: (i) use of the Association Common Areas of the Project; (ii) use of a Unit (including, without limitation, the adoption or amendment of any Architectural Rule); (iii) Rule Changes relating to Member discipline, including any action to adopt or amend a fine schedule or procedures for the imposition of penalties; (iv) any standards for delinquent Assessment payment plans; (v) any procedures adopted by the Association for resolution of disputes; (vi) any procedures for reviewing and approving or disapproving a proposed physical change to a Member’s Unit pursuant to the Declaration; and (vii) procedures for the conduct of elections.

Specifically excluded from the definition of a Rule Change or an Operating Rule are the following: (i) a decision regarding maintenance of the Common Area; (ii) decisions on specific matters that are not intended to apply generally; (iii) decisions setting the amount of the Regular Assessment or Special Assessment; (iv) Rule Changes that are required by law if the Board has no discretion with respect to the substantive effect of the Rule Change; and (v) issuance of a document that merely repeats existing law or the Governing Documents.

(b) *Required Notice to Members.* Civil Code Section 4360 requires the Board of Directors to provide notice pursuant to Civil Code Section 4045 (“General Delivery”) of a proposed Rule Change, as defined in subparagraph (a), above, to the Members at least thirty (30) days prior to making any Rule Change. The notice must include the text of the proposed Rule Change and a description of the purpose and effect of the proposed Rule Change. Notice is not required under this subparagraph (b) if the Board determines that an immediate Rule Change is necessary to address an imminent threat to public health, or safety or imminent risk of substantial economic loss to the Association. The decision on any Rule Change that is subject to these notice requirements shall be made by the Board at a duly noticed meeting that is open to the Members, after consideration of any comments made by the Members. As soon as possible after making a Rule Change (but in no event later than fifteen (15) days thereafter), the Board shall deliver notice of the Rule Change to every Member. If the Rule Change was an emergency Rule Change, the notice shall include the text of the Rule Change, a description of the purpose and effect of the Rule Change and the date that the Rule Change expires. The notices required by this Section may be given to the Members by any method of General Notice. The Member notification requirements for the preceding five categories of Operating Rules are intended to afford Members the right to demand that the Board conduct a special vote to rescind the proposed Rule Change in accordance with the Civil Code.

***Section 5.4     The Association’s Annual Budget Report.***

Not less than thirty (30) days nor more than ninety (90) days before the end of the Association’s fiscal year the Association shall distribute an Annual Budget Report to its Members.

(a) *Required Content of the Annual Budget Report.* The Annual Budget Report must include the following information:

- (i) Pro-Forma Operating Budget. The Annual Budget Report shall include a pro forma operating budget, showing the estimated revenue and expenses on an accrual basis.
- (ii) A Summary of the Association’s Reserves. The Annual Budget Report shall include a summary of the Association’s Reserves, based on the most recent Reserve Study.
- (iii) A Summary of the Association’s Reserve Funding Plan. The Annual Budget Report shall include a summary of the Reserve Funding Plan adopted by the Board. The summary shall include notice to Members that the full Reserve Funding Plan is available upon request, and the Association shall provide the full Reserve Funding Plan to any Member upon request.
- (iv) Disclosure of Decisions to Defer Major Repairs or Replacements. If the Board has decided not to undertake needed repairs or replacements of Major Components of the Project for which the Association is responsible, the Annual Budget Report shall include a disclosure of that decision,

including a justification for the deferral or decision not to undertake the repairs or replacement.

- (v) Disclosure of Any Special Assessment(s) that is/are Needed to Abide by the Reserve Funding Plan. The Annual Budget Report shall include a statement as to whether the Board, consistent with the Reserve Funding Plan adopted pursuant to Civil Code Section 5560 has determined or anticipates that the levy of one or more Special Assessments will be required to repair, replace, or restore any Major Components or to provide adequate Reserves therefor. If so, the statement shall also set out the estimated amount, commencement date, and duration of the Special Assessment.
- (vi) Statement of Anticipated Funding Methods. The Annual Budget Report shall include a statement as to the mechanism or mechanisms by which the Board will fund Reserves to repair or replace Major Components of the Project, including the levy or increase in Assessments, borrowing, the use of other assets, deferral of selected replacement or repair projects, or alternative mechanisms.
- (vii) A Statement of How Reserve Funding Requirements Have Been Calculated. The Annual Budget Report shall include a general statement addressing the procedures used for the calculation and establishment of those Reserves to defray the future repair, replacement, or additions to Major Components of the Project. The statement shall include, but need not be limited to, Reserve calculations made using the formula described in Civil Code Section 5570(b)(4), and may not assume a rate of return on cash Reserves in excess of two percent (2%) above the discount rate published by the Federal Reserve Bank of San Francisco at the time the calculation was made.
- (viii) Disclosure Regarding the Basic Terms of any Long-Term Loan Obligations. The Annual Budget Report shall include a statement as to whether the Association has any outstanding loans with an original term of more than one year, including the payee, interest rate, amount outstanding, annual payment, and when the loan is scheduled to be retired.
- (ix) Summary of Association-Maintained Insurance. The Annual Budget Report shall include a summary of the Insurance Policies that the Association is maintaining, including policies for property insurance, general liability insurance, earthquake, flood, and fidelity insurance. For each policy, the summary shall include the name of the insurer, the type of insurance, the policy limit, and the amount of the deductible, if any. To the extent that any of the required information is specified in the insurance policy declaration page, the Association may meet its obligation to disclose that information by making copies of that page and distributing it with the Annual Budget Report. The summary distributed pursuant to this

subparagraph shall contain, in at least 10-point boldface type, the following statement:

“This summary of the Association’s policies of insurance provides only certain information, as required by Section 5300 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any Association Member may, upon request and provision of reasonable notice, review the Association’s insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association’s policies of insurance may not cover your property, including personal property or real property improvements to or around your Separate Interest, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association Members should consult with their individual insurance broker or agent for appropriate additional coverage.”

(b) *Manner of Distributing the Annual Budget Report.* The Annual Budget Report shall be made available to the Members by some form of Individual Delivery. Furthermore, if a Member requests full copies of the reports, full copies must be provided to that Member.

(c) *Inclusion of Civil Code Assessment and Reserve Disclosure Summary Form.* The Assessment and Reserve Funding Disclosure Summary form, prepared pursuant to Section 5570, must accompany each Annual Budget Report or summary of the Annual Budget Report that is delivered pursuant to this Section. The Association may deliver copies of the full report or document and if a summary is provided, the summary shall include instructions on how to request a complete copy of the report at no cost to the Member.

***Section 5.5     Year-End Review of the Association’s Financial Statement.***

Within one hundred twenty (120) days after the close of the fiscal year, the Association shall distribute to its Members, by Individual Delivery a review of the financial statement of the Association, prepared in accordance with generally accepted accounting principles by a licensee of the California Board of Accountancy, for any fiscal year in which the gross income to the Association exceeds seventy-five thousand dollars (\$75,000).

***Section 5.6     Review of Accounts.***

On no less than a monthly basis, the Board of Directors shall:

- (a) Review a current reconciliation of the Association’s operating accounts;
- (b) Review a current reconciliation of the Association’s Reserve Accounts;

(c) Review the current year's actual revenues and expenses compared to the current year's budget;

(d) Review the Association's latest account statements prepared by the financial institution(s) with whom the operating and Reserve Accounts are lodged; and

(e) Review the Association's income and expense statement for the Operating and Reserve Accounts.

***Section 5.7*** **General Limitations and Restrictions on the Powers of the Board.** In addition to the limitations and restrictions enumerated in the Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Board shall be prohibited from taking any of the following action without the approval of a majority of the voting power of the Association:

(a) entering into contracts for materials or services which have a term in excess of one (1) year, with the following exceptions:

(i) a contract with a public utility company if the rates charges for the materials or services are regulated by the Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate; and

(ii) prepaid casualty and/or liability insurance policies of not to exceed three (3) years in duration, provided that the applicable policy permits short rate cancellation by the insured.

(b) incurring aggregate expenditures for capital improvements to the Project in any fiscal year in excess of five percent (5%) of the estimated Common Expenses for that fiscal year.

(c) selling any real or personal property of the Association in any fiscal year with a fair market value which in the aggregate exceeds five percent (5%) of said estimated Common Expenses for that fiscal year.

(d) filling a vacancy on the Board created by the removal of a director.

***Section 5.8*** **Delegation of Powers.** The Board and the Association shall have the right to delegate to committees, officers, employees or agents any of their duties and powers under this Declaration, the Articles and Bylaws; provided, however, no such delegation to a professional management agent or to committees shall relieve the Board or Association of its obligation to perform such delegated duty.

***Section 5.9*** **Pledge of Assessment Rights.** The Association shall have the power to pledge the right to exercise its Assessment powers in connection with the obtaining of funds to repay a debt of the Association; provided, however, any such pledge shall require the prior approval of not less than seventy-five percent (75%) of the voting power of the Association. Said power shall include, but not be limited to, the ability to make an assignment of Assessments which are then payable to or will become payable to the Association, which assignment may be

then presently effective but shall allow said Assessments to continue to be paid to and used by the Association as set forth in this Declaration unless and until the Association shall default in the repayment of the debt which is secured by said assignment. The Board may levy a Special Assessment against the Members to obtain such funds. Upon the failure of any Member to pay said Special Assessment within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof. Notwithstanding the foregoing, any pledge of Assessments shall require the prior written approval of fifty-one percent (51%) of the First Mortgagees based on one (1) vote for each First Mortgage held unless otherwise provided by law.

***Section 5.10*** **Emergency Powers.** The Board or any person authorized by the Board may enter any Unit in the event of an emergency involving illness or potential danger to life or property. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Association unless covered by insurance carried by the Owner.

## **ARTICLE VI REPAIR AND MAINTENANCE**

***Section 6.1*** **Repair and Maintenance by Association.** Except to the extent that an Owner may be obligated to maintain and repair as hereinafter provided in this Article, and without limiting the generality of the statement of duties and powers contained in this Declaration, the Articles, Bylaws or Association Rules, the Association shall have the duty to accomplish the following upon the Project or other land in such manner and at such times as the Board shall prescribe:

(a) maintain, repair, restore, replace and make necessary improvements to the Common Area so that the same are at all times in a first-class condition and good state of repair, including, without limitation, all exterior building surfaces, to include the painting thereof;

(b) maintain all other areas, facilities, equipment, services or aesthetic components of whatsoever nature as may from time to time be requested by the vote or written consent of two-thirds (2/3) of the voting power of the Members; and

(c) pay, out of the general funds of the Association, the costs of any such maintenance and repair pursuant to this section, except as otherwise herein specified as payable by the particular Owners.

(d) Pay, out of the general funds of the Association, the costs of repairing termite caused damages in all Common Area structures. The Association shall also be responsible for treating termites and other wood destroying pests or organisms within the Common Areas.

***Section 6.2*** **Repair and Maintenance by Owner.** Except as the Association shall be obligated to maintain, repair, replace and restore as may be provided in other Articles of this Declaration, every Owner shall at his or her sole cost and expense:

(a) maintain, repair, replace and restore all portions of the Unit, including, without limitation, the interior walls, ceilings, floors and doors in a clean, sanitary and attractive condition;

(b) repair, maintain and replace all windows and sliding doors, including all glass for his or her own Unit, and Owners shall be responsible for the interior and exterior cleaning of such window and door glass;

(c) maintain in an open and unobstructed condition all sewer and drainage pipes and lines serving his or her own Unit between the points at which same enter said Unit and the points at which same join other sewer and drainage pipes and lines serving other Units;

(d) maintain, replace, repair and restore the following which exclusively serve his or her Unit: plumbing, air-conditioning and heating equipment;

(e) maintain surface areas (other than exterior building surfaces) bounding all elements of his or her Unit, including any landscaping therein, if any;

(f) repair termite caused damage within the Owner's Unit and treat termites and other wood destroying pests or organisms within such Unit; and

(g) repair any and all damages within his or her Unit including damages which are the result of water intrusion from any source, including, but not limited to, roofs water lines, windows, thresholds and doors, except in instances where the Association's gross negligence or willful misconduct was the sole cause of such damage.

***Section 6.3*** **Damage from Within a Unit.** Except to the extent covered by insurance carried by the Association, in the event the Board shall determine that the walls, ceiling, floors, doors, or windows or any other portion of the Common Area forming the boundaries of a Unit have been damaged from within the Unit, notwithstanding that such damage may be to the Common Area, the Owner of the Unit shall be responsible for repairing such damage in a timely manner and in accordance with such rules as the Board shall from time to time adopt.

***Section 6.4*** **Right of Association to Maintain and Install.** In the event that an Owner fails to accomplish any maintenance or installation required by this Article, the Association or its agents may, but shall not be obligated, to cause such maintenance or installation to be accomplished as hereinafter set forth:

(a) Upon a finding by the Board of a deficiency in such maintenance or installation, the Board shall give notice of such deficiency to the Owner which shall briefly describe the deficiency to the Owner and which shall set a date for a hearing before the Board or a committee selected by the Board for such purpose. The Board may delegate its powers under this subsection to a duly appointed committee of the Association.

(b) Such hearing shall be held not less than ten (10) nor more than thirty (30) days from the date of said notice.

(c) Such hearing shall be conducted according to such reasonable rules and procedures as the Board shall adopt which shall provide the Owner with the right to present oral and written evidence. If the Board or any such committee renders a decision against the Owner, it shall further set a date by which the deficiency is to be corrected by the Owner. A decision of such committee may be appealed to the Board within ten (10) days of the rendering thereof, but a decision of the Board shall be final.

(d) If the deficiency continues to exist after the time limitation imposed by a final decision of the Board or any such committee, the Board may cause such maintenance or installation to be accomplished.

(e) In the event the Board elects to cause such maintenance or installation to be accomplished, the following shall apply:

- (i) the Owner shall have no more than ten (10) days following the receipt of written notice of such election from the Board to select a day or days upon which such maintenance or installation work shall be accomplished;
- (ii) the date which said Owner selects shall be not less than fifteen (15) days nor more than forty-five (45) days following the last day of said ten (10) day period;
- (iii) if said Owner does not select such day or days within said ten (10) day period, the Board or such committee may select a day or days upon which such work may be accomplished which shall be not less than twenty-five (25) days nor more than fifty-five (55) days from the last day or said ten (10) day period; and
- (iv) unless the Owner and the Board otherwise agree, such maintenance or installation shall take place only during daylight hours on any day Monday through Friday, excluding holidays.

(f) If the Association pays for all or any portion of such maintenance or installation, such amount shall be a Special Assessment to the affected Owner and Unit. Upon the failure of any Owner to pay said Special Assessment within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof, including those set forth in the Article .

**Section 6.5** **Right of Entry.** The Association shall have the right to enter any Unit in connection with any maintenance, repair or construction in the exercise of the powers and duties of the Association. In addition, in the case of an emergency threatening damage to persons or property, the Association and Owners shall have the right to enter any Unit in order to abate such condition. No person entering a Unit pursuant to this Section shall be deemed guilty of a trespass thereby.

**Section 6.6** **Maintenance of Public Utilities.** Nothing contained herein shall require or obligate the Association to maintain, replace or restore facilities of public utilities which are located within easements in the Common Area owned by such public utilities. However, the

Board shall take such steps as are necessary or convenient to ensure that such facilities are properly maintained, replaced or restored by such public utilities.

## **ARTICLE VII INSURANCE**

***Section 7.1 Authority to Purchase.*** All insurance provided for in this Article (except where otherwise specifically provided) or otherwise deemed prudent by the Association shall be purchased, obtained, carried and maintained by the Association and the premiums thereon shall be part of the Common Expenses to be paid out of Common Funds. The Association shall be deemed for the purpose of this Article to be the agent, coupled with an interest, of all the Owners.

***Section 7.2 Casualty Insurance.*** The Association shall, if economically practical and available, purchase, obtain, carry and maintain a master or blanket policy naming as insureds the Association, its Board and officers, the manager and their staff, employees of the Association and all Owners and their Mortgagees, as their interests may appear; naming the Association as trustee for all of the Owners and for their Mortgagees as their interests may appear; and containing, as a part thereof, for the full replacement value (without deduction for depreciation) all of the Improvements within the Project, all Buildings, Improvements and Personal Property of the Association located on or within the Project for or against the following:

- (a) Loss or damage by fire or other risks covered by the standard extended coverage endorsement.
- (b) “Use and occupancy coverage” for the payment of all Assessments attributable to any damaged Unit during any period of repair or reconstruction thereof.
- (c) Loss or damage to or as a result of theft, vandalism, malicious mischief, boilers, pressure vessels or pressure pipes, flooding, sprinkler leakage or water damage.
- (d) Such other risks, perils or coverage as the Association may determine.

Said master policy and the endorsements made a part thereof may provide for such deductibles from any amounts otherwise payable thereunder as the Association may determine.

***Section 7.3 Public Liability and Property Damage.*** The Association shall, if economically practical and available, purchase, obtain, carry, and maintain one or more comprehensive public liability and property damage policies naming as insureds the Association, its Board (and each member thereof), its Officers, and the community’s Manager. Said policy or the endorsements made a part thereof shall provide immediate protection with minimum liability limits of at least three million dollars (\$3,000,000,00) and shall also: (i) insure against bodily injury, death, or property damage occurring in, on or about any portion of the Common Area and/or within or on any Unit, (ii) contain a cross-liability endorsement so as not to prejudice the rights of a named insured against another named insured, (iii) include “hired automobile” coverage, “non-owned automobile” coverage, theft and collision coverage, “off-premises employee” coverage and (iv) provide for the same waivers of the insurers’ rights of subrogation,

“other insurance” provisions, loss adjustment clause, cancellation clause, “no control” clause and insurance proceeds payment clause.

The Association shall purchase computer and funds transfer fraud insurance which provides coverage against dishonest acts by third parties. Such insurance must provide minimum limits equal to the reserves plus the total of assessments for three (3) months.

***Section 7.4 Worker’s Compensation.*** The Association shall purchase, obtain, carry and maintain workmen’s compensation and employer’s liability insurance to the extent necessary to comply with applicable laws.

***Section 7.5 Additional Insurance and Bonds.*** The Association may also purchase with Common Funds such additional insurance and/or bonds as it may, from time to time, determine to be necessary or desirable, including but not limited to (i) demolition insurance in amounts adequate to cover demolition in the event of destruction and a decision not to rebuild, (ii) fidelity bonds naming the Board, the Manager or their staff and the officers of the Association as principals and all of the Owners as obliges, (iii) earthquake coverage, and (iv) insurance to cover unpaid or uncollected Assessments.

Notwithstanding anything to the contrary contained in this Declaration, the Association shall be required to maintain blanket fidelity bond coverage for all officers, directors, managers, management companies, trustees and employees of the Association and all persons handling or responsible for funds of or administered by the Association. In the event the Association has delegated some or all of the responsibility for the handling of funds to a management agent, said management agent shall also be required to maintain blanket fidelity bond coverage for said management agent’s officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association.

***Section 7.6 Choice of Insurance Company.*** To the extent it is economically reasonable, all policies of insurance obtained by the Association or its Board of Directors as provided in this Article shall be obtained from an insurance company qualified to do and doing business in the State of California and holding a rating of “AAA” (or such other comparable rating).

***Section 7.7 Individual Insurance Limited.*** No Owner shall separately insure his or her or Unit against loss by fire or other casualty covered by any insurance carried by the Association. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable under the Association’s policies that results from the existence of such other insurance will be chargeable to the Owner who acquired other insurance. Any Owner can insure his or her personal Property against loss and obtain any personal liability insurance that he or she desires. In addition, any improvements made by an Owner within his or her Unit may be separately insured by the Owner, but the insurance is to be limited to the type and nature of coverage commonly known as “tenant’s improvements.”

***Section 7.8 Inability to Obtain Insurance.*** The Association, and its Directors and officers, shall have no liability to any Owner or mortgagee if, after a good faith effort, it is unable to obtain the liability insurance required hereunder because the insurance is no longer available,

or if available, can be obtained only at a cost that the Board in its sole discretion determines is unreasonable under the circumstances, or the Members fail to approve any assessment increase needed to fund the insurance premiums. In such event, the Board immediately shall notify each Member and any mortgagee entitled to notice that the liability insurance will not be obtained or renewed.

**Section 7.9 Required Waiver.** All policies of physical damage insurance shall provide for waiver of the following rights to the extent such waivers are obtainable from the respective insurers:

- (a) subrogation of claims against the Board, Declarant, the Owners, tenants of the Owners, and the employees of each of the foregoing;
- (b) any defense based on co-insurance;
- (c) any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association;
- (d) any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner or arising from any act, neglect or omission of any named insured or the respective agents, contractors and employees of any insured;
- (e) any right of the insurer to repair, rebuild or replace and, in the event a structure is not repaired, rebuilt or replaced following loss, any right to pay under the insurance the lesser of the replacement value of the improvements insured or the fair market value thereof;
- (f) notice of the assignment of any Owner of his interest in the insurance by virtue of a conveyance of any Condominium; and
- (g) any right to require any assignment of any Mortgage to the insurer.

## **ARTICLE VIII DESTRUCTION OF IMPROVEMENTS**

**Section 8.1 Reconstruction.** In the event of partial or total destruction of any improvements within the project, the Board shall promptly take the following action:

- (a) The Board shall ascertain the cost of reconstruction by obtaining fixed price bids from at least two (2) reputable contractors, including the obligation to obtain a performance bond if the Board deems the same to be necessary or appropriate, and by obtaining one or more independent appraisals if the Board deems such appraisal or appraisals to be necessary or desirable.
- (b) The Board shall determine the amount of insurance proceeds, if any, payable by contacting the appropriate representative of the insurer of said improvements.

(c) The Board shall meet and determine whether the insurance proceeds, if any, will cover eighty-five percent (85%) or more of the estimated cost of reconstruction as determined pursuant to subsection (a) of this Section. Such percentage covered by insurance shall hereinafter be referred to as the “*Acceptable Range of Reconstruction Cost.*” If the Board finds that a bid obtained under this Section is within the Acceptable Range of Reconstruction Cost, the Board shall cause a notice to be sent to all Owners Unit and to all First Mortgagees of Mortgages encumbering Units in the Project setting forth such findings and informing said Owners and said First Mortgagees that the Board intends to commence reconstruction pursuant to this Declaration. In the event that at least twenty percent (20%) of the Owners, based on one (1) vote for each Unit, and all First Mortgagees of Mortgages encumbering Units object in writing to such reconstruction as indicated in such notice, the Board shall call a meeting of the Owners and all First Mortgagees pursuant to the Section entitled “Reconstruction Pursuant to Meeting” of this Article. In the event that the foregoing requirements are satisfied and the requisite number of Owners and all First Mortgagees of Mortgages encumbering Units do not object in writing to such reconstruction, (i) the Trustee, if the Board is not acting in its place and stead, shall pay such insurance proceeds as are available to the Board and the Board shall cause reconstruction to take place as promptly as practicable thereafter, or (ii) the Board, if it is acting in the place and stead of the Trustee, shall cause reconstruction to take place as promptly as practicable thereafter. Proceeds paid by the Trustee to the Board shall be disbursed from time to time by the Trustee to the Board against receipt by the Trustee of such evidence as it shall reasonably require that persons or entities who are entitled to assert mechanics lien claims in connection with such reconstruction will have delivered adequate lien and payment releases upon payment to them by the Board. In connection with such reconstruction, the Board shall levy a Reconstruction Assessment against each Owner based upon the ratio of the square footage of the interior dwelling area of the Unit of such Owner’s Unit to the total square footage of the interior dwelling areas of all Units of all Units within the Project at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds.

(d) If the Board in good faith determines that none of the bids submitted under this Section reasonable reflects the anticipated reconstruction costs, the Board shall continue to attempt to obtain an additional bid which it determines reasonably reflects such costs. Such determination shall be made by the Board as soon as possible. However, if such determination cannot be made within ninety (90) days of the date of such destruction because of the unavailability or unacceptability of an insurance estimate or reconstruction bid, or otherwise, the Board shall immediately call a meeting of the Owners and all First Mortgagees pursuant to the Section entitled “Reconstruction Pursuant to Meeting” of this Article.

(e) If the Board determines that any Unit has become uninhabitable by reason of its total or partial destruction, Regular Assessments shall abate against the Owner thereof until the Board determines that the reconstruction of the Unit has restored its habitability. However, if the Board determines that such abatement would adversely and substantially affect the management, maintenance and operation of the Project, it may elect to disallow such abatement.

***Section 8.2 Reconstruction Pursuant to Meeting.*** If reconstruction is not to take place pursuant to the Section entitled “*Reconstruction*” of this Article, as soon as practicable after same has been determined the Board shall call a meeting of the Owners and all First

Mortgagees by mailing a notice of such meeting to each such Owner and each such First Mortgagee. Such meeting shall be held not less than fourteen (14) days and not more than twenty-one (21) days after the date of such notice. The Owners may, by a vote at such meeting or by the written consent of not less than sixty-six and two-thirds percent (66-2/3%) of the Owners based on one (1) vote for each Unit, determine to proceed with such reconstruction; provided, however, reconstruction must take place unless a determination is made not to proceed therewith by seventy-five percent (75%) of the First Mortgagees based upon one (1) vote for each First Mortgage held thereby.

***Section 8.3*** **Decision to Reconstruct; Procedure After Meeting.** In the event that the Association undertakes reconstruction pursuant to the Section entitled “Reconstruction Pursuant to Meeting” of this Article, the following shall apply:

(a) Immediately after such meeting, the Board shall send a notice to each First Mortgagee of a Unit, which notice shall advise of the decision to undertake reconstruction. The Board shall also send a true copy of each such notice to the Trustee unless the Board is acting in the place and stead of the Trustee.

(b) As to all insurance proceeds received: (i) the Trustee, if the Board is not acting in its place and stead, shall pay same to the Board, and the Board shall apply same to reconstruction undertaken by the Association pursuant to the Section entitled “Reconstruction Pursuant to Meeting” of this Article, or (ii) the Board, if it is acting in the place and stead of the Trustee, shall apply same to reconstruction undertaken by the Association pursuant to the Section entitled “Reconstruction Pursuant to Meeting” of this Article. Proceeds paid by the Trustee to the Board shall be disbursed from time to time by Trustee to the Board against receipt by the Trustee of such evidence as it shall reasonably require that persons or entities who are entitled to assert mechanics lien claims in connection with such reconstruction will have delivered adequate lien and payment releases upon payment to them by the Board.

(c) In connection with such reconstruction, the Board shall levy a Reconstruction Assessment against each Owner based upon the ratio of the square footage of the interior dwelling area of the Unit of such Owner’s Unit to the total square footage of the interior dwelling areas of all Units of all Units within the Project at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds.

***Section 8.4*** **Decision Not to Reconstruct; Procedure After Meeting.** In the event a decision is made not to reconstruct at the meeting called pursuant to the Section entitled “Reconstruction Pursuant to Meeting” of this Article, the Trustee or Board, as applicable, shall apply the insurance proceeds as follows:

(a) The insurance proceeds shall first be applied to the reduction or elimination, as the case may be, of all outstanding Mortgages encumbering Units for which insurance proceeds have been paid by reason of the casualty; provided, however, as to any Unit, the Trustee or Board, as applicable, shall not pay insurance proceeds to Mortgagees thereof in an amount greater than (i) the outstanding indebtedness secured by Mortgages encumbering said Unit, or (ii) the insurance proceeds allocable to said Unit, whichever of (i) or (ii) is the lesser.

(b) All insurance proceeds allocable to each Unit remaining after payments to Mortgagees thereof pursuant to subsection (a) of this Section shall be distributed by the Trustee or Board, as applicable, to the Owner of each such Unit after deduction of an amount determined pursuant to subsection (c) of this Section.

(c) The Board shall levy a Reconstruction Assessment against each Owner based upon the ratio of the square footage of the interior dwelling area of the Unit of such Owner's Unit to the total square footage of the interior dwelling areas of all Units of all Units within the Project in such amount as the Board shall determine necessary to cover the costs of clearing the debris of the totally or partially destroyed improvements and clearing the area in excess of insurance proceeds. To the extent available, the Reconstruction Assessment of the Owner of each Unit shall be paid out of the insurance proceeds allocable to the respective Unit of such Owner prior to the distribution of such proceeds pursuant to subsection (b) of this Section. In the event that the allocable insurance proceeds, after deduction of proceeds paid to Mortgagees, is not sufficient to pay the entire Reconstruction Assessment levied against such Owner, such Owner shall not be relieved of his or her obligation to pay any such excess.

(d) For the purposes of this Article, the amount of insurance proceeds "allocable" to a Unit shall be determined pursuant to this section. Such allocation shall be made by the insurance carrier or by the Board in accordance with the following procedure and shall be final and binding on Owners, the Mortgagees, the association and the Trustee: the insurance carrier or the Board shall allocate a fractional portion of such proceeds among each of the Units the numerator of which fractional portion is the decrease in value of the Unit of each such Unit (as determined by appraisals obtained by the insurance carrier or Board, as applicable, made by an independent MAI appraiser as of a time before and as of a time after the occurrence of such destruction and, if made by the Board, paid for out of, or charged against, such proceeds) and the denominator of which fractional portion is the total decrease in value of all Units of all Units in the Project (as determined by reference to all of said appraisals so made). Such allocation made by the insurance carrier or Board shall be final and binding on the Owners, the Mortgagees, the Association and the Trustee.

***Section 8.5*** **Certificate of Intention to Reconstruct.** In the event the Association undertakes reconstruction pursuant to this Article, the Board shall, not later than two hundred ten (210) days from the date of destruction, execute, acknowledge and record in the Office of the County Recorder of said County a certification declaring the intention of the Association to rebuild. If no such certificate of reconstruction is so recorded within said two hundred ten (210) day period, it shall be conclusively presumed that the Association has determined not to undertake reconstruction pursuant to this Article.

***Section 8.6*** **Partition.** In the event that a certificate described in the Section entitled "Certificate of Intention to Reconstruct" of this Article is not recorded within the two hundred ten (210) day period provided therein, the right of any Owner to partition the Project through legal action.

***Section 8.7*** **Negotiations with Insurer.** The Board shall have full authority to negotiate in good faith with representatives of the insurer of any totally or partially destroyed improvements, and to make settlements with the insurer for less than full insurance coverage on

the damage to such improvements. Any settlement made by the Board in good faith shall be binding upon all Owners and Mortgagees.

**Section 8.8** **Repair of Units.** Except to the extent covered by insurance carried by Association, installation of improvements to, and repair of any damage to, the interior of a Unit shall be made by and at the individual expense of the Owner of that Unit and, in the event of a determination to reconstruct after partial or total destruction, shall be completed as promptly as practicable and in a lawful and workmanlike manner.

## **ARTICLE IX USE RESTRICTIONS**

**Section 9.1** **Commercial Use.** Unless otherwise approved by the Board, no portion of the Project, including Unit, shall be used or caused to be used or allowed or authorized in any way, directly or indirectly, to be used for any business, commercial, manufacturing, mercantile, storing, vending, or any nonresidential purposes: provided, however nothing herein shall prevent an Owner from leasing his or her Unit provided such leasing complies with the other provisions of this Declaration and California law.

**Section 9.2** **Signs.** No commercial signs shall be displayed to the public view on any Units or on any portion of the Property except such signs as are approved by the Board except that a single “For Sale” or “For Rent” signs shall be allowed provided they do not exceed three (3) square feet in size. Noncommercial signs may be posted or displayed from the window, door, balcony or outside wall of a separate interest. Noncommercial signs and posters may not exceed nine (9) square feet and noncommercial flags or banners may not exceed fifteen (15) square feet in size.

**Section 9.3** **Offensive Activity.** No noxious or offensive activity shall be carried on upon the Project, nor shall anything be done thereon which might be or become an annoyance or nuisance to occupants within the Project, which shall in any way interfere with the rights of quiet enjoyment of occupants within the Project or which shall in any way increase the rate of any insurance. No Owner or occupant shall engage in activity within the Project which is in violation of any law, ordinance, statute, rule or regulation of any local, county state or federal body.

**Section 9.4** **Smoking.**

No Owner, family member, tenant, resident, guest, business invitee or visitor shall smoke cigarettes, cigars, e-cigarettes, vapes, or any tobacco products, marijuana or any other substance anywhere within the boundaries of the community including, but not limited to, the Common Areas and Exclusive Use Common Areas.

The smoking of legal substances is allowed solely within Units when the front door and all windows are closed to ensure that no smoke or vapor leaves the residence. Among other things, the Owner must, if necessary to prevent escape of smoke vapor:

- (a) Install weather stripping around external doors;

(b) Seal all penetrations in the walls, ceilings and floors to prevent smoke and vapor migration; and

(c) Purchase HEPA, or similar type, filters at his or her sole expense, and operate them inside the residence at a level which prevents smoke and vapor from mitigating to surrounding areas and units.

“*Smoking*” shall include the inhaling, exhaling, and use of any lighted cigarette, cigar or other tobacco product, e-cigarette, vape, whether legal or not.

***Section 9.5*** **Temporary Structures.** No structure or building of a temporary character, including a tent or shack, shall be placed upon the Project or used therein unless the same and its proposed use are approved by the Board in writing.

***Section 9.6*** **Parking.** Unless otherwise permitted by the Board, no motor vehicle (including a motorcycle), trailer, camper, boat, or similar item, and no bicycle, shall be permitted to remain upon the Project unless parked or placed within a parking space in the garage; provided, however, temporary parking of motor vehicles shall be permitted. For purposes hereof, “temporary parking” shall mean parking of vehicles belonging to invitees of Owners and occupants, parking of delivery trucks, service vehicles and other commercial vehicles being used in the furnishing of goods and services to the Association or to the Owners and occupants and parking of vehicles belonging to and being used by Owners, occupants and invitees for loading and unloading purposes. The Board may adopt rules for the regulation of the admission and temporary parking of vehicles within the Project, including the assessment of charges to Owners and occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be Special Assessments. No vehicle shall be parked within the Common Elements between the hours of 2:00 a.m. and 6:00 a.m.. All vehicles within the Rowland Heights community must have current registrations.

***Section 9.7*** **Garage.** The garage shall be used only for the parking purposes described in the Section of this Article entitled “Parking” and for such other purposes as may be permitted by the Board. Garages shall not be used for storage such that it cannot be used to park the maximum number of vehicles for which it had been designed. The garage gate shall not be permitted to remain open except for a temporary purpose, and the Board may adopt rules for the regulation of the opening of the garage gate including the assessment of charges to Owners and occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be Special Assessments.

***Section 9.8*** **External Fixtures.** No external items such as, but not limited to, television and radio poles, new satellite dishes, and antennae, flag poles, clotheslines, wiring, insulation, air-conditioning equipment, water softening equipment, fences, awnings, ornamental screens, screen doors, porch or patio or balcony enclosures, sunshades, walls, landscaping and planting, other than those provided in connection with the original refurbishing of the Project, and any replacements thereof, and other than those approved by the Board in writing and any replacements thereof, shall be constructed, erected or maintained on or within the Project, including any structures thereof. The foregoing notwithstanding, nothing herein shall be

construed as preventing Declarant and its agents and assigns from engaging in all forms of refurbishing and sales activities within the Project.

***Section 9.9     Solar Panels And Related Equipment.***

The following Guidelines shall apply to the installation of solar panels and their associated components upon the common area rooftops.

(a)     *Application:* No solar energy devices may be installed prior to an Owners' delivery of a complete Architectural Review Application ("Application") to the Association's Architectural Review Committee ("ARC") and the ARC's issuance of its written approval.

(b)     *Location:* Solar panels and related equipment may only be installed upon the roof of the building containing an Owner's Unit. As the roofs are shared by others, every applicant Owner must notify each and every Unit Owner in the building of the Application in writing. The applicant Owner must provide proof of such notification to the ARC. An Application which is submitted without evidence of such notice shall be deemed to be incomplete.

(c)     *Insurance:* Each applicant Owner, as well as his and her heirs, successors and assigns, must obtain and maintain liability insurance coverage and provide a Certificate of Insurance to the ARC within fourteen (14) days after receiving approval and annually thereafter. The Association must be named as an Additional Insured in such insurance policy. Installation may not commence until after proof of insurance has been delivered to the ARC. If, at any time, an Owner fails to maintain insurance coverage or provide timely evidence thereof, the Association may revoke its approval and require the removal of the Owner's solar equipment.

(d)     *Solar Site Survey Required for Each Building:* The first applicant Owner within each residential building must deliver a Solar Site Survey which has been prepared by a licensed and insured contractor. The Solar Site Survey must show the proposed placement of the applicant Owner's solar panels and equipment, and include an equitable allocation of the useable area among all Owners who share the same roof. If the Solar Site Survey is later determined to be erroneous in that each and every space is not equal to all others in terms of access, cost and efficiency, the applicant Owner may be required to remove his or her solar equipment and provide a new Solar Site Survey at his or her expense. If the new Solar Site Survey requires other Owners to relocate, remove or alter the size of their solar energy equipment, applicant Owner, his or her successors and assigns, shall bear all financial liability to the buildings' other Owners, and shall be required to defend and indemnify the Association against all claims, costs, leases, injuries, damages and lawsuits which may arise from the Owner's submission of an erroneous Solar Site Survey. An Application will be deemed incomplete unless the Solar Site Survey is included.

(e)     *Contractor(s):* Contractor(s) hired by the applicant Owner must provide proof of liability insurance which shall name the Association as an Additional Insured unless this requirement is waived by the Board of Directors.

(f)     *Disclosure:* Owners must disclose to prospective buyers the existence of the solar energy system and their future responsibility to maintain, repair and replace the system, obtain

insurance and liability for any damage to the Common Areas, Exclusive Use Areas and to other Units which result from its installation, use, maintenance, repair and/or removal.

(g) *Maintenance and Repair:* Each Owner who installs a solar energy system will be solely responsible for the maintenance, repair and replacement of such system, as well as for the roofs or other building components which may become damaged as a result of the installation, use, repair, maintenance or removal of a solar energy equipment.

(h) *Indemnification:* The installer of an Owner's solar energy system must agree, in writing, to indemnify the Association or any Member thereof, for any loss or damage which is caused by the installation and use of the solar energy system.

(i) *License Agreement:* Approval of an Application to install a solar energy system within a Common Area will also be conditioned on the Owner's entry into a recordable License Agreement which specifies that the Owner of such Unit, his or her heirs, successors and assigns, will not acquire an ownership interest in such Common Element. The Agreement shall also require Owners to maintain their solar energy systems and to indemnify the Association against any losses, claims, injuries, damages and lawsuits.

(j) *Association Maintenance.* Any Owner who installs a solar energy system within a Common Area shall be required, at his or her sole expense, to remove such system in order to allow the Association access to perform maintenance, repair and/or replacement of any Common Element as may be reasonable under the circumstances. The Association shall bear no responsibility or liability for any cost, fee, expense or damage which results from the removal and reinstallation of such solar system. If an Owner fails or refuses to remove his or her solar energy system for such purposes after receiving at least twenty (20) days' notice, the Association may remove the solar energy equipment at the Owner's expense and without any liability. The Association shall not be required to reinstall such equipment and need only store the same during the period of the Common Area repair. Thereafter, it will be promptly disposed of unless the Owner claims the system components.

(k) *Installation Guidelines:*

- (i) Solar panels shall be installed parallel with the roof surface.
- (ii) Panels and support for panels shall have minimal roof penetrations.
- (iii) Exposed conduit on exterior walls is not permitted.
- (iv) Conduit runs from the roof to the electrical panels shall be within the shell of the building or in buried conduit.
- (v) An Application shall be submitted to the ARC before Owner enters into a contract with a solar system contractor.
- (vi) The above described insurance requirements must be satisfied prior to the commencement of any work within the Common Area. Owner's

insurance coverage must become effective prior to the commence of any work.

- (vii) The Owner shall provide the Association with a time schedule for installation of the system. Failure to adhere to such schedule may result in the imposition of fines.
- (viii) The Application must include, at a minimum, the name and address of the Applicant, a copy of the roof plan showing quantity and location of the solar panels to be installed by the Applicant, the location of all roof penetrations, the location of electrical panels and inverters on a floor plan, fixture cut showing panel sizes and roof mountings. Such work must be permitted and approved by the Building Department.

(l) *Enforceability:* If an Owner violates any of the above requirements or any other provision of the governing documents, the Association may, in addition to other remedies which may be available:

- (i) Call the Owner to hearing and impose penalties including monetary sanctions.
- (ii) Require the removal of a solar energy system.
- (iii) Require reimbursement for the costs to repair any damages to the Common Area, separate interest or Exclusive Use Common Area.

Neither the Association, its Board Members, nor its community manager, have expertise or special knowledge regarding solar energy systems and therefore, approval for installation of any such device or system should not be considered a representation by the Association or management that the system is either safe or efficient. The Owner shall assume all risks regarding the installation, maintenance, repair, use, and replacement of the solar energy system.

***Section 9.10 Electronic Charging Stations.***

The following Guidelines shall address the installation of electric charging stations within the Association's Common Area as well as in the Owners' separate interests. In accordance with California law, the Association is permitted to impose reasonable restrictions on the installation and use of electric charging stations.

(a) No electric charging station, including a Time of Use ("TOU") meter, may be installed anywhere within the community without the applicant Owner first submitting a complete Architectural Review Application ("Application") to ARC and then obtaining its approval, in writing.

(b) An Owner who seeks to install an electric charging station is responsible for all costs of installation, use, maintenance, repair and removal of the same. Such Owner is also responsible for the cost of all electricity transferred by that charging station.

(c) Any Owner installing an electric charging station must obtain a liability coverage policy. As a condition of approval of the Owner's Application, he or she must provide a Certificate of Insurance which names the Association as an Additional Insured.

(d) All electric charging stations must meet all applicable health and safety standards and requirements imposed by State and local authorities, and all other applicable zoning, land use, or other ordinances, and land use permits.

(e) If an Application for the installation of an electric charging station is not denied in writing within sixty (60) days from the date of receipt of the Application, the Application shall be deemed approved unless the delay is the result of a reasonable request for additional information.

(f) Installation of Charging Stations in the Common Area. If an electric charging station is to be installed within the Common Area or in an Exclusive Use Common Area, the following requirements shall apply:

The Owner shall first obtain an approval from the Association to install the electric charging station and the Association shall approve the installation if the Owner agrees in writing to do all of the following:

- (i) Comply with the Association's Architectural Standards for the installation of the charging station;
- (ii) Engage a licensed contractor to install the charging station; and
- (iii) Within fourteen (14) days of approval, provide a Certificate of Insurance that names the Association as an Additional Insured under the Owner's insurance policy in the maximum amount then authorized by law.
- (iv) Pay for the electricity usage associated with the charging station.

(g) The Owner and each successive Owner of the charging station shall be responsible for all of the following:

- (i) Cost for repairing damage to the charging station, Common Area, Exclusive Use Common Area, or separate interest resulting from the installation, use, maintenance, repair, removal or replacement of the charging station;
- (ii) Cost for the maintenance, repair and replacement of the charging station until it has been removed and for restoration of the Common Area after removal;
- (iii) The cost of electricity associated with the charging station; and

- (iv) Disclosing to prospective buyers the existence of any charging station and the related responsibility of the new Owner under California law and these Guidelines.

(h) The Owner and each successive Owner of the charging station, at all times, shall maintain a homeowner liability insurance policy which shall name the Association as a named Additional Insured under the policy with the right to Notice of Cancellation.

(i) Installation of an electric vehicle charging station for the exclusive use of an Owner in a Common Area, which is not an Exclusive Use Common Area, shall be authorized by the Association only if installation in the Owner's designated parking space is impossible or unreasonably expensive. In such cases, the Association shall enter into a license agreement with the Owner for the use of the space in a Common Area, and the Owner shall comply with all requirements of these Guidelines.

***Section 9.11 Window Covers.*** Only curtains, drapes and shades may be installed as windows covers. No window shall be covered by paint, foil, sheets or similar items. The Board may adopt rules regulating the type, color and design of window covers.

***Section 9.12 External Laundering.*** Unless otherwise permitted by the Board, external laundering and drying of clothing and other items is prohibited.

***Section 9.13 Unightly Items.*** All weeds, rubbish, debris or unsightly materials or objects of any kind shall be regularly removed from Units and shall not be allowed to accumulate therein or thereon. Refuse containers and woodpiles, and machinery and equipment not a part of Units, shall be prohibited upon and Unit unless obscured from view of adjoining Units. Trash and garbage not disposed of by equipment contained within Units shall be placed in containers by Owners and occupants for removal from the Project in accordance with rules applicable thereto adopted by the Board. Barbeques may not be stored in any Common Area location without the approval of the Board of Directors. The Board may adopt rules applicable to the provisions of this Section and their enforcement, including the assessment of charges to Owners and occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be Special Assessments. The foregoing notwithstanding, nothing herein shall be construed as preventing Declarant and its agent and assigns from engaging in all forms of refurbishing and sales activities within the Project.

***Section 9.14 Oil and Mineral Rights.*** No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon the surface of the Project, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be installed upon the surface of the Project or within five hundred (500) feet below the surface of the Project. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon the Project. The foregoing notwithstanding, nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of refurbishing and sales activities within the Project.

***Section 9.15 Animals.*** No animals, livestock or poultry of any kind shall be raised, bred or kept upon the Project, except that dogs, cats or other household pets may be kept within a

Unit provided they are not raised, bred, kept or maintained for any commercial purpose or in numbers deemed unreasonable by the Board. Notwithstanding the foregoing, no animal or fowl may be kept within a Unit which, in the good faith judgment of the Board or a committee selected by the Board for this purpose, results in an annoyance or is unsafe or obnoxious to residents within the Project. All animals permitted to be kept by this Section shall be kept on a leash when on any portion of the Project except within a Unit. The Board may adopt rules applicable to the provisions of this Section and to the keeping of pets within the Project, and their enforcement, including the assessment of charges to Owners and occupants who violate such rules. Any charges so assessed shall be Special Assessments.

***Section 9.16*** **Structural Alteration and Integrity.** No interior or exterior structural changes shall be constructed, erected or made within the Project other than those approved by the Board in writing. Nothing shall be kept or maintained within a Unit which might impair the structural integrity of any building or other structure. The foregoing notwithstanding, nothing herein shall be construed as (i) preventing an Owner from decorating the interior of his or her Unit or (ii) preventing Declarant and its agents and assigns from engaging in all forms of refurbishing and sales activities within the Project. The Board may adopt rules applicable to the provisions of this Section and their enforcement, including the assessment of charges to Owners and occupants who violate such rules. Any charges so assessed shall be Special Assessments.

***Section 9.17*** **Leases.**

(a) *Subject to Governing Documents.* Any agreement for the leasing or rental of a Unit (hereinafter in this Section referred to as a “lease”) shall provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws and the Association Rules. Said lease shall further provide that any failure by the lessee thereunder to comply with the terms of the foregoing documents shall be a default under the lease. All leases shall be in writing. The names and contact information of all tenants must be provided to the Association prior to the date of commencement of each lease.

(b) *Tenant Information.* Any Owner who shall lease his or her Unit shall be responsible for assuring compliance by such Owner’s lessee with this Declaration, the Articles, the Bylaws and the Association Rules. Any expenses incurred by the Association, including attorneys’ fees and costs of suit, shall be repaid to it by such Owner. Failure by such Owner to make such repayment within ten (10) days after receipt of a written demand therefor shall entitle the Board to levy a Special Assessment against such Owner and his or her Unit for all such Expenses incurred by the Association. In the event such Special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof including those set forth in the Article hereof entitled “*Nonpayment of Assessments.*”

(c) *Lease Term.* Unless approved by the Board in writing, no Unit, shall be leased for transient or hotel purposes, which shall be defined as rental for a period of less than thirty (30) days or any rental whatsoever if the occupants of the Unit are provided with customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen and bellboy service.

(d) *Maximum Number of Leased Units.* Commencing on the date of recording this Declaration, no more than 25% of the Units may be leased at one time. This limitation shall not be applicable to any Owner holding title on the date of recording this Declaration.

***Section 9.18*** *Water Usage.* Each residential building has been allocated fifty (50) units of water per month. One (1) unit of water equates to seven hundred fifty (750) gallons. If a building's water use exceeds fifty (50) units in any month, the Owners of Units within said building shall be responsible for the actual cost of water used.

## **ARTICLE X RIGHTS OF ENJOYMENT**

***Section 10.1*** *Members' Rights of Enjoyment.* Every Member shall have a nonexclusive easement and right for use and enjoyment in and to the Common Area (other than portions thereof subject to exclusive easements), and such easement and right shall be appurtenant to and shall pass with the interest required to be an Owner to every Unit, subject to all of the covenants, conditions, restrictions, easements and other provisions contained in this Declaration, including, without limitation, the following provisions:

(a) The right of the Association to limit the number of guests of Members and to limit the use of recreational facilities, if any, on the Common Area by persons not in possession of a Unit, but owning all or a portion of the interest in a Unit required for membership.

(b) The right of the Association to establish reasonable rules and regulations pertaining to the conduct of persons within, and the use of, the Common Area.

(c) The right of the Association to suspend the rights of a Member to use the recreational facilities, if any, located upon the Common Area, or any portion thereof designated by the Board, at any time during which any Assessment against his or her Unit remains unpaid and delinquent or for a period not to exceed thirty (30) days for any single infraction of this Declaration, the Bylaws or the Rules, provided that any suspension of such rights to use all or any recreational facilities, if any, located on the Common Area except for the failure to pay Assessments, shall be made only by the Association or duly appointed committee thereof after notice and hearing given and held in accordance with the Bylaws. Notwithstanding the foregoing, the Association shall not have the right hereunder to suspend any Member's rights to use any portion of the Project necessary for such Member to gain access to his or her Unit. No Member's right to vote shall be suspended.

(d) The right of the Association to establish, in cooperation with any governmental entity, a special tax assessment district for the performance of all or a portion of the maintenance and other functions now within the responsibility of the Association.

(e) The right of the Association to grant easements on, over or under the Common Area to public utilities or governmental entities or agencies; provided that such easements shall not unreasonably interfere with the rights of any Owner to the use and enjoyment of his or her Unit or the Common Area. No such easement shall be effective unless approved by two-thirds (2/3) of the voting power of the Members.

**Section 10.2 Waiver of Use.** No Member may exempt himself or herself from personal liability for Assessments duly levied by the Association, nor release the Unit owned by him from the liens, charges and other provisions of this Declaration, the Articles, Bylaws and Association Rules, by waiver of the use and enjoyment of the Common Area, or by abandonment of his or her Unit or Unit thereof.

## ARTICLE XI

**Section 11.1 Damage.** In the event any multifamily structure subject to this Declaration is totally or substantially damaged or destroyed, the repair, reconstruction, or disposition thereof shall be as provided by an agreement approved by Owners representing more than fifty percent (50%) of the total voting interest of all Condominiums represented such structure, as such voting interests are established in this Declaration. An action for partition may be brought by any Owner under and pursuant to the provisions of Section [752 b of the California Code of Civil Procedure]. The Association, acting through its Board of Directors, is hereby granted an irrevocable power of attorney to sell the entire Project for the benefit of all Owners thereof when partition of the Project may be had under said Section 752 b, which shall (i) be binding on all owners; (ii) be exercisable only after prior approval of not less than a majority of Owners in the Project; (iii) be exercisable only after recordation by the duly authorized officers of the Association of a Certificate setting forth compliance with the foregoing conditions, which certificate shall be conclusive evidence thereof in favor of any person relying thereon in good faith. Nothing herein shall be deemed to prevent partition of a co-tenancy in any Condominium.

## ARTICLE XII GENERAL PROVISIONS

**Section 12.1 Enforcement.** The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, easements and other provisions now or hereafter imposed by this Declaration, or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants or easements and the right to recover damages and other sums for such violation. The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the Articles and Bylaws and any amendments thereto and the Association Rules. The foregoing notwithstanding, with respect to Assessment liens or any other liens or charges, the Association shall have the exclusive right to the enforcement thereof.

**Section 12.2 No Waiver.** Failure by the Association or by any Owner to enforce any covenant, condition, restriction, easement or provision herein contained, or contained in the Articles, Bylaws or Association Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement thereafter as to the same or any other covenant, condition, restriction, easement or provision.

**Section 12.3 Cumulative Remedies.** All rights, options and remedies of the Association, the Owners or the Mortgagees under this Declaration are cumulative, and not one of them shall be exclusive or any other, and the Association, the Owners and the Mortgagees shall

have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law, whether or not stated in this Declaration.

***Section 12.4 Severability.*** Invalidation of any one or a portion of the covenants, conditions, restrictions, easements or provisions set forth in this Declaration or in the Articles, Bylaws or Association Rules by judgment or court order shall in no way affect any other covenants, conditions, easements or provisions contained herein or therein which shall remain in full force and effect.

***Section 12.5 Covenants to Run with the Land; Term.*** Subject to the provisions of the Section entitled “*Amendments*” of this Article which permit amendments and revocations under certain limited circumstances, the covenants, conditions, restrictions, easements and other provisions of this Declaration shall run with and bind the Project as equitable servitudes and also as covenants running with the land and shall inure to the benefit of and be enforceable as above provided by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of fifty-nine (59) years from the date this Declaration is recorded, after which time said covenants, conditions, restrictions, easements and other provisions shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by Owners of a majority of Units within the Project and seventy-five percent (75%) of the First Mortgagees, based on one (1) vote for each First Mortgage held, has been recorded within one (1) year prior to the end of any such period, agreeing to revoke said covenants, conditions, restrictions, easements and other provisions in whole or in part.

***Section 12.6 Construction.*** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a residential Unit development and for the maintenance of the Project. The Article and Section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

***Section 12.7 Singular Includes Plural.*** Whenever the context of this Declaration requires same, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.

***Section 12.8 Nuisance.*** The result of every act or omission whereby any provision, condition, covenant, restriction, easement or other provision contained in this Declaration or any provision contained in the Articles, Bylaws or Association Rules is violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed at law or in equity against a nuisance, either public or private, shall be applicable with respect to the abatement thereof and may be exercised by the Association or any Owner. Such remedy shall be deemed cumulative to all other remedies set forth in this Declaration and shall not be deemed exclusive.

***Section 12.9 Attorneys’ Fees.*** In the event any action is instituted to enforce any of the provisions contained in this Declaration, the Articles, Bylaws or Association Rules, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment reasonable attorneys’ fees and costs of suit.

**Section 12.10 Notices.** Any notice to be given to an Owner or to a Mortgagee or mortgage servicing contractor under the provisions of this Declaration shall be in writing and may be delivered as follows:

(a) Notice to an Owner shall be deemed to have been properly delivered when delivered personally or pursuant in accordance with the methods described in the Davis-Stirling Act.

(b) Notice to a Mortgagee or to its mortgage servicing contractor shall be deemed to have been properly delivered when placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Mortgagee or such contractor in writing to the Board for the purposes of notice or, if no such address shall have been furnished, to any office of the Mortgagee in said County, or if no such office is located in said County, to any office of such Mortgagee. Any notice so deposited in the mail within said County shall be deemed delivered forty-eight (48) hours after such deposit.

(c) The declaration of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been mailed to any Owner or Owners, to any Mortgagee or Mortgagees, or to all Owners or all Mortgagees, to the address or addresses for the giving of notice pursuant to this Section, shall be deemed conclusive proof of such mailing.

**Section 12.11 Personal Covenant.** To the extent the acceptance of a conveyance of a Unit creates a personal covenant between the Owner of such Unit and other Owners or the Association, such personal covenant shall terminate and be of no further force or effect from and after the date when a person or entity ceases to be an Owner except as to the payment of monies to the Association which became due during the period of such ownership.

**Section 12.12 Nonliability of Officials.** To the fullest extent permitted by law, neither the Board, any committees of the Association, no member of such Board, any committees of the Association, no member of such Board or committee nor any officer of the Association shall be liable to any Member or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error, negligence or the like made in good faith within which such Board, committees or persons reasonable believed to be the scope of his or her or their duties.

**Section 12.13 Conflicting Provisions.** In the case of any conflict between this Declaration and the Articles or the Bylaws, this Declaration shall control. In the event of any conflict between the Articles and the Bylaws, the Articles shall control.

**Section 12.14 Mergers or Consolidations.** Upon a merger or consolidation of the Association with another association, which merger or consolidation must be approved by one hundred percent (100%) of the voting power of the Association, the Association's properties, rights and obligations may, by operation of law, be transferred to the surviving or consolidated association, or, alternatively, the properties, rights and obligations or another association may, by operation of law, be transferred to the properties, rights and obligations of this Association as the surviving or consolidated association. The surviving or consolidated association may administer the covenants, conditions, restrictions and easements established by this Declaration with respect

to the Project, together with any covenants, conditions, restrictions and easements applicable to any other property, as on plan. In no event shall any merger or consolidation revoke, modify or add to the covenants established by this Declaration with respect to the Project.

**Section 12.15 Amendments.** Declaration may be revoked or amended as follows:

(a) This Declaration and any amendments thereto may be amended by affirmative written assent or vote of any group of Members entitled to vote not less than fifty-one percent (51%) of the total voting power.

(b) An amendment which requires the affirmative written assent or vote of the Members as hereinabove provided shall be effective when executed by the President and Secretary of the Association who shall certify that the amendment has been so approved, and when the amendment has been recorded in the Office of the Los Angeles County Recorder.

(c) Notwithstanding the foregoing, any provision of this Declaration, the Bylaws or Association Rules which expressly requires the approval of a specified percentage or specified percentages of the voting power of the Association or First Mortgagees for action to be taken under said provision can be amended only with the affirmative written assent or vote of not less than the same percentage or percentages of the voting power of the Association and/or First Mortgagees. Any amendment subject to this provision shall be effective after the specified approval has been given and that fact has been certified in a writing executed by the President and the Secretary of the Association, and when the said writing has been (i) recorded in the Los Angeles Office of the County Recorder, when such amendment is of this Declaration, (ii) properly annotated in accordance with the Section entitled "Record of Amendments" of the Article entitled "Amendments" of the Bylaws, and entered upon the corporate records, when such amendment is of the Bylaws, or (iii) delivered to each Owner and entered in the records of the Association that are kept for inspection at its principal office in accordance with the provisions of the Section entitled "Association Rules" of the Article entitled "Duties and Powers of the Association" of this Declaration, with such amendment is of the Association Rules, whichever of (i), (ii), and/or (iii) may be applicable at the time.

In all other respects the provisions of the Amended and Restated Declaration of Covenants, Conditions, & Restrictions shall remain unchanged and enforceable.

IN WITNESS WHEREOF, this Amended and Restated Declaration of Covenants, Conditions, & Restrictions has been executed on this \_\_\_\_\_, day of \_\_\_\_\_, 2025.

Dated: \_\_\_\_\_, 2025

ROWLAND HEIGHTS VILLAS HOMEOWNERS ASSOCIATION, a California non-profit corporation

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
President