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**TENANCY IN COMMON AGREEMENT
FOR
1300 DOUGLAS STREET**

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INTRODUCTION

This Tenancy in Common Agreement is entered into on its Effective Date by and among the “Owners” listed in Exhibit B to this Agreement, and 1300 Douglas Partners, LLC, a California limited liability company (the “Seller”). The Seller intends to sell undivided tenants in common interests in real property commonly known as 1300 DOUGLAS STREET, LOS ANGELES,

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CALIFORNIA (hereinafter "the Property") to the Owners, who shall then co-own the Property. The Seller shall participate in the co-ownership of the Property as an Owner until such time as all of the Seller's interest in the Property has been transferred. The Parties want to clarify the terms and conditions of their co-ownership arrangements and reduce their agreement to writing. The Parties wish to allocate all costs, obligations, benefits and rights associated with ownership of the Property as provided in this Agreement. The Parties also intend that this Agreement protect the interests of each Lender, and recognize that Lenders will be relying on this protection when they decide whether or not to make loans secured by the Property.

ARTICLE 1--DEFINITIONS AND EXHIBIT LIST

The following initially capitalized items have the meanings set forth below whenever used in the Agreement:

"Annual Budget Report" means an annual financial report that would satisfy the requirements described in Civil Code §5300.

"Annual Policy Statement" means annual statement explaining various Association policies and procedures that would satisfy the requirements described in Civil Code §5310.

"Assessment" means the proportionate costs of operating, maintaining and managing the Property assessed against each Owner. There are three types of assessments: Regular Assessments, Special Assessments and Reimbursement Assessments. The characteristics of each are described in Article 4. All such Assessments shall be collectively referred to as "Assessments."

"Association" means the unincorporated association of Owners of which each Owner shall be deemed a member for so long as he/she is an Owner, which shall be established for the purpose of managing and maintaining the Property and fulfilling other responsibilities as described in this Agreement.

"Association Notice" means a notice to the Association given as described in Section 10.2.

"Association Maintenance Costs" and "Individual Maintenance Costs" are defined in Article 5.

"Base Percentage" means the percentage shown on Exhibit A to this Agreement following each Owner's name in a column entitled "Base Percentage". Base Percentage is not intended to represent or reflect percentage of ownership of the Property as shown on title to the Property. Expenses allocated according to Base Percentage are referred to as "Variable Costs" on the budget submitted to the California Department of Real Estate.

"Board" means any subgroup of Owners or other body authorized under the TIC Agreement to represent or govern the Association or to enforce the TIC Agreement.

"Common Area" means the entire Property except for the Units, including all exterior and structural elements of all buildings located on the Property.

"Declaration" means the "DECLARATION OF PROPERTY TAX, NONPARTITION, AND MAINTENANCE COVENANTS FOR 1300 DOUGLAS STREET" recorded with the County Recorder of the County of Los Angeles, California on _____ in Book ____ at Page _____, as amended.

"Director" means a member of the Board of Directors of the Association.

"Effective Date" means the date determined under Sections 10.2 and 10.3.

"Emergency" shall be defined as a condition within the Property that (i) reasonably appears to immediately endanger the integrity of Property, or the safety or health of the Occupants, guests or public, or (ii) is the subject of a condemnation or enforcement action by a governmental agency.

"Exclusive Use Common Area" consists of those portions of Common Area reserved for the exclusive use of a particular Owner in this Agreement, and any other building component designed to serve only one Unit but located outside the interior boundaries of that Unit.

"General Notice" means a notice to all Owners given as described in Section 10.2.

"Governmental Regulations" means all applicable laws, ordinances, resolutions, procedures, orders, standards, conditions, approvals, rules, regulations and the like of any governmental entity with jurisdiction over the Property.

"Group" means a group of Parties who together constitute one (1) Owner and who together hold one (1) Ownership Interest.

“Individual Notice” means a notice to one or more Owner given as described in Section 10.2.

“Majority Owner Approval” means the approval of Owners representing the majority of the voting power represented in person, or by proxy, at a properly Noticed and conducted Owner Meeting.

“Maintain” and “Maintenance” shall mean, respectively, “maintain, repair and replace” or “maintenance, repair and replacement” except where the context clearly intends just the term “maintain” or “maintenance” to apply.

“Maintenance Reserves” means funds collected for repair and replacement of the major components of the Property that the Association is obligated to maintain.

“Occupant” means a person who sleeps in a Unit during more than fourteen (14) days within any thirty (30)-day period.

“Party” means an owner of any interest in the Property during the term of this Agreement, and any current or future signatory to this Agreement.

“Promptly” means within three (3) calendar days of the event triggering the requirement to act.

“Unanimous Owner Approval” means the approval of Owners representing all of the voting power represented in person, or by proxy, at a properly Noticed and conducted Owner Meeting.

“Unit” consists of the area bounded by the interior unfinished surfaces of its perimeter walls, bearing walls, floors, fireplaces, ceilings, skylights and interior portions of skylight frames and trim, windows and interior portions of window frames and trim, doors (including windows in doors) and interior portions of door frames and trim, and includes both the portions of the building so described and the airspace so encompassed. A Unit includes (i) the paint on all interior surfaces located or exposed within the Unit, (ii) all interior and exterior elements of skylights, skylights frames, and related waterproofing, (iii) window sashes or other elements that directly contact the glass portion of the window, (iv) door and window hardware and all mechanical elements of doors and windows, (v) plumbing, heating, air conditioning and electrical outlets, fixtures and appliances located or exposed within the Unit, and (vi) water heaters, furnaces and air conditioners serving only the Unit. A Unit does not include any portion of the frames of windows or exterior doors that is not exposed within a unit interior, or any structural component of walls, ceilings, and floors.

“Utilities” means gas, electric, water, sewer, garbage/scavenger, and other similar services to the Property.

“EXHIBIT A” is the drawing of the Property showing where the assigned spaces are located.

“EXHIBIT B” is the chart showing the Owner names, space assignments, purchase prices and percentages.

“EXHIBIT C” is the Annual Certificate of Validity form, which the Association is required to complete each year to reaffirm the validity of this Agreement and identify any modifications or amendments that have been made.

“EXHIBIT D” is the Assumptions and Release of Obligations form, which must be completed in connection with each resale or other transfer of an Ownership Interest.

“EXHIBIT E” is the Refinance Certificate form, which must be completed in connection with each refinance of an Ownership Interest.

ARTICLE 2--ORGANIZATIONAL MATTERS

2.1 UNDIVIDED PERCENTAGE OWNERSHIP. The Parties acknowledge that none of them will individually own any particular portion of the Property, or obtain a deeded right to exclusive occupancy of any portion of the Property. Instead, each of them will own an undivided percentage interest in the Property, and Parties may hold any of them responsible for any or all of the obligations and liabilities associated with ownership of the Property.

2.2 ALLOCATION OF RIGHTS AND BENEFITS. The Parties allocate all costs, obligations, benefits and rights associated with ownership of the Property as provided in this Agreement. They intend that these allocations supersede any presumptions regarding such matters which might otherwise arise as a result of (i) the price paid by a Party for his/her interest in the Property, (ii) the manner and percentages in which title to the Property is held, (iii) the acts or omissions of the Parties in relation to the Property, or (iv) the provisions of any other document signed by the Parties. Without limiting the generality of the preceding sentences, it is expressly provided, and acknowledged by all Parties on behalf of themselves and successors in interest,

that the manner and percentages in which title is held do not determine or affect the allocation of (i) usage rights to Units or to Common Area, (ii) obligations to pay any expense (including property tax, insurance, and Maintenance), (iii) proceeds from sale of the entire Property, or (iv) proceeds from any additional or replacement financing secured by the Property. Each Party recognizes and acknowledges that, as a result of Unit improvements, market fluctuations and other factors, the allocations described in this Agreement will not necessarily reflect the relationship between the value of an individual Ownership Interest and the value of the entire Property.

2.3 OWNERSHIP INTERESTS AND OWNERS.

- A. The Parties allocate ownership and control of the Property into separate shares referred to as “Ownership Interests.” Each Ownership Interest is owned by an “Owner.” An Owner may be an individual person or a group of persons (a “Group”). If a Group owns an Ownership Interest, the Group shall be referred to as one (1) Owner, and the following provisions shall apply:
 - (1) Each person within the Group is jointly and severally liable for all obligations and responsibilities associated with the Ownership Interest. Any act or omission by any one (1) person within the Group shall be deemed the act or omission of the Owner. All rights associated with the Ownership Interest are jointly held by the persons within the Group and, absent a written agreement or provision of law to the contrary, all such persons shall be deemed to have equal control of such rights.
 - (2) The Group shall designate one (1) Party (the “Designated Party”), who is a natural person, to act on behalf of the Group. The initial Designated Party for each Group shall be specified by the Group at the time it first acquires its Ownership Interest by providing a Notice to the President, signed by each Party in the Group, identifying the new Designated Party along with such person’s mailing address, email address, and telephone number.. Thereafter, the Group may change its Designated Party any time by providing a Notice to the President in the same manner.
 - (3) Each Group must provide Notice to the President within ten (10) days of the date on which there is any addition, subtraction or other change to the Parties constituting the Group. In addition, within ten (10) days from the Effective Date of a Notice from the President so requesting, the Designated Party for the Group shall: (i) disclose the full legal names of each person with any direct or indirect ownership interest in the Group; and (ii) obtain the signature of any person or entity within the Group on a document guaranteeing the obligations of the Group to the other Owners under the terms of this Agreement.
- C. A Party who is transferring an interest in the Property must comply with the provisions of Article 7. When a Party transfers an interest in the Property that does not include all costs, obligations, benefits and rights associated with an entire Ownership Interest, the transferee shall be deemed part of the Group that collectively comprises the Owner of such Ownership Interest. Under no circumstances shall any transfer be deemed to increase the number of Ownership Interests that existed when this Agreement was originally executed. No person shall be entitled to claim that he/she is only obligated to pay or fulfill only a percentage or other portion of the obligations associated with an entire Ownership Interest.

2.4 ORGANIZATIONAL STRUCTURE.

- A. The Association is an unincorporated association under the laws of the State of California. The Association shall not hold title to the Property or to any other real or personal property. The Association is empowered to obtain a Federal and state tax identification number, open deposit accounts, contract for goods and services as authorized by this Agreement, and perform such other functions on behalf of the Parties as are reasonably necessary to operate the Property and accomplish the purposes of this Agreement, in instances where doing so in the name of all of the Parties would be impossible, impractical or inefficient.
- B. This Agreement is not intended to create a partnership or a joint venture. No Party is authorized to act as agent for or on behalf of any other Party, to do any act which would be binding on any other Party, or to incur any expenditures with

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respect to the Property except as specifically provided in this Agreement. Since the Parties do not intend to create a partnership, pursuant to §761 of the Internal Revenue Code of 1986, as amended, they elect out of sub-chapter K of chapter 1 of that Code and agree to report their respective shares of income, deductions and credits in a manner consistent with the exclusion from sub-chapter K.

2.5 AUTHORITY OF BOARD. Except where this Agreement specifically provides otherwise, all of the activities of the Association shall be conducted, and all powers exercised, by and under the direction of the Board. Without limiting the generality of the preceding sentence, it is expressly intended that whenever this Agreement states that the Association may or must make a decision, the decision is to be made by a vote of the Board rather than by the vote of the Owners. The only exception to this general rule is when this Agreement states that a particular decision or action requires the approval of a specific number or percentage of Owners.

2.6 APPLICATION OF AGREEMENT TO SELLER. The Seller shall assume all of the responsibilities, and be entitled to all of the rights, associated with each Ownership Interest that has not been transferred. Each Party who is a member of the group of Parties referred to in this Agreement as the Seller shall be jointly and severally liable for all obligations and responsibilities of the Seller, and all rights provided to the Seller under this Agreement shall be deemed jointly held by such Parties. All of the rights and duties of the Seller under this Agreement, including but not limited to the right to vote, shall cease when the Seller does not control any of the Ownership Interests.

ARTICLE 3-- SPACE ASSIGNMENTS AND USAGE/ALTERATION RESTRICTIONS

3.1 ASSIGNMENT OF UNITS AND EXCLUSIVE USE COMMON AREAS. The Parties intend to assign Units and Exclusive Use Common Area to particular Owners as shown on the chart attached to this Agreement as Exhibit A. The location of the Units and Exclusive Use Common Areas is shown on the diagram attached to this Agreement as Exhibit B. Each Owner agrees not to claim a right of occupancy to, or a right to income derived from, another Owner's assigned Unit or Exclusive Use Common Area provided all of the latter Owner's obligations to the Association and to the other Owners have been satisfied.

3.2 EXCEPTIONS TO EXCLUSIVE USAGE RIGHTS. All exclusive usage rights assigned by this Agreement are subject to the right, reserved on behalf of all Owners, and their guests and invitees, to pass through such assigned areas for escape in an Emergency.

3.3 RENTALS AND OTHER NON-PARTY USAGE.

A. Entitlement To Rent Assigned Areas.

- (1) Subject to the restrictions and requirements of this Agreement and applicable law, each Owner is permitted to rent out any area of the Property assigned to him/her under this Agreement, and to keep any income generated from such rental.
- (2) Notwithstanding the preceding paragraph, if tenants have been evicted from the Property pursuant to Government Code Sections 7060 *et. seq* (the "Ellis Act") either before or after the Effective Date, all Owners must investigate and comply with any resulting restrictions, and individually bear any costs or losses resulting from the existence of such restrictions.
- (3) Each Owner hereby grants the other Owners an irrevocable power of attorney to commence and pursue injunctive relief or an unlawful detainer action against any tenant or subtenant who is in violation of this Agreement.

B. Selection of Rental Tenants.

- (1) **Roommates and Cohabitation.** The rental tenant selection requirements of Subsection (3) shall not apply to instances where a Party is changing the identity or number of Occupants residing with him/her in his/her assigned Unit, provided that a Party continues to be an Occupant of the Unit. However, at least seven (7) days prior to the date on which there will no longer be an Occupant who is a Party, the Owner assigned such Unit must comply with the tenant selection requirements with regard to each non-Party, and each non-Party who is disapproved as a rental tenant shall be required to vacate on the same date that the last Party Occupant vacates. When an Owner rents all or a portion of a parking or storage area to someone who is not an Occupant, such rental shall be subject to the rental tenant selection requirements of Subsection (2) even if a Party will continue to be an Occupant of the Owners assigned Unit.
- (2) **Short-Term Rentals.** For the purposes of this Subsection, the term “Short Term Rental” shall refer to the rental of an entire Unit for vacation rental purposes by the day or week, under an agreement that limits the maximum total duration of the rental to the shorter of the following: (i) six (6) months; or (ii) a period that is less than the length required to afford the renter protections under any rent or eviction control protections under applicable law. A Short Term Rental meeting each of these conditions is exempt from the tenant selection requirements of Subsection (3).
- (3) **Limited Right to Reject a Prospective Tenant.** At least seven (7) calendar days before entering into any arrangement (oral or written) under which an Owner (the “Proposing Owner”) will allow one or more other individuals (each a “Prospective Tenant”) to use any area of the Property assigned to him/her, regardless of whether the Prospective Tenant will pay any rent for such usage, the Proposing Owner shall provide Association Notice together with a standard form rental application completed by each Prospective Tenant. The Board shall be entitled to contact each Prospective Tenant to arrange a personal or telephone interview. The Board shall have forty eight (48) hours from receipt of the Association Notice to provide Individual Notice to the Proposing Owner of its disapproval of the Prospective Tenant. This time period is intentionally short to minimize the likelihood that the Prospective Tenant will locate an alternative property before the process is completed. Consequently, unless otherwise agreed by the Proposing Owner, the inability to arrange an interview shall not cause this time period to be extended. To be considered valid, the notice of disapproval must state a reasonable basis not prohibited by law for disapproval of a specific Prospective Tenant. The fact that the Association, the Board, or a Party, does not want a portion of the Property to be rented, is not a valid basis for disapproval. A Prospective Tenant shall be deemed approved unless the Proposing Owner proposing it receives a valid notice of disapproval. As provided in Section 8.3D Lender(s) are except from the requirements of this Subsection.

C. Written Agreement. Before permitting a non-Party to begin a pattern of repeated usage of any portion of the Property, the Owner who is assigned the area to be used or shared shall ensure that the non-Party (including those who will use or share a space with a Party who is an Occupant) signs a written agreement describing the terms of usage and incorporating all of the usage and alteration restrictions in this Agreement. The Owner assigned the area to be used or shared by such non-Party shall provide a copy of such written agreement to the Association before the date the non-Party begins a pattern of repeated usage.

D. Eviction Restrictions. Seller is expressly authorized to undertake an Ellis Act Eviction at Seller’s sole expense for the purpose of removing rental tenants from the Property, without the approval of any other Owner. Under the circumstances described in Subsection 8.3D, Lenders and certain Parties who acquire an Ownership Interest following a foreclosure, are also expressly authorized to undertake an Ellis Act Eviction for the purpose of removing rental tenants from the Property. All Parties agree to cooperate in good faith in such eviction(s), with such cooperation to include them expressing a genuine intention to withdraw the Property from rental use and executing any related documents, and further agree that any action undertaken to prevent or hinder the eviction process shall be a violation of this Agreement. All Owners acknowledge that an Ellis Act Eviction will need to include all renters then living in the Property, and that an eviction could result in significant other burdens and restrictions. Except as provided in this paragraph, no Owner is permitted to undertake any type of eviction or tenant buyout that will impact either the ability of other Parties to undertake future evictions or tenant buyouts, or the potential eligibility of the property for condominium conversion,

without Unanimous Owner Approval. Any Party who evicts a tenant from a Unit, or pays a tenant to vacate the Property, must comply with all aspects of applicable Governmental Regulations.

E. Responsibility For Non-Party User's Behavior. When an Owner allows a non-Party to use a Unit or Exclusive Use Common Area assigned to him/her, such Owner (the "Responsible Owner") becomes responsible for violations of this Agreement by the non-Party and any invitee of the non-Party. The consequence of such responsibility is that if the non-Party or invitee violates this Agreement, the Responsible Owner is deemed to have committed a violation of this Agreement that is subject to the same procedures and consequences as a violation of this Agreement committed by a Party. No one other than the Responsible Owner (including another Owner or the Occupant of another Owner's assigned Unit) shall be required to seek compliance by, attempt to work things out with, or otherwise interact with, the violating non-Party or invitee.

3.4 OCCUPANCY LIMITATIONS. The maximum number of adult Occupants permitted in a Unit shall be twice the number of legal bedrooms.

3.5 NON-RESIDENTIAL USE. A Unit shall be solely for residential use except that an Occupant may engage in a professional or administrative occupation within the Property if (i) there is no external evidence of business activity, (ii) it conforms to all applicable Governmental Regulations, and (iii) it is merely incidental to the use of the Unit as a residence.

3.6 PARKING. No one is permitted to park or store a motor vehicle of any kind anywhere on the Property. Strict compliance with this provision shall be required at all times; "temporary" or "very short term" violations shall be deemed no different from long-term parking or storage. Each Owner shall be responsible for violations of this provision by each Party comprising such Owner, each Occupant of such Owner's assigned Unit, and each invitee of and such Party or Occupant. Any motor vehicle located on the Property shall be deemed "Improperly Parked", and may be removed from the Property and towed to a storage facility without prior notice or hearing of any kind. The cost of towing and storage shall be levied by the Association against the responsible Owner as a Reimbursement Assessment. Neither the Association, nor any Owner, nor anyone acting on behalf of the Association or any Owner, shall have any liability as a result of exercising the rights provided under this Section. The fact that a motor vehicle has been allowed to be Improperly Parked previously shall not diminish or otherwise affect the application of the provisions of this Section, or impose additional duties or responsibilities on the Association or on any Owner with regard to the removal of such item.

3.7 NUISANCE.

- A.** No person may use any part of the Property in a way that unreasonably interferes with the quiet enjoyment of anyone else, or which is noxious, illegal, seriously annoying or offensive to a person of reasonable and normal sensitivity. There shall be no exterior fires except in barbecue receptacles or fire pits designed for that purpose. No activity may be carried on that adversely affects insurance coverage or rates on the Property. No Owner shall do or permit anything to be done which is in violation of a Governmental Regulation or which will or may decrease the attractiveness, desirability or value of the Property.
- B.** Without limiting the generality of the preceding Subsection, all Occupants specifically agree to use reasonable efforts to minimize noise and disruption to other Occupants. Loud noise is prohibited (i) from 10:30 P.M. each day Sunday through Thursday until 8:00 A.M. each day Monday through Friday, and (ii) from 12:00 A.M. until 10:00 A.M. each day Saturday and Sunday. Loud noise is defined as anything that is disturbing to Occupants including but not limited to washer/dryers, kitchen appliances, amplified sound systems, televisions, excessive footfalls, and musical instruments, but shall not include noise generated by children under the age of eight (8).

3.8 ANIMALS.

- A.** Only the following animals are permitted to be kept in a Unit: domestic dogs and cats, fish, and provided they are inside a cage: birds, rodents and reptiles. The Occupants of a particular Unit may collectively keep not more than three (3) non-caged four-legged pets, of which not more than two (2) can be dogs.

- B. Each pet owner shall keep his/her animal under reasonable control at all times. Any dog on the Property must be kept on a hand-held leash when outside a Unit. No part of the Common Area, including the rear yard, may be used for toileting purposes. No animal shall be allowed to unreasonably annoy residents, to endanger the life or health of other animals or persons, or to substantially interfere with the quiet enjoyment of others. Animal owners shall be deemed in violation if their animal consistently makes excessive noise, causes damage to or destruction of another's property, or attacks, bites or injures a person. Without limiting the generality of the preceding sentence, it is expressly provided that on any occasion when a dog barks more than three (3) times within a five (5) minute period, such dog shall be immediately removed from the Property for a period of thirty (30) minutes upon the request of any Occupant. If the removal requirement is not strictly followed with regard to a particular pet on more than three (3) occasions, such dog shall be permanently removed from the Property.

- C. When an Occupant or his/her guest brings an animal to the Property, the Owner in whose assigned Unit the Occupant resides shall be liable for any damage to persons or property proximately caused by such animal.

3.9 GARBAGE DISPOSAL. Each Owner shall be responsible for arranging for the regular periodic removal of refuse generated by his/her Unit at his/her expense. Equipment for the storage or disposal of garbage, recycling and compost shall be kept in a clean and sanitary condition and shall be kept only in Units or on portions of Exclusive Use Common Area approved for this purpose by the Association. Each Occupant is responsible for knowing the refuse disposal company's recycling and compost program, and for placing only acceptable items in the appropriate bin. All items must be broken down and placed in the appropriate bin so that the lid can be fully closed. If an item will not fit in the appropriate bin, the Occupant shall keep the item in his/her Unit until such time as the item can be placed in such bin or, alternatively, the Occupant shall arrange for the removal of the item from the Property at such Occupant's expense.

3.10 STORAGE. Within a patio or balcony assigned as Exclusive Use Common Area, the Owner assigned the area may place or store outdoor furniture, barbecues, plants, and other typical outdoor furnishings provided the amount or condition of such items does not significantly diminish the value or desirability of the Property. Except as provided in the preceding sentence, no one may store any item in Exclusive Use Common Area, or in Common Area, without Association approval. Any item stored in such Common Area without such explicit, written, prior approval, or stored by an Owner in Exclusive Use Common Area which is not assigned to him/her, may be removed from such space without prior notice or hearing of any kind, and disposed of, and the reasonable cost of such removal and disposal shall be levied by the Association against the Owner who stored such items as a Reimbursement Assessment. Neither the Association, nor any Owner, nor anyone acting on behalf of the Association or any Owner, shall have any liability as a result of exercising the rights provided under this Section. The fact that items have been allowed to be improperly stored in a particular location for an extended period shall not diminish or otherwise affect the application of the provisions of this Section, or impose additional duties or responsibilities on the Association or on any Owner with regard to the removal of such items.

3.11 ALTERATIONS OF THE PROPERTY. Except for the replacement of an element of the Property with something that is identical to it in design, materials, and color, any modification of the Property shall be deemed an "Alteration". Under this Agreement, each Alteration is classified as either a "Restricted Alteration" or a "Permitted Alteration". Restricted Alterations require the approval of the Association, while Permitted Alterations do not. Notwithstanding anything to the contrary in the following Subsections, any Alteration that impairs the structural integrity, mechanical systems, or safety of the Property, or violates any provision of applicable law, shall be deemed a Restricted Alteration.

- A. **Alterations Of Units.** Alterations within the interior boundaries of a Unit are deemed Permitted Alterations provided they meet each of the following requirements: (i) they do not alter the exterior appearance of the Property; (ii) they do not directly or indirectly impact a Utility system serving Common Area or a Unit other than the one in/for which the Alteration is occurring (including by potentially interfering with a subsequent Alteration that could be made by the Association or another Owner); (iii) they do not impair the structural integrity, mechanical systems, value or desirability of the Property; and (v) they do not effectively divide the Unit into multiple Units.

- B. **Alterations Of Common Area and Exterior Elements.** Alterations of an assigned balcony or patio that do not involve the installation or attachment of anything to the Property (such as a screen, cover, awning, fence, etc.) are

Permitted Alterations. All other Alterations of Common Area, including Exclusive Use Common Area and all exterior elements, are Restricted Alterations.

C. Procedure For Alteration Approval.

- (1) Any Owner wishing to make a Restricted Alteration shall submit "Plans and Specifications" to the Association. "Plans and Specifications," as used in this Article, shall include the following: (i) a description of the proposed Alteration, including, as appropriate, its shape, height, width, elevation, materials, color, location and such further information as may be necessary to allow the Association to evaluate it fully; (ii) upon request of the Association, a certificate by an architect or engineer licensed by the State of California stating that the Alteration will not impair the structural integrity of any part of the Property, and will not interfere with any Utility; and (iii) upon request of the Association, a set of construction drawings prepared by an architect and/or engineer licensed by the State of California. The Association may require as much detail in the Plans and Specifications as it deems appropriate, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and samples of exterior material and colors. The Association may postpone review of any application until receipt of all required information and materials. Upon submittal of all required information and documentation, the Association shall give the Owner a written, dated receipt. The date of the receipt shall be the commencement date for computing the time within which the Association must approve or disapprove the application. The Association may charge a reasonable fee for reviewing an application. In addition, as part of its review of the Owner's application, the Association may, in its sole and absolute discretion, choose to consult with one or more experts, in which case any consultation fees shall be paid by the Owner.
- (2) The Association shall act upon each Alteration approval application within forty-five (45) days after receipt of all materials required or requested by the Association or, failing that, at the first Board Meeting thereafter before any other business is undertaken at such Meeting. As soon as reasonably possible thereafter, the Association shall provide Individual Notice to the applicant of its decision. If a proposed change is disapproved, the written decision shall include both an explanation of why the proposed change is disapproved and, where the decision was made by an Architectural Committee, a description of the procedure for reconsideration by the Board.
- (3) As part of its decision, the Association shall establish a deadline for completion of the work that is not more than one (1) year after the date any aspect of the work commences, and specify the per diem charge that the Owner shall pay to the Association for each day between the deadline and the date on which all work is completed. In addition, as part of its decision, the Association may require the Owner to provide to the Association a security deposit against damage to the Property. Any required security deposit shall be used by the Association to pay for damage, and any unused amount shall be returned to the Owner. The Board, in its sole and absolute discretion, shall determine whether damage is related to the Owner's work, whether to use the security deposit to pay for the damage, and the method and cost of repair of the damage. Any fees or charges collected by the Association under this Subsection (that are not used to repair damage) shall be deemed Association funds and be used to offset Association expenses.
- (4) The Association decision must be made in good faith and may not be unreasonable, arbitrary, or capricious. The Association shall approve an Alteration only if it makes an affirmative finding that the Alteration (i) will not impair the structural integrity of any part of the Property, (ii) will not interfere with any Utility, (iii) is consistent with the Governing Documents and all Governmental Regulations, (iv) will not detract from the appearance, harmony, attractiveness and enjoyability of the Property, and (v) will not impose an unreasonable Maintenance burden on the Association. The approval or disapproval of an Alteration shall not be deemed a waiver of the Association's subsequent right to approve or disapprove a similar Alteration or any other matter.

D. Timing and Pace of Work.

- (1) All Alteration work, including work for which approval was not required: (i) must be diligently and consistently pursued through completion; and (ii) must be completed within a reasonable time, and in all cases within one (1)

year after the date any aspect of the work commences. If work continues for longer than one (1) year, the Owner shall pay a per diem charge to the Association for each day between the end of the one (1) year period and the date on which all work is completed. The amount of such per diem charge shall be established by the Board as a Rule.

- (2) Upon approval of an Alteration requiring approval, the Owner shall diligently proceed with the commencement of all work so approved. The work must be commenced within one (1) year from the date of the approval. If the Owner fails to comply with the provisions of this Subsection, the approval given shall be deemed revoked unless the Association extends the time for commencement. Any request for an extension shall be made in an Association Notice. The Association shall not grant the extension if it finds that there has been a change in the circumstances under which the original approval was granted.

E. Responsibility, Compliance and Inspection.

- (1) Regardless of whether Association approval is required or obtained, in cases where a building permit is required by Governmental Regulations, the Owner undertaking the work must comply with all permitting, contracting and insurance requirements of Section 6.1.
- (2) Each Owner shall be responsible for violations of this Section by each Occupant of such Owner’s assigned Unit, and each invitee of any such Occupant, including all contractors and employees.
- (3) The Association, or its consultants, after providing Individual Notice to the Owner a reasonable amount of time in advance, may inspect any work performed on the Property to ensure it is done in accordance with this Article, regardless of whether approval was required or granted. If a violation is found, the Association may provide Individual Notice to the violating Owner of the violation. The notice shall specify the particulars of non-compliance and shall require the Owner to remedy it. If the Owner fails to remedy the non-compliance in accordance with the provisions of the notice, then, after the expiration of thirty (30) days from the date of the notice, the Board shall provide Individual Notice to the Owner of a hearing to consider the Owner's continuing non-compliance. At the hearing, if the Board finds that there is no valid reason for the continuing non-compliance, the Board shall require the Owner to remedy it within a period of not more than forty-five (45) days from the date of the Board's ruling. At any time within such period, or within any extension of such period as the Board, in its discretion, may grant, the Board may choose not to wait for the Owner to act, and instead the Board may act to remedy the non-compliance, and assess any associated costs against the Owner as a Personal Reimbursement Assessment and/or apply any security deposit required by the Board under Subsection C3 above. The Association may also cause a notice of nonresponsibility for mechanics' liens to be recorded and posted as specified in Civil Code §8444. Any officer, director, or Architectural Committee member shall promptly provide Association Notice upon learning of any violation of this Section.

3.12 WINDOW COVERINGS. Unless otherwise approved by the Association, all window coverings visible from the street or Common Area shall be of a material and type commonly used for window coverings.

3.13 SIGNS. Notwithstanding anything to the contrary in this Agreement, except as specifically provided in this Section, no one may place any sign, banner or similar item on any part of the Property (including within a Unit) in a manner that would allow it to be seen from the exterior. The following signs are permitted on or from portions of the Property designated by the Association: (i) non-commercial signs, posters, flags or banners which the Association is required by law to permit, and (ii) “For Sale” or “For Rent” signs that do not exceed nine (9) square feet in size displayed on portions of the Common Area designated by the Association.

3.14 SMOKING. Smoking (regardless of the material smoked) is prohibited everywhere on the Property, outdoors and indoors, including inside Units.

ARTICLE 4-- EXPENSE ALLOCATION AND PAYMENT

4.1 ASSOCIATION EXPENSE ALLOCATION.

A. Property Taxes.

- (1) Taxes and assessments imposed upon the Property by any governmental authority (the "Property Taxes") shall be allocated according to "Property Tax Percentage". Each Owner's Property tax Percentage shall be equivalent to the fraction whose numerator is the amount he/she paid for his/her interest in the Property, plus any systematically applied annual inflation adjustments in assessed value that have been imposed since his/her acquisition, plus the amount (if any) by which the assessed value of the Property has been increased as a direct consequence of his/her individual improvements to the Property, and whose denominator is the sum of the numerators for all Owners. In instances where an Owner receives his/her interest as a gift, or in other cases where the amount paid by an Owner does not reflect the assessed value of the interest, the assessed value of the interest, rather than the amount paid, shall be used to determine the Property Tax Percentage.
- (2) Each Owner shall be entirely responsible for any increase in property taxes caused by his/her act. This provision is expressly intended to preserve the property tax basis of prior owners in a partial sale, and to make buyers of partial interests pay tax based on their purchase price just as if they bought a condominium or single family home. This provision is also intended to preserve the property tax basis of owners that do not significantly improve their property and shifts the burden of an increase in tax basis caused by significant improvements to the Owner that performed the significant improvement.
- (3) To the extent any purchaser of an interest in the Property pays a purchase price less than the purchase price paid by his/her transferor, unless and until the Property is reassessed to reflect the differential between the original purchase price paid by the transferee and the purchase price paid by the transferor, the transferee will pay his/her obligation for Property Taxes based upon the higher price. In the event of a reassessment downward in connection with the lower purchase price paid by the transferee, his/her monthly obligation for payment of Property Taxes shall be adjusted in accordance with the formula set forth above, and to the extent any moneys paid by the transferee are refunded by the County Assessor, such funds shall be paid by the Association to the transferee. The Association shall cooperate with any Owner seeking an adjustment pursuant to this paragraph, including, without limitation, executing documentation required by the County Assessor in connection therewith.

B. Insurance Costs. The portion of Regular and Special Assessments levied for the cost of all insurance required by this Agreement (the "Association Insurance Costs") shall be allocated among all nine (9) Ownership Interests according to Base Percentages.

C. Maintenance Costs. As provided in Article 6, all costs associated with maintenance and repair of the Property (the "Maintenance Costs") shall be categorized as either "Individual Maintenance Costs" or "Association Maintenance Costs".

- (1) Each Owner shall be responsible for his/her Individual Maintenance Costs.
- (2) The portion of Regular and Special Assessments levied for Association Maintenance Costs associated with painting, siding, stucco, roofing, and rebuilding or major repair of the structural Common Area, and for accumulation of Maintenance Reserves for these same Association Maintenance Costs, shall be allocated according to Base Percentage.
- (3) The portion of Regular and Special Assessments levied for all other Association Maintenance Costs, and for accumulation of Maintenance Reserves for these other Association Maintenance Costs, shall be allocated equally among the nine (9) Ownership Interests.

- D. Utility Costs.** Each Owner is responsible for the cost of all Utilities separately metered and billed to his/her assigned Unit (the "Individual Utility Costs"). The portion of Regular and Special Assessments levied for the cost of all other Utilities (the "Association Utility Costs") shall be allocated as follows. Charges for water/sewer service shall be allocated among all Ownership Interests based on the relative square footage of the Unit interiors assigned to such Ownership Interests. All other charges for Association Utility Costs shall be allocated equally among the nine (9) Ownership Interests. If a Utility serving the Common Area is metered to a Unit, the Association shall compute the cost of such Utility that is attributable to Common Area service, categorize such portion as an Association Utility Cost, and reimburse the affected Owner for such cost on a monthly basis. Conversely, if a Utility serving a Unit or an Exclusive Use Common Area is metered to the Common Area, the Association shall compute the portion of the cost of such Utility that serves the Unit, and shall assess such cost against the consuming Owner as a Reimbursement Assessment.

- E. Administrative Costs.** The portion of Regular and Special Assessments levied for the costs of management, accounting, legal fees, reserve studies, other professional fees, education, and similar costs (the "Administrative Costs") shall be allocated equally among the nine (9) Ownership Interests.

- F. Rental Expenses.** Any Owner who rents out a portion of the Property shall be responsible for all costs associated with such rental including, but not limited to, solicitation of tenants, rent collection and eviction.

- G. Other Expenses.** Except as specifically provided elsewhere in this Agreement, the portion of Regular Assessments and Special Assessments levied to pay all other expenses, and for contingencies, shall be allocated equally among the nine (9) Ownership Interests.

4.2 CREATION OF ANNUAL BUDGET. At least forty-five (45) days before the conclusion of each fiscal year, the Association shall create an operating budget for the next fiscal year showing its estimated revenue and expenses on an accrual basis. The operating budget shall include the amount of Maintenance Reserves scheduled to be collected during the upcoming fiscal year based on the Maintenance Reserves funding plan prepared under Section 4.3. The operating budget shall be approved by the Board unless it would require a Regular Assessment increase, or the levy of a Special Assessment, in an amount necessitating an Owner vote under Section 5.2.

4.3 MAINTENANCE RESERVES. Even though the Property is not a Common Interest Subdivision, the Association shall regularly undertake a Maintenance Reserves Study and prepare a Maintenance Reserves Funding Plan, and a schedule of Assessments required to fund the Maintenance Reserves, all in accordance with the requirements applicable to Common Interest Subdivisions under Civil Code §§5550 and 5560. The Association shall keep Maintenance Reserves in a deposit account (the "Maintenance Reserve Account") that is segregated from those accounts holding its other funds. Withdrawal from the Maintenance Reserve Account shall require the signatures of two (2) Directors. Even though the Property is not a Common Interest Subdivision, the Association shall not expend Maintenance Reserves, or borrow such funds, except in compliance with the requirements applicable to Common Interest Subdivisions under Civil Code §§5510, 5515 and 5520.

4.4 FINANCIAL REVIEW. Even though the Property is not a Common Interest Subdivision, on a quarterly basis, the Association shall reconcile each of its accounts, and compare the current year's actual revenues and expenses to the budget, in compliance with the requirements applicable to Common Interest Subdivisions under Civil Code §5500.

4.5 ANNUAL REPORTING. Even though the Property is not a Common Interest Subdivision, each year the Association shall provide an Individual Notice to all Owners that includes an Annual Budget Report in compliance with the requirements applicable to Common Interest Subdivisions under Civil Code §5300, and an Annual Policy Statement in compliance with in compliance with the requirements applicable to Common Interest Subdivisions under Civil Code §5310. Alternatively, in lieu of providing either or both of these, the Association may provide a summary satisfying the requirements applicable to Common Interest Subdivisions under Civil Code §5320; however, the Association shall always provide the full reports to any Owner who has so requested in an Association Notice.

4.6 REVIEW OF FINANCIAL STATEMENTS. Even though the Property is not a Common Interest Subdivision, the Association shall provide, as an Individual Notice to all Owners, a review of its financial statements prepared in accordance with

the requirements applicable to Common Interest Subdivisions under Civil Code §5305.

4.7 REGULAR ASSESSMENTS. The Association shall levy “Regular Assessments” against all Owners in an amount sufficient to satisfy its anticipated revenue needs, including the full funding of the Repair/Replacement Reserves Funding Plan. The amount of each Owner’s Regular Assessment shall be based on the allocations of expenses described in the Subsections of Section 4.1. Regular Assessments shall be assessed against each Owner on the first day of the first month of the fiscal year, and shall be due and payable in monthly installments on the first day of each month of the fiscal year unless the Association adopts some other basis for collection. The very first Regular Assessment shall be due from all Owners (including Seller) on the first day of the first month after Seller conveys the first Ownership Interest. As provided in Section 2.7, Seller shall be deemed the Owner for all unsold shares and consequently Seller shall also be obligated to pay the Regular Assessment for all Ownership Interests that have not been transferred, including any Ownership Interests that the Seller may retain. The Association shall provide Individual Notice to each Owner of (i) the amount of the Regular Assessment for the upcoming year at the same time it distributes the Annual Budget Report, and (ii) any change in the Regular Assessments not less than thirty (30) calendar days before the due date of such changed Assessment. The Board shall establish the amount of the Regular Assessments, and any change in such amount made during the course of a fiscal year, unless an Owner vote is required under Section 5.2 (which tracks the requirements applicable to Common Interest Subdivisions under Civil Code §5600 even though the Property is not a Common Interest Subdivision).

4.8 SPECIAL ASSESSMENTS. The Association may levy “Special Assessments” for (i) the cost of construction, repair or replacement of capital improvements to portions of the Property which the Association is obligated to maintain, (ii) extraordinary expenses of the Association that were not anticipated in the operating budget, or (iii) any other purpose permitted by law. Special Assessments shall be imposed on all Owners. (Assessments imposed against fewer than all Owners shall be deemed “Reimbursement Assessments” rather than Special Assessments.) The Association shall provide Individual Notice to each Owner of the levy of any Special Assessment not less than thirty (30) nor more than sixty (60) days before the due date of such Special Assessment. The Board shall establish the amount of each Special Assessment unless an Owner vote is required under Section 5.2.

4.9 USE OF REGULAR AND SPECIAL ASSESSMENTS. Revenue raised by Assessments must be used to maintain, preserve and enhance the Property, or to promote the health, safety and general welfare of the Owners.

4.10 REIMBURSEMENT ASSESSMENTS. A Reimbursement Assessment may be levied against any Owner to enforce the Owner's obligations and responsibilities under this Agreement as described in Subsection 10.10.

4.11 ACCOUNT ADMINISTRATION.

A. Operating Account.

(1) Basic Operating Account Requirements. The “Operating Account” shall be the initial depository for all Association funds and the source of payment for all Association expenses. The Operating Account shall be maintained at a federally insured banking institution. A minimum balance of one thousand dollars (\$1,000) shall be maintained in the Operating Account at all times, and any shortfall in the minimum balance shall be recouped by Special Assessment.

(2) Disbursements From Operating Account. Any Director, without prior authorization or approval, may make “Mandatory Disbursements” from the Operating Account without Association approval. Mandatory Disbursements shall be defined as payments due for Property Taxes, Association Insurance Costs, Administrative Costs, Association Utility Costs, Association Maintenance Costs of less than five hundred dollars (\$500), and Association Maintenance Costs necessary to end an Emergency. All other disbursements (“Discretionary Disbursements”) shall require an advance vote of the Board or the Owners. Discretionary Disbursements requiring a vote of the Owners (rather than the Board) are listed in the Owner voting provisions of this Agreement. An Owner shall not be entitled to withdraw any funds from the Operating Account in connection with a transfer of his/her Ownership Interest.

B. Maintenance Reserve Account. The "Maintenance Reserve Account" shall be the segregated depository for Maintenance Reserves. The Maintenance Reserve Account shall be maintained at a federally insured banking institution. A minimum balance of one thousand dollars (\$1,000) shall be maintained at all times, and any shortfall in the minimum balance shall be recouped by Special Assessment. Withdrawal shall be permitted only in accordance with Section 4.3.

4.12 RECORDS TO BE PROVIDED BY SELLER. Seller shall provide to the Association copies of the following documents as soon as they are readily obtainable to Seller, and regardless of how the Seller obtained such copies. This obligation shall begin ninety (90) days after the Effective Date, and continue until the earlier of either (i) the date on which last Ownership Interest has been transferred by Seller, or (ii) three (3) years from the date of issuance of the most recent Final Public Report issued by the California Bureau of Real Estate for the Property:

- A. The signed TIC Agreement, and all amendments thereto, including the unit diagrams and all other exhibits;
- B. Any Rules adopted by the Association;
- C. Any plans approved by the local agency or county where the Property is located for the construction or improvement of facilities that the Association is obligated to Maintain; provided, however, that the plans need not be as-built plans and that the plans may bear appropriate restrictions on their commercial exploitation or use and may contain appropriate disclaimers regarding their accuracy;
- D. All notice of completion certificates issued for the Property;
- E. Any bond or other security device in which the Association or Owners are beneficiary;
- F. Any written warranty being transferred to the Association for Common Area equipment, fixtures or improvements.
- G. Any insurance policy procured for the benefit of the Association or the Property;
- H. Any lease or contract to which the Association is a party; and
- I. A list of the names, mailing addresses and telephone numbers of the Owners, Association accounting records, and minutes of Owner and Board Meetings.

Any document provided by Seller pursuant to this Section shall be kept and made available for inspection as required by law.

4.13 ASSOCIATION RECORDS.

- A. Even though the Property is not a Common Interest Subdivision, the Association shall at all time maintain all "Association Records" that would be required under Civil Code §5300 if the Property were a Common Interest Subdivision. These Association Records shall be available for inspection by an Owner or his/her representative as provided in, and subject to the restrictions and requirements that would apply under Civil Code §§5205, 5210, 5215, and 5225, if the Property were a Common Interest Subdivision. The Association may charge fees and expenses to the maximum extent permitted by applicable law.
- B. Regardless of whether or not such records are required to be kept pursuant to the preceding Subsection, the Association shall at all times keep the following items: (i) signed copies of the Agreement, Annual Certificates of Validity, all prior Assumption and Release of Obligations, and any amendments to the Agreement, (ii) the minutes of all Owner Meetings, and (iii) a current list of all Owners and the contact information for each Owner. Each of these items shall be provided by the Association, free of charge, to any Owner transferring his/her Ownership Interest. To the extent that any such

record is not up to date and available when requested by an Owner or his/her agent, the Association shall immediately complete and provide the missing item(s) at its sole expense. This obligation on the Association is expressly intended to include a requirement that it obtain signatures of any Party who has not signed and initialed any document required in connection with his/her acquisition of an Ownership Interest. Under such circumstances, the Association shall be entitled to attempt to recoup any associated cost from a prior Owner under Section 7.2, but such right shall not excuse the Association from timely complying with this Subsection; rather, the Association must first comply with this Subsection, and pay any related expenses from Association funds, then attempt to collect any amounts owed under Section 7.2.

4.14 SUBSIDY PROVIDED BY SELLER. The provisions of this Section 4.14 are intended to supersede any contrary provisions of this Agreement. Seller agrees to provide a one-time cash payment to the Association in the amount of five thousand four hundred dollars (\$5,400). Such amount shall be held in escrow from proceeds from Seller's first sale of an Ownership Interest (the "First Sale") and then remitted by the escrow to the Association. Such funds shall be used to reduce the amount of Regular Assessment levied against "Owner One" during the three (3) years immediately following the First Sale by exactly one hundred fifty dollars (\$150) per month. It is expressly provided that such reduction shall apply during periods while "Owner One" is still owned by Seller.

ARTICLE 5—MANAGEMENT BYLAWS

5.1 DIRECTORS AND OFFICERS. Except where this Agreement specifically provides otherwise, all of the activities of the Association shall be conducted, and all powers exercised, by and under the direction of the Board. Without limiting the generality of the preceding sentence, it is expressly intended that whenever this Agreement states that the Association may or must make a decision, the decision is to be made by a vote of the Board rather than by the vote of the Owners. The only exception to this general rule is when this Agreement states that a particular decision or action requires the approval of specific Owners or of a specific number or percentage of Owners.

A. Election of Board Members. There shall be three (3) Directors. The initial Directors shall be appointed by Seller, and shall serve until the first Owner Meeting. Directors appointed by Seller need not be Parties. Thereafter, Directors shall be elected at Annual Owner Meetings. Candidates nominated by anyone other than Seller must be Parties. Unless they resign or are removed, Directors shall serve until the next Annual Owner Meeting. Mid-term vacancies shall be filled by the Board. Parties may make nominations during the Owner Meeting, and may nominate themselves. The candidate receiving votes representing the largest amount of voting power shall be elected. Whenever two (2) or more Directors are elected, cumulative voting shall be used in accordance with the procedural requirements of California Corporations Code §7615(b). Voting for Directors shall be by secret written ballot. For so long as Seller holds a majority of the voting power, at least one (1) of the Directors shall be elected solely by the votes of Owners other than Seller.

B. Removal/Resignation Of Board Members. Directors may be removed (i) by Owner vote for any reason, and (ii) by Board vote if the Director fails to attend three (3) Regular Board Meetings in a calendar year. A Director shall automatically cease to be a Director when he/she ceases to be a Party. A Director may resign at any time by giving Association Notice. For so long as Seller holds a majority of the voting power, any Director elected solely by the votes of Owners other than Seller may be removed prior to the expiration of his/her term by Owner vote only if there are sufficient votes to remove him/her cast by Owners other than Seller.

C. Informal Board Gatherings and Communications Prohibited. The Board shall not hear, discuss, deliberate, or take action on any item of Association business outside of a Board Meeting that complies with the notice, formality and Owner participation requirements of this Agreement and applicable law. Any in-person gathering, teleconference, or email exchange, however informal, in which a majority of directors participate and discuss Association matters, is prohibited unless it satisfies these requirements.

D. Who May Convene A Board Meeting. Board Meetings may be convened at any time by the President or by any two (2) directors other than the President. Board Meetings shall be held at least quarterly.

E. Types of Board Meetings. For the purposes of the following Subsections: (i) an “Emergency Board Meeting” shall be a meeting convened under the circumstances described in Civil Code §4923; (ii) an “Executive Session Board Meeting” shall be a Board Meeting that will consist entirely of an “Executive Session” as defined in Civil Code §4935; and (iii) a “General Board Meeting” shall be any Board Meeting other than and Emergency Board Meeting or an Executive Session Board Meeting.

F. Notice of Board Meetings.

(1) Notice To Owners. The Association is not required to provide notice to Owners of an Emergency Board Meeting. The Association shall provide General Notice of an Executive Session Board Meeting at least two (2) days before the meeting. The Association shall provide General Notice of a General Board Meeting at least four (4) days before the meeting. General Notice of a Board Meeting shall include: (i) the date and time of the Board Meeting; (ii) the location at which one (1) director will gather and Owners may congregate; (iii) a conference call-in number that enables any Owner or director to hear and be heard by all other participating Owners and directors; (iv) if a video link will be available, instructions relating to the usage of such link; and (v) an agenda of all items to be acted upon at the meeting.

(2) Notice To Directors. The Association shall provide Individual Notice of all Board Meetings to each director at least four (4) days before the meeting by first-class mail, or forty-eight (48) hours before the meeting by telephone, voice messaging, or email; however, notice need not be given to any director who either: (i) attends the meeting without protesting the lack of proper notice either before or during the meeting; or (ii) before or after the meeting, signs a written waiver of notice, consent to the holding of the meeting without notice, or approval of the meeting minutes, provided that any such signed document is retained by the Association and/or made part of the meeting minutes.

G. Board Meeting Quorum and Voting Requirements. A majority of the directors then in office shall constitute a quorum. Decisions made by a majority of a quorum shall be binding.

H. Conduct of Board Meetings.

(1) Physical Location of Meeting and Remote Participation. Every General Board Meeting shall have at least one physical location, specified in the meeting notice, at which (i) at least one (1) director is physically present, and (ii) Owners may congregate with the ability to hear and be heard by all those participating in the meeting. A director who is not at such location shall be deemed present at the meeting for the purpose of satisfying quorum and voting requirements so long as he/she is connected via an audio and/or video link that enables him/her to hear and be heard by all other participating directors and all attending Owners. The Board may require that Owners wishing to hear or participate in the Board Meeting be physically present at the location specified in the meeting notice even if it allows directors to attend the same meeting via an audio or video link.

(2) Owner Participation. Every General Board Meeting shall be open to all Owners, and shall include an Owner's forum when Owners shall be permitted a reasonable time to speak. An Owner who is not a director may speak on issues not on the agenda. Unless expressly authorized by the Board, Owners who are not directors may not participate in any Board discussion or deliberation before or after the Owner's forum.

(3) Matters Subject to Consideration and Vote. In General and Executive Session Board Meetings, directors may not discuss or take any action on any matters not listed in the agenda included in the General Notice except to the extent that would be allowed under Civil Code §4930 if the Property were a Common Interest Subdivision.

I. Emergency Board Meetings. An Emergency Board Meeting may called without Owner notice, agenda, or an opportunity for Owner participation, and may take place entirely through an email exchange, telephone conversation, or other means of electronic transmission provided all directors consent in writing and the consents are filed with the meeting minutes. Such consents may be made and/or transmitted electronically. When an Emergency Board Meeting

occurs without notice to Owners, the Board shall provide an explanation of the action via General Notice within three (3) days, and distribute minutes as required under Section 5.4.

J. Executive Sessions. When the Board convenes in an “Executive Session” (as defined in Civil Code §4935) the details of business conducted in Executive Session shall be confidential and disclosed only to directors and persons authorized by the Board to have access to such information; however, the general nature of such business shall be described in a General Notice or announced in open session, and noted in meeting minutes that are open to all Owners.

K. Officers. Each Director shall act as an officer of the Association throughout his/her term. If the Directors are unable to agree among themselves regarding who will act as which officer, they shall draw straws to determine their selection priority. No Director shall be permitted to resign from his/her office without also resigning as a Director. The Officers have the following titles and duties.

(1) President.

- (a) The President shall preside at all Board Meetings, supervise the execution of Board orders and resolutions, sign legal instruments as necessary, and act as the chief executive officer of the Association.
- (b) The President shall maintain keys to all Units and locked Exclusive Use Common Areas, but may enter these areas only in an Emergency.
- (c) At least once each Calendar year, the President shall prepare, and provide to each Lender, an “Annual Certificate of Validity” either in the form attached as Exhibit C, or in such other form as has been approved by all Lenders.
- (d) Under the circumstances described in this Subsection, the President shall prepare, and provide to each Lender, a “Manager’s Certificate”, a form that is identical in content to the an “Annual Certificate of Validity”, either using the form attached as Exhibit C, or in such other form as has been approved by all Lenders. The Manager’s Certificate is required in each of the following circumstances: (i) upon the request of any Lender; (ii) upon the transfer of any Ownership Interest; and (iii) upon the creation or refinancing of any loan secured by any interest in the Property.
- (e) Promptly upon the request of the transferor of an Ownership Interest or his/her agent or, if no such request is made in connection with a particular transfer of Ownership Interest, then prior to completion of the transfer, the President shall complete and sign an “Assumption and Release of Obligations” either in the form attached as Exhibit D, or in such other form as has been approved by all Lenders. The President shall provide a copy of each Assumption and Release of Obligations form to each Lender.
- (f) Promptly upon the request of any Owner seeking to create or refinance any loan secured by any interest in the Property or, if no such request is made in connection with particular financing, then prior to recordation of the trust deed securing such financing, the President shall complete and sign a “Refinance Certificate” either in the form attached as Exhibit E, or in such other form as has been approved by all Lenders. The President shall provide a copy of each Refinance Certificate form to each Lender.
- (g) The President shall be the custodian of the original signed copies of this Agreement, including all amendments and modifications, all Annual Certificates of Validity, and all Assumption and Release of Obligation forms.

(2) Secretary. The Secretary shall record the votes and keep the minutes of all Board and Owner Meetings, keep a current list of the names and addresses of Owners, and perform other duties as the Board may from time to time require.

(3) **Treasurer.** The Treasurer shall maintain proper books of account and other appropriate financial records in accordance with standard accounting practices, and be responsible for ensuring compliance with the preparation and review of the financial documentation that would be required, by Civil Code §§5300, 5310, 5550 and 5560, if the Property were a Common Interest Subdivision.

L. **Director and Officer Compensation.** Directors and officers shall not be compensated, but may be reimbursed for expenses incurred in connection with Association business.

5.2 **OWNER DECISIONS.**

A. **Actions Requiring Majority Owner Approval.** The following actions require Majority Owner Approval:

(1) Consistent with requirements that would apply under Civil Code §§5600 and 5605(b) if the Property were a Common Interest Subdivision (which it is not), except in an “Emergency Situation” as defined in Civil Code §5610: (i) an increase in the Regular Annual Assessments for a particular fiscal year that would become effective before compliance with the Annual Budget Report requirements (described in Section 4.5) for that fiscal year; (ii) a Regular Annual Assessment increase of more than twenty percent (20%); and (iii) a Special Assessment which, when added to all other Special Assessments levied during the same fiscal year, exceeds five percent (5%) of the budgeted gross expenses for that fiscal year;

(2) Approving a “Discretionary Special Assessment”, defined as a Special Assessment not imposed to pay Property Taxes, Association Insurance Costs, Administrative Costs, Association Utility Costs, Association Maintenance Costs for work which is required under this Agreement, or replenishment of the minimum balances in any Association deposit account;

(3) Approving a “Discretionary Disbursement” (meaning it is not for Property Taxes, Association Insurance Costs, Association Utility Costs, Association Maintenance Costs for work which is required under this Agreement), if the sum of a particular Discretionary Disbursement and all other Discretionary Disbursements made within the preceding three (3) month period would exceed three thousand dollars (\$3,000);

(4) Making certain decisions following Catastrophic Damage, as described in Section 10.12; and

(5) Entering into a contract under which a third person will furnish goods or services for the Common Area or the Association for a term of longer than one (1) year.

The following actions require Majority Owner Approval plus the approval of each Owner whose usage rights would be diminished, or whose obligations would be increased, by the action:

(7) Granting easements;

(8) Except as specifically provided in this Agreement, altering, reconfiguring or redefining the boundaries of a Unit or Exclusive Use Common Area, reassigning usage rights to any area of the Property, changing any provision that would significantly diminish a development right explicitly granted by this Agreement, or significantly changing a usage right, such as a rental right, Occupant allowance or pet allowance;

(9) Changing the allocation of responsibility for maintenance, repair or replacement of the Property between the individual Owners and the Association; and

(10) Changing the method of allocating expenses or distributions among the Owners.

B. Actions Requiring Unanimous Owner Approval. The following actions require Unanimous Owner Approval:

- (1) Selling the entire Property; and
- (2) Engaging in any business other than the operation of the subject Property with Association funds.

C. Owner Meetings.

- (1) Decisions requiring a vote of the Owners may be made only at an “Annual Owner Meeting” or a “Special Owner Meeting”. The Annual Owner Meeting shall be held once each calendar year on a weekday during the fourth (4th) quarter as scheduled by the Board, provided that the first shall be held within six (6) months after the closing of the sale of the first Ownership Interest. A Special Owner Meetings shall be Promptly scheduled by the Board upon the request of any Owner.
- (2) All Owner Meetings held at a physical location shall be held on the Property, unless the Board determines for good reason that the meeting should be held at another location. Owner Meetings held at another location shall be convened at a place as close to the Property as possible. When permitted by law and authorized by the Board in its sole discretion, (i) an Owner Meeting may be held in whole or in part by electronic transmission and/or electronic video screen communication, and (ii) Owners may participate and vote in an Owner Meeting held at a physical location by electronic transmission and/or electronic video screen communication. Owner Meetings shall be conducted in accordance with a recognized system of parliamentary procedure, and Parties shall be permitted a reasonable time to speak. Except when this Agreement requires the approval of specific Owners, or a higher percentage of voting power, Majority Owner Approval shall be required for decisions at Owner Meetings.
- (3) The Association shall give General Notice of Owner Meetings at least ten (10) but not more than ninety (90) days before the meeting. The General Notice shall state the place, date and time of the meeting, the means of electronic transmission or electronic video screen communication, if any, by which Owners may participate, and (i) in the case of a Special Owner Meeting, the general nature of the business to be transacted, and no other business may be transacted, or (ii) in the case of the Annual Owner Meeting, those matters which the Board, at the time the General Notice is given, intends to present for action by the Owners. General Notice of any Owner Meeting at which Directors are to be elected shall include the names of all nominees known at the time the General Notice is given. Unless otherwise explicitly stated in the General Notice, the voting period for any particular matter to be decided at the meeting shall begin when discussion of such matter closes and end ten (10) minutes later.
- (4) The presence in person or by proxy of individuals entitled to cast votes representing at least fifty percent (50%) of the total voting power shall constitute a quorum at an Owner Meeting. If there is not a quorum, no business may be transacted, except that persons representing a majority of the voting power present may schedule another Owner Meeting for a date between five (5) and thirty (30) days later. When this occurs, the Association need not give Notice of the rescheduled Owner Meeting. If there is a quorum at the beginning of an Owner Meeting, but some leave, those remaining may continue provided individuals entitled to cast votes representing twenty five percent (25%) of the total voting power remain; however, any action must be approved by individuals representing the level of voting power which would be required if a full quorum were present. For example, a matter requiring Majority Owner Approval would still need the vote of persons representing more than twenty five percent (25%) of the total voting power of all Owners. Those who submit written ballots but are not otherwise present in person or by proxy shall not be deemed present for the purpose of determining whether quorum requirements are satisfied.

D. Additional Requirements For Certain Votes. Even though the Property is not a Common Interest Subdivision, the election of directors, amendment of this Agreement, and the grant of exclusive usage rights to any portion of Common Area to any Owner or group of Owners, shall be subject to the special procedural requirements relating to ballot secrecy and other voting procedures that would be applicable to the Property if it were a Common Interest Subdivision under Civil Code §§5100, 5110, 5115, 5120 and 5125.

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E. Voting Without Meeting. Any action which may be taken at Owner Meetings may, in the Board’s sole discretion, be taken without a meeting provided (i) a written ballot describing the proposed action, stating the number of responses needed to meet quorum requirements and the number of approvals required for passage, and providing an opportunity to specify approval or disapproval, is distributed as an Individual Notice to every Owner entitled to vote on the matter, (ii) Owners are provided a reasonable time to return the marked ballot, and (iii) the requirements of Subsection 5.2E are satisfied when they apply to the matter being decided. Approval of an action by written ballot shall be valid only if the number of votes returned as Association Notices within the specified time frame equals or exceeds the number required for a quorum at a meeting, and the number of approvals equals or exceeds the number of votes that would be required for approval at a meeting. A vote cast by written ballot may not be revoked.

F. Voting Power and Abstention. Each Owner shall have one (1) vote of equal weight and voting rights shall vest on the first day of the first month after Seller conveys the first Ownership Interest. Only the Designated Party for an Ownership Interest shall be permitted to vote on behalf of such Ownership Interest, and it shall be conclusively presumed for all purposes that the Designated Party was acting with the authority and consent of all other Parties comprising that Owner. Fractional votes are not allowed. If the Parties comprising an Owner are unable to agree how to cast their vote, they shall abstain. Parties absent at the time a duly noticed vote is taken shall also abstain. So long as the Seller remains an Owner, any matter requiring a prescribed majority of the voting power of the Association shall require the vote of a bare majority of the total voting power of the Association plus the vote of the prescribed majority of the total voting power of the Owners other than the Seller.

G. Proxies. A “Proxy” is a written authorization signed by an Owner or the authorized representative of the Owner that gives another person the power to vote on behalf of that Owner. Any Owner may vote by Proxy, but Proxies shall not be construed or used in lieu of a written ballot. All Proxies shall be deemed to be authentic and valid if they are filed with the inspector(s) of elections or, if there is/are none, by the Secretary, before the vote is cast, and any vote cast under such a Proxy shall be deemed effective. Every Proxy shall be revocable prior to the receipt of the ballot as described in Corporations Code §7613 of the, and shall automatically cease upon (i) conveyance of the Owner’s Ownership Share, (ii) receipt of Association Notice of the death or judicially declared incompetence of the Owner, (iii) arrival of an expiration date stated in the Proxy provided it is no later than eleven (11) months from the date the proxy was created, or (iv) passage of eleven (11) months from date the Proxy was created.

H. Restrictions on Proxies and Written Ballots. Any form of proxy or written ballot distributed by any person to Owners shall (i) identify the person or persons authorized to exercise it, (ii) provide that the vote shall be cast in accordance with the choice specified by the Owner, (iii) state the length of time it will be valid, and (iv) afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon. In addition, any proxy or written ballot distributed to Owners concerning election of directors which names candidates shall (i) provide that it shall not be mandatory that a named candidate be specified, and (ii) not be voted if it has been marked in a manner indicating that the authority to vote for the election of directors is withheld. Any instruction given in a proxy issued for an election that directs the manner in which the proxy holder is to cast the vote shall be set forth on a separate page of the proxy that can be detached and given to the proxy holder to retain.

5.3 NO COMPENSATION FOR SERVICES. Under no circumstances shall a Party be entitled to any reimbursement from the Association or from another Party for any expenditure of time or money related to the Property unless such expenditure has been specifically authorized by this Agreement or explicitly approved by the Association as provided in this Agreement.

5.4 PREPARATION, DISTRIBUTION AND INSPECTION OF MINUTES. A proposed draft of the minutes, final draft of the minutes, or summary of the minutes of all Board (other than executive session) and Owner Meetings shall be prepared and made available to Owners within thirty (30) days of the meeting. The proposed minutes, final minutes, or summary minutes shall be distributed to any Owner upon request and reimbursement of the reasonable cost of the distribution. The Association shall describe how and where Owners may inspect and copy the minutes in the Annual Policy Statement.

5.5 DELEGATION TO MANAGER. The Board may delegate its management duties, including the duties of any officer, to a manager or management company upon Majority Owner Approval. Nevertheless, the following powers may not be

delegated: (i) to levy Assessments; (ii) to begin litigation; (iii) to make capital expenditures; (iv) to impose discipline for violation of this Agreement; or (v) to hold hearings.

ARTICLE 6— MAINTENANCE AND INSURANCE

6.1 INDIVIDUAL MAINTENANCE. Each Owner shall keep all areas and elements of the Property that he/she is obligated to Maintain in a condition that preserves the safety, value and desirability of the Property. Each Owner shall Maintain the following areas and elements of the Property, and all associated costs shall be referred to as “Individual Maintenance Costs”.

- A. Assigned Unit.** Each Owner shall Maintain all elements of his/her assigned Unit in a condition that does not impair the value or desirability of other Units and the Property as a whole.
- B. Exclusive Use Common Area.** Each Owner shall Maintain the following elements of his/her assigned Exclusive Use Common Area in a condition that does not impair the value or desirability of other Units and the Property as a whole:
- (1) With regard to patios, the patio surface and any rail, door or stair serving only the patio; and
 - (2) With regard to balconies, all elements of the balcony and any rail, door or stair serving only the balcony. The Owner shall also be responsible for any additional cost for maintenance, repair or replacement of any Common Area element that is a consequence of the installation or existence of the balcony elements.
- C. Failure To Maintain.** If an Owner fails to satisfy his/her Maintenance requirements, the Association may do so and assess any associated expense as a Reimbursement Assessment. However, the failure of the Association to do so shall not shift to it the responsibility for any loss or damage resulting from the Owner’s failure.
- D. Building Permits and Approvals.** In cases where a building permit is required by Governmental Regulations, an Owner undertaking maintenance, repair and replacement shall, unless otherwise specifically authorized by the Association: (i) obtain all required permits and approvals, (ii) provide Individual Notice with a copy of such permits and approvals to each other Owner at least ten (10) calendar days before commencing work, and (iii) obtain final governmental inspection and sign-off.
- E. Security Deposit.** For a work item for which a building permit is required by Governmental Regulations, the Association may require the Owner to provide to the Association a security deposit against damage to the Property. Any required security deposit shall be used by the Association to pay for damage, and any unused amount shall be returned to the Owner. The Board, in its sole and absolute discretion, shall determine whether damage is related to the Owner’s work, whether to use the security deposit to pay for the damage, and the method and cost of repair of the damage. Any fees or charges collected by the Association under this Subsection (that are not used to repair damage) shall be deemed Association funds and be used to offset Association expenses.
- F. Timing of Work Completion.** All work performed by or on behalf of an Owner: (i) must be diligently and consistently pursued through completion; and (ii) must be completed within a reasonable time, and in all cases within one (1) year after the date any aspect of the work commences. If work continues for longer than one (1) year, the Owner shall pay a per diem charge to the Association for each day between the end of the one (1) year period and the date on which all work is completed. The amount of such per diem charge shall be established by the Board as a Rule.
- G. Compliance.** The Association, or its consultants, after providing Individual Notice to the Owner a reasonable amount of time in advance, may inspect any work performed on the Property to ensure it is done in accordance with this Article, regardless of whether approval was required or granted. If a violation is found or suspected, the provisions of Subsection 3.11E(3) shall apply.

6.2 ASSOCIATION MAINTENANCE AND REPAIR. The costs associated with the maintenance, repair and replacement described in this Section shall be “Association Maintenance Costs”.

- A. General Requirements.** Except as otherwise provided in Subsection 6.1B, the Association shall Maintain all Common Area of all buildings, including all Exclusive Use Common Area, in good condition and repair.
- B. Exterior Elevated Elements.** California Health and Safety Code §17973 requires regular periodic inspections of “exterior elevated elements” (as defined in §17973) by an architect, structural engineer, or contractor holding the appropriate license (as specified in §17973). The first inspection must occur before January 1, 2025, and subsequent inspections must occur at least once every six (6) years. The law also requires remedial action if problems are discovered. For additional details, refer to California Health and Safety Code §17973. The cost of inspections required by §17973 shall be an Association Repair Cost. If remedial work is required for an element that an Owner is required to maintain, repair and replacement, the responsible Owner shall pay the cost of the remedial work; in all other cases, the cost of such work shall be an Association Repair Cost.

6.3 CONSEQUENTIAL DAMAGE AND LOSS. The following provisions shall supersede the general rules described in Sections 6.1 and 6.2.

A. Damage Due To Conduct.

- (1) Owner Responsibility.** Each Owner is responsible for the costs of all maintenance, repair or replacement of all areas of the Property necessitated by the acts or omissions of him/herself, his/her guests, invitees (including independent contractors and employees), any Occupants of his/her assigned Unit and of the guests and invitees of such Occupants. The Association shall perform the work, and shall assess the cost as a Reimbursement Assessment.
- (2) Association Responsibility.** The Association is responsible for the costs of all maintenance, repair or replacement of all areas of the Property necessitated by the conduct and behavior of its invitees (including independent contractors and employees).

B. Damage Due To Malfunction.

- (1) Covered Loss/Point of Origin.** In instances where the damage is not the result of conduct as described in Section 6.3A, to establish responsibility for costs of repair or replacement in instances where no one is at fault, the Association shall determine the following:
 - (a)** Whether the loss would be covered by a typical policy of fire and casualty insurance required to be maintained either by the Association, or by an Owner, under the insurance provisions of this Agreement (a “Covered Loss”); and
 - (b)** Whether the Association, or a particular Owner or subgroup of Owners, is responsible for the maintenance, repair and replacement of the specific element that is the “Point of Origin”. The Point of Origin is the specific element of the Property that malfunctioned first, and began the chain of events that led to the loss or damage.
- (2) Covered Loss/Association Policy.** If the loss is a Covered Loss under a policy the Association is required by this Agreement to carry, the Association shall submit a claim for such loss. To the extent the cost of repair or replacement exceeds policy limits or is within a policy deductible, or if coverage is denied despite reasonable efforts by the Association, such cost of repair or replacement shall be allocated based on Point of Origin as provided in Subsection (4) below. However, if there is no coverage as a result of the failure of the Association to maintain coverage required by this Agreement, the Association shall pay the entire cost of repair or replacement.

- (3) **Covered Loss/Owner Policy.** If the loss is a Covered Loss under a policy an Owner is required by this Agreement to carry, the Owner shall submit a claim for such loss. Since each Owner determines the policy limits and deductibles associated with the fire and casualty coverage he/she obtains, each Owner shall be responsible for all cost of repair or replacement exceeding policy limits or within a policy deductible. If coverage is denied despite reasonable efforts by the Owner, the cost of repair or replacement shall be allocated based on Point of Origin as provided in Subsection (4) below. If there is no coverage as a result of the failure of the Owner to maintain coverage required by this Agreement, such Owner shall pay the entire cost of repair or replacement.
- (4) **Non-Covered Loss/Denial of Coverage.** If the loss is not a Covered Loss (as defined above), or where the preceding Subsections provide that the cost of repair or replacement shall be allocated based on Point of Origin, the following provisions shall apply:
- (a) If the Association is responsible for the element at the Point of Origin, it shall be responsible for the costs of repair or replacement. For example, if the Association is responsible for exterior painting and siding, water intrudes into the building from the side, and the interior of a Unit is damaged, the Association would be responsible for the cost of repair or replacement of damage to, or within, the Unit.
- (b) If an Owner is responsible to Maintain the element at the Point of Origin, he/she shall be responsible for the costs of repair or replacement. For example, if an Owner is responsible to Maintain a plumbing pipe, and the pipe bursts resulting in damage to the Common Area and to another Unit, the Owner would be responsible for the cost of repair or replacement of all the damage to, or within, the Common Area and the other Unit. In such an instance, the Association shall perform the work in the Common Area and the other Unit, and shall assess the cost as a Reimbursement Assessment.

6.4 INSURANCE COVERAGE.

A. Liability Insurance.

- (1) The Association shall maintain a policy insuring the Association against public liability incident to the ownership and use of the Property, including but not limited to claims for wrongful eviction. Limits of liability shall not be less than a combined limit of two million five hundred thousand dollars (\$2,500,000) for injury, death and property damage. The policy shall contain a severability of interest endorsement precluding the insurer from denying coverage to a named insured because his/her act or omission created liability in favor of another insured.
- (2) Each Owner must obtain and maintain insurance covering his/her personal liability. Limits of liability shall not be less than a combined limit of five hundred thousand dollars (\$500,000) for injury, death and property damage.

B. Casualty Insurance.

- (1) For the purposes of interpreting and applying any and all provisions of any casualty insurance policy covering any portion of the Property and its contents, a Unit and Exclusive Use Common Area shall not be deemed to include, and Common Area shall be deemed to include, cabinetry, counters, built-in appliances, or other fixtures or elements permanently attached to the Property, even if such elements are located within the perimeter boundaries of a Unit. These modified definitions shall apply for the exclusive purposes of interpreting and applying provisions of casualty insurance policies, and for absolutely no other purposes. Other provisions of this Agreement shall be used for all other purposes, including the allocation of responsibility and cost for Maintenance between the Owners and the Association, and the allocation of such responsibility and cost among the Owners.
- (2) The Association shall maintain a master policy of fire and casualty insurance covering the Property, including all cabinetry, counters, built-in appliances, or other fixtures or elements permanently attached to the Property. Such policy shall provide a multi-peril coverage endorsement, and coverage for such other risks as are commonly covered

with respect to Properties similar to the Property in construction, location and use, or such other fire and casualty insurance as the Association determines gives substantially equal or greater protection. Coverage shall be in an amount equal to the full replacement value of the insured items and elements.

- (3) Each Owner or, in the case of a leased or rented Unit, the Occupants of the Unit, must obtain and maintain insurance covering those portions of his/her personal property not covered by the Association casualty insurance coverage.

C. Inability To Obtain Insurance. If the insurance required by this Agreement is difficult, impractical or unduly expensive to obtain, the Association shall obtain insurance as nearly equivalent to the required insurance as is reasonably available.

D. Claims Against Association Insurance. A decision not to submit a particular claim to a Association insurance carrier must be approved by any Owner who will be forced to pay additional repair or replacement costs as a result of the decision.

E. Casualty Insurance Proceeds.

- (1) When a particular Owner is responsible to Maintain an item under this Agreement (as opposed to where he/she is responsible only to pay the cost of repair or replacement), and the Association receives insurance proceeds for repair or replacement of the item, the proceeds shall be distributed to such Owner, subject to the limitations in Subsection (2) below.

- (2) When Subsection (1) entitles one or more Owners to receive proceeds from Association insurance, but such proceeds must be allocated between Owners or between the Association and one or more Owners, the Association shall use information provided by the insurance carrier relating to how the amount of proceeds was calculated, to the extent such information is available. When such information is not available, or when such information is incomplete, the proceeds shall be allocated in proportion to the cost of repair or replacement of the damaged or lost items.

- (3) If Association insurance proceeds allocated to a particular Owner are insufficient to pay the costs of repair or replacement for which such Owner is responsible, the Owner shall pay the additional amounts. Similarly, where an Owner is responsible for the cost of repair or replacement (as opposed to where he/she is responsible to repair and replace the item), and the Association insurance proceeds allocated to such repair or replacement do not cover the full cost, the Owner shall pay the additional amounts.

F. Other Insurance Requirements.(1) If the Association has employees, it shall maintain workers' compensation insurance as required by law.

- (2) Each Association insurance policy shall (i) name the Association as trustee for policy benefits payable to the Owners, (ii) provide a waiver of subrogation rights against the Association, its officers and the Owners, (iii) state that coverage be primary and not affected by any other insurance held by an Owner, and (iv) require that at least thirty (30) days prior written notice be given to the Association by the insurer before cancellation.

- (3) The Association's insurance shall be written by an insurance company qualified to do business in California with a rating of at least an "A" by Best's Insurance Reports or equivalent.

- (4) All Association insurance policies shall be reviewed at least annually and adjusted, if necessary, to provide such coverage and protection as the Association may deem prudent or as reasonably required by any lender.

- (5) The Association shall provide Individual Notice as soon as reasonably practical if any of its insurance policies: (i) lapses or is canceled and is not immediately renewed, restored or replaced; (ii) will undergo significant change such as a reduction in coverage or limits, or an increase in the deductible; or (iii) is subject to a notice of nonrenewal and replacement coverage will not be in effect at the time the existing coverage will lapse.

ARTICLE 7—SALES AND OTHER TRANSFERS

7.1 GENERAL TRANSFER POLICY. In view of the fact that this Agreement prohibits loans secured by the entire Property, the Agreement does not contain provisions relating to rights of first refusal, rights of rejection, and rights to purchase following death or incapacity. *ALL OWNERS EXPRESSLY ACKNOWLEDGE THAT NO OWNER, BOARD, OR TIC APPROVAL IS REQUIRED FOR A VALID TRANSFER OF AN OWNERSHIP INTEREST, AND NO ONE HAS THE RIGHT TO MEET, ASSESS, OR REJECT A PROSPECTIVE TRANSFEREE.*

7.2 TRANSFER NOTIFICATION AND SIGNATURE REQUIREMENT.

- A. Prior to transferring any interest in the Property, each transferring Party shall provide a Notice to the Association of his/her intention to do so. Within five (5) calendars of such Notice, the Association shall provide the transferring Party with copies of each of the following (the "TIC Agreement Documents"): (i) the Agreement with the signatures of each of the original signatories; (ii) all prior Assumption and Release of Obligations forms; (iii) all amendments to the Agreement with all signatures required for adoption; and (iv) an Exhibit B that lists the names of each then-current Owner together with space assignments and purchase price. If the Association is unable to provide each of these items, then it shall be the responsibility of the Association to remedy the situation at its expense. With regard to items missing the signature of a person who is no longer a Party, the Association's obligation shall be limited to preparing such documentation as is legally necessary to ensure that all then-current Parties are bound by the Agreement (as amended), and obtaining the signatures of all then-current Parties on such documentation. The obligations imposed upon the Association by this Subsection shall not be delegated to any seller, buyer, or real estate licensee.
- B. No transfer of any interest in the Property shall be permitted unless the transferee has signed an "Assumption and Release of Obligations" either in the form attached as Exhibit D, or in such other form as has been approved by all Lenders (as that term is defined in Section 8.3).
- C. It shall be the responsibility of the Party transferring an interest in the Property to ensure that the Notice and signature requirements of this Section are satisfied, and each transferring Party shall be liable for all losses, damages, costs and expenses, including attorneys fees, resulting from his/her failure either (i) to provide the Notice required under this Section, or (ii) to ensure that his/her interest is not transferred unless the transferee has signed the document required by this Section either prior to, or contemporaneously with, the transfer.
- D. Without limiting the generality of the preceding Subsection, *IT IS EXPRESSLY PROVIDED THAT IF AN INTEREST IS TRANSFERRED WITHOUT THE TRANSFEREE HAVING SIGNED A DOCUMENT EXPLICITLY AGREEING TO BE BOUND BY ALL OF THE TERMS OF THIS AGREEMENT, THE ASSOCIATION AND ANY PARTY IS EMPOWERED (i) TO IMMEDIATELY TAKE ANY AND ALL ACTION NECESSARY TO OBTAIN SUCH A DOCUMENT OR, IF THAT IS NOT REASONABLY POSSIBLE, TO ACQUIRE THE TRANSFERRED INTEREST SO THAT THE TRANSFEREE WHO DID NOT SIGN SUCH A DOCUMENT IS NO LONGER THE OWNER OF ANY INTEREST IN THE PROPERTY, OR (ii) TO TAKE ANY OTHER ACTION REASONABLY CALCULATED TO RELIEVE THE ASSOCIATION AND ALL PARTIES OF THE RISKS ASSOCIATED WITH HAVING A CO-OWNER WHO IS NOT A SIGNATORY, AND IT IS FURTHER EXPRESSLY PROVIDED THAT THE PARTY WHO TRANSFERRED HIS/HER INTEREST WITHOUT COMPLYING WITH THIS SECTION IS RESPONSIBLE FOR ALL ASSOCIATED COSTS.*
- E. The responsibilities assigned by this Section to a Party transferring his/her interest in the Property may not be delegated or assigned to an employee or agent in a manner that would relieve such Party of liability under this Section. This Section shall not be deemed to impose any responsibility or liability on a person whose interest has been transferred as a

result of his/her own death or judicially declared incapacity, but shall be deemed to impose responsibility and liability on any successor to such person, including any trustee, receiver, executor, conservator, or similar person.

7.3 TRANSFEREE AND SUCCESSOR OBLIGATION. For the purposes of this Section, the term “transferee” shall be deemed to include any successor, assign or personal representative of any Party. Each “transferee”, whether voluntary or involuntary, shall immediately be deemed to assume all obligations and liabilities of the Party whose ownership interest he/she obtained, regardless of whether he/she has signed the document(s) required under Section 7.2. The purpose of this Section is to provide additional protection to the Association and all Parties in the event some individual or entity acquires an interest in the Property without signing this Agreement, but is not intended to diminish or limit the responsibilities and liabilities imposed by Section 7.2. In addition, nothing in this Section or in this Agreement shall be interpreted to alter a former Party’s obligations, responsibilities or liabilities under this Agreement up to and including the date of any transfer.

7.4 MARRIAGE OR REMARRIAGE OF PARTY. Without limiting the generality of Sections 7.2 and 7.3, it is expressly provided that, if a Party marries or enters into a registered domestic partnership, the spouse or domestic partner of such Party shall be deemed a “transferee” of such Party’s interest under such Sections regardless of whether the Party actually transfers all or any portion of his/her interest to his/her spouse or domestic partner. The purpose of this provision is to avoid the circumstance where a series of events, perhaps unintended, coupled with the operation of law, effectively transfers all or a portion of an Ownership Interest to a spouse or domestic partner who is not bound by this Agreement. Should a Party wish to prevent or restrict the rights of his/her spouse or domestic partner, and/or indemnify such spouse or domestic partner from obligations or responsibilities imposed by this Agreement, the Party may do so through a separate and private agreement between him/herself and such spouse or domestic partner.

ARTICLE 8—FINANCING AND ENCUMBRANCES

8.1 GENERAL PROHIBITION AGAINST ENCUMBRANCES. Except as specifically provided in this Agreement, no Owner shall incur any obligation in the name of the Association or individually, which obligation shall be secured either intentionally or unintentionally by a lien or encumbrance of any kind on the Property without Unanimous Owner Approval. Creation of such a lien or encumbrance shall be considered a violation of this Agreement.

8.2 MECHANICS LIENS. Whenever a Party enters into an oral or written agreement under which labor or materials are to be provided to or for the Property and associated costs are to be Individual Maintenance Costs, (i) the Owner in which that Party holds an ownership interest shall be deemed the “Contracting Owner”, and (ii) all labor and materials provided under the agreement shall be deemed the “Contracted Labor and Materials”. The Contracting Owner shall pay all costs associated with his/her Contracted Labor and Materials when due, and shall keep the Property free of mechanics and other liens resulting from actual or alleged non-payment of such costs. The Contracting Owner shall indemnify and hold harmless all Parties against any loss or expense associated with the existence of liens resulting from actual or alleged non-payment of costs associated with his/her Contracted Labor and Materials. If the Contracting Owner wishes to contest such a lien, he/she shall furnish the Association with a cash deposit, or a bond from a responsible corporate surety meeting the requirements of Civil Code §3143, in the anticipated amount of the claim underlying the lien including estimated costs and interest. If a final judgment establishing the validity of the claim underlying the lien is entered, the Contracting Owner shall satisfy the judgment within thirty (30) calendar days. If a lien has been created and the Contracting Owner has failed to provide the Association with a cash deposit or a bond as required by this Section, the Association may pay the claim underlying the lien, and any amount so paid shall be immediately due from the Owner who contracted for the work associated with the lien.

8.3 ENCUMBRANCES AND MORTGAGE PROTECTION. This Section shall be binding upon all successors in interest (including assignees and future Lenders) of the Association and of each Owner and Party, including any successors in interest or assignees of an Owner or Party who is not a Borrower on the Effective Date, and upon any other entity or individual owning or managing the Property. The terms and conditions of this Section shall supersede any contrary provisions contained anywhere in this Agreement to the extent that they conflict with the provisions of this Section. Each Lender, and its successors and assigns, are third party beneficiaries of this Agreement.

A. Definitions Applicable To Mortgage Protection.

- (1) **“Lender”** means any financial institution, individual or entity that loans money to a Party secured by the Property or a Party’s interest in the Property.
- (2) **“Borrower”** means any individual, group or entity that has borrowed money from a Lender, secured by the Property or a Party’s interest in the Property.
- (3) **“Owner Through Foreclosure”** means any individual or entity, other than a Lender, acquiring title through foreclosure, or by way of a deed in lieu of foreclosure, and all successors in interest to any such individual or entity.
- (4) **“Loan Document”** means: (i) any evidence of a written promise by a Borrower to a Lender for payment of funds (including loan principal, interest, any amounts expended or advanced by the Lender to enforce the Borrower’s obligations, or other costs or expenses), together with all renewals, extensions, modifications, consolidations, and substitutions; (ii) a security instrument (including a mortgage) given by a Borrower to a Lender, which security interest grants the Lender a lien on the Property and/or Association to repay indebtedness; or (iii) credit arrangements, loan agreements, environmental agreements, security agreements, security deeds, collateral mortgages and all other instruments, agreements and documents, whether now or hereafter existing, signed in connection with any other Loan Document.
- (5) **“TIC Agreement”** means the Agreement governing the rights and obligations of all Parties for purposes of managing and maintaining the Property.

B. Right To Create Encumbrance. Any Owner may create an encumbrance which is solely against his/her interest in the Property provided that (i) any holder of the encumbrance, or purchaser following foreclosure, shall take title to any interest in the Property subject to all of the provisions of the TIC Agreement and shall be entitled to no greater rights than the person(s) who signed the document creating the encumbrance (except as provided below in this Section), and (ii) if such encumbrance secures an obligation to an institutional lender, it is fully assumable by a reasonably qualified successor in interest (under the Lender’s normal underwriting guidelines applicable to Association financing) for a reasonable fee not to exceed one percent (1%) of the outstanding loan balance. Under no circumstances shall any Party or the Association incur any obligation in the name of the Association or individually, which obligation shall be secured by a blanket lien or encumbrance on the entire Property.

C. Obligation To Protect Lenders From Liens. The Association must collect and pay, prior to the date when payments are due, required payments for taxes, special taxes, assessments or charges (including water and sewer), fines, or impositions which are levied against or on account of the Property, which taxes, special taxes, assessments or charges (including water and sewer), fines, or impositions have priority over or are equal to the interest of a Lender under a Loan Document. The Association shall notify each Lender within thirty (30) days of the date that there is a failure by the Association or any Owner to make a required payment owing to the Association, or when the failure to make required payments to any individual or entity could result, or has resulted, in the imposition of a lien on the Property.

D. Post-Foreclosure Rights.

- (1) An Owner Through Foreclosure, or a Lender, (i) shall be entitled to all of the rights allocated by the TIC Agreement to the person whose interest was foreclosed, which rights shall not be diminished by any prior or subsequent act or omission of such person, and (ii) except as provided elsewhere in this Section, shall be otherwise subject to the provisions of the TIC Agreement.
- (2) A Lender shall be exempt from the requirements of Section 3.3B(3). An Owner Through Foreclosure that is not a Lender shall be exempt from such requirements only when such Owner Through Foreclosure acquired his/her/its

Ownership Interest for the purpose of preparing, managing or transferring such Ownership Interest for sale to a member of the general public.

- (3) Notwithstanding anything to the contrary in this Agreement, in addition to all remedies available under applicable law (including the remedies for breach of a rental agreement), if (i) the Unit(s) assigned to the interest(s) which have been foreclosed upon is tenant occupied at the time of the foreclosure, and (ii) the monthly rent paid by such tenant is less than EIGHTY-FIVE PERCENT (85%) of the foreclosed upon Owner's Regular Assessment plus the foreclosed-upon Owner's previous monthly mortgage obligation to Lender, the Lender or Owner Through Foreclosure shall be permitted to undertake an Ellis Act eviction of such renters, as provided in Section 3.3D. In such event, the following provisions shall apply.
 - (a) At least forty (40) calendar days prior to invoking the Ellis Act, the Owner Through Foreclosure, or the Lender, shall provide all Owners with a "Notice of Right To Purchase", sent by certified mail, showing the purchase price and the basis for its computation (as described below) and the contact information for the representative or agent who has the authority to conduct the sales transaction (the "Lender's Agent"). The purchase price shall be the sum of (i) all amounts owing to Lender at the time of foreclosure (whether or not Lender entered a full credit bid), (ii) interest at the legal rate from the time of the foreclosure sale to the date of the sale to the Owner Through Foreclosure, and (iii) any costs associated with the sale of the Lender's interest to the Owner Through Foreclosure.
 - (b) An Owner may exercise this right by providing written notice of his/her tentative intent to purchase (a "Notice of Tentative Intent"), by certified mail postmarked no later than ten (10) calendar days from the date of the postmark of the Notice of Right To Purchase, and then providing written notice of his/her final intent to purchase (a "Notice of Final Intent") by certified mail postmarked no later than ten (10) calendar days from the date of the postmark of the Notice of Tentative Intent. The Notice of Final Intent shall be binding. If more than one (1) Owner provides a Notice of Final Intent, competitive bidding shall be permitted and the Lender's Agent shall determine the purchaser.
 - (c) Failure to complete the purchase on the terms and conditions stated in the Notice of Final Intent within sixty (60) calendar days of the Notice of Final Intent shall be a violation of this Agreement. The time periods provided in this Section will not be extended under any circumstances, including filing of bankruptcy, unless the Lender's Agent provides written consent.
 - (d) In the event either (i) no Owner elects to exercise his/her Right to Purchase, or (ii) an Owner fails to complete a purchase on the terms and conditions stated in the Notice of Final Intent within sixty (60) calendar days of the postmark of the Notice of Final Intent, the Owner Through Foreclosure, or Lender, at its sole discretion, shall be permitted to invoke the Ellis Act provided he/she/it serves all tenants residing in each Unit with an eviction notice within twelve (12) months of acquiring title to the foreclosed interest.

E. Effect Of Association Enforcement. No action taken by the Association, or by any Party, to enforce an obligation imposed by the TIC Agreement, shall:

- (1) Diminish, undermine or in any way affect, the rights of any Lender under a Loan Document, including a Loan Document recorded after the occurrence which provides the basis for the enforcement action by the Association or Party;
- (2) Impair the right of a Lender, under a Loan Document, or of any Owner Through Foreclosure, to transfer the usage or possessory rights explicitly assigned to such Lender's Borrower under the TIC Agreement in effect at the time the Loan Document was created. The Association shall cooperate in the efforts of a Lender to transfer usage or possessory rights, including allowing open houses, and signing deeds and related sales documentation. Each Party agrees not to assert the failure of another Party, or of the Association, to fulfill any obligation under this Agreement, including an obligation to pay taxes, special taxes, assessments or charges (including water and sewer), fines, or

impositions which are levied against or on account of the Property, as a defense to a foreclosure or other enforcement action by a Lender.

An Owner Through Foreclosure, or a Lender, shall take title free of any liens or claims and shall be obligated to pay only assessments or other charges that come due and payable after the date he/she/it acquired title. Accordingly, any claims of equitable subordination or subrogation that could be raised under Civil Code §2903 or any successor or corollary statute are waived by all Parties and by the Association against any such Owner Through Foreclosure.

- F. Rights Of First Refusal.** Any right of first refusal or purchase option shall not bind a Lender and shall not impair the rights of a Lender (i) to foreclose or take title pursuant to the remedies provided in a Loan Document, (ii) to accept a deed (or assignment) in lieu of foreclosure in the event of a default under a Loan Document, or (iii) to sell or lease or transfer an Ownership Interest acquired by the Lender following default under a Loan Document.
- G. Notice of Intent to Transfer.** A Lender and an Owner Through Foreclosure shall be exempt from the requirements of Section 7.2 while it is in the process of obtaining title to its security from its borrower or from its borrower's bankruptcy estate.
- H. Borrower Information.** Any Lender can, but is not obligated to, furnish information to the Association concerning the status of any Loan Document.
- I. Proceeds Priority.** Each Lender shall have priority over the rights of its Borrower and the Association and their assignees and/or successors in case of distribution of proceeds allocated to its Borrower under this Agreement from a voluntary or involuntary sale of the entire Property (regardless of the manner in which such sale is triggered and who or how it is triggered), distribution of insurance, or condemnation awards for losses to or a taking of such Borrower's interest in the Property. Any provision to the contrary in the TIC Agreement is void. All fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses naming all Lenders, as their interests may appear, as loss payees, and the provisions of this Section shall be conclusive evidence of the Lender's rights under any such policies. Any Lender may demand that any insurance proceeds to which it is entitled under this Subsection be paid directly to it, and the Association and all Parties shall comply with such a demand.
- J. Acts Requiring Lender Consent.** The prior written consent of all Lenders shall be required to take any of the following actions:
- (1) Abandonment of the Property, termination of the TIC Agreement in cases of Catastrophic Damage, or any action which would trigger a legal requirement or claim that any previously owner-occupied portion of the Property be rented; At the Lender's option, Loan Document may provide that any of these events (abandonment of the Property, termination of the TIC Agreement in cases of Catastrophic Damage, or any action which would trigger a legal requirement or claim that any previously owner-occupied portion of the Property be rented, without the prior written consent of Lender), will automatically be deemed to impair Lender's security interest in the Property, and may require that any insurance proceeds shall be used to pay Lender (which requirement shall be honored by the Association);
 - (2) Change the method of determining the obligations, assessments, dues or other charges that may be levied against an Owner, or to change the allocation of any distributions of hazard insurance proceeds or condemnation awards;
 - (3) Fail to maintain fire and extended coverage on the Property in an amount not less than one hundred percent (100%) of the insurable value based on current replacement cost; and
 - (4) Amend any provision of the TIC Agreement.

In addition, a sale of the entire Property shall require the approval of all Owners and Lenders. Any action taken in violation of this Subsection are void and unenforceable against every Lender and its successors. Lender consent may be withheld solely at the discretion of the Lender.

K. Acts Requiring Lender Notice. The Association shall provide each Lender with a copy of the Annual Certificate of Validity certified by the President to be a true and correct copy, as well as written notice of the following:

- (1) Any notice which the Association gives to an Owner upon whose interest the Lender has a lien, regarding any breach of the TIC Agreement or any termination of any such Owner’s rights to use, rent, or remain in possession of his/her assigned Unit and/or Exclusive Use Common Area;
- (2) Any legal action that the Association commences to enforce any rights or remedies provided in the TIC Agreement against an Owner upon whose interest the Lender has a lien;
- (3) The occurrence of any loss, casualty, condemnation, or eminent domain which decreases or impairs the value of the interest encumbered by any of its Loan Documents;
- (4) The initiation of a lawsuit or legal proceeding against the Association or any Owner, seeking to challenge or invalidate any particular use of the Property, asserting that the Property is in violation of any local, state, or federal law or regulation, or challenging the enforceability of the TIC Agreement; and
- (5) Any lapse or cancellation of any Association insurance policy.

Failure of a Lender to receive a notice required by this Section shall not be construed to benefit a Party or to impede the Association from enforcing the TIC Agreement.

L. Lender Entry. The Association and each Party hereby represent and acknowledge that all Lenders have the following rights and licenses that are in addition and separate and independent of the rights of any Party upon whose interest such Lender has an encumbrance:

- (1) The right and license at any time during the term of any of the Lender’s Loan Documents to enter its Borrower’s assigned Unit and Exclusive Use Common Area in person, or by agent or receiver, and to possess and use the Unit and Exclusive Use Common Areas for the purpose of exercising any of its rights, powers or remedies with respect to the Property or any personal property collateral for its loan, including but not limited to the right to remove any and all personal property collateral from the Unit and Exclusive Use Common Area, and to take such other action with respect to any and all of the personal property collateral which Lender desires; and
- (2) Subject to at least ten (10) days prior written notice from a Lender to the Association, the right and license, at any time during the term of any of the Lender’s Loan Documents, to exercise any creditor’s rights; provided, however, that if any emergency exists which makes the giving of such notice impracticable, or would materially jeopardize the Lender’s rights, then reasonable notice under the circumstances shall suffice.

As a condition to the exercise of the rights set forth in this Subsection, all Regular Assessments owed by the Lender’s Borrower for all periods during which use and possession of the Unit is retained by the Lender, and for those periods only, shall be paid by the Lender (if they have not been paid by the Lender’s Borrower). To the extent there is a conflict between the terms of this Subsection and a Loan Document, the terms of this Subsection shall be superceded by the Loan Document.

M. Lender Right To Attend Meetings. Because of its financial interest in the Property, any Lender may, but has no duty to, appear (but cannot vote, except as otherwise provided in the TIC Agreement) at meetings of Owners or any Board or

committee to draw attention to violations of this Agreement that have not been corrected or that have been made the subject of remedial proceedings or assessments, or for general information purposes. No provision of the TIC Agreement shall operate to make any Lender directly responsible for an obligation of its Borrower, unless that obligation is assumed in writing by an authorized representative of the Lender.

- N. Lender Right To Inspect Records.** Because of its financial interest in the Property, any Lender may inspect and copy the Owner list, books of accounts, financial statements, and minutes of Board and Owner meetings, for any purpose reasonably related to their interests as a Lender. The Owner list shall contain the names, mailing addresses, telephone numbers and voting rights of each Owner. The Board shall establish reasonable rules for (i) notice to be given to the custodian of Association records by a Lender requesting inspection and copying of documents, (ii) hours and days of the week during which inspection and copying shall be permitted, and (iii) payment of copying costs. No original documents shall be removed for copying. Inspection and or copying of records should be during normal business hours and within fifteen (15) business days of receipt of said notice of request in the City where the Property is located.
- O. Bankruptcy Effect.** The initiation of any proceedings under the United States Bankruptcy Code by Lender's Borrower, any Owner, or the Association, shall not operate to alter, supersede or diminish any rights of the Lender under the TIC Agreement.
- P. Condominium Conversion Effect.** Subdivision of the Property into individual condominiums shall not alter or amend any obligations of any Borrower to his/her Lender. The Association shall not transfer title to any condominium without the consent of all Lenders.
- Q. Marriage Effect.** If a Borrower marries or enters into a registered domestic partnership during the term of the TIC Agreement, the Borrower shall obtain the signature of his/her spouse/domestic partner to the TIC Agreement, and shall present evidence of this fact to his/her Lender. If a Borrower marries or enters into a registered domestic partnership during the duration of the TIC Agreement, the spouse/domestic partner of the Borrower shall be equally bound to all of the terms and conditions of the TIC Agreement. In addition, all of the terms and conditions of the TIC Agreement shall be enforceable in the event that the Property or any rights under the TIC Agreement is transferred or awarded to the Borrower's spouse/domestic partner or creditors under a decree of divorce or judgment of dissolution or separate maintenance.
- R. Partition.** The Association, each Party and all successors in interest, and all Lenders and their successors in interest, for a period of seventy five (75) years, unconditionally waive the right to partition the Property under Code of Civil Procedure §872.010, *et seq.* or any successor or corollary statute or law, unless one of the following conditions is satisfied: (i) more than three years before the filing of the action, the Property was damaged or destroyed, so that a material part was rendered unfit for its prior use, and the Property has not been rebuilt or repaired substantially to its state prior to the damage or destruction, or (ii) three-fourths or more of the Property is destroyed or substantially damaged and more than fifty percent (50%) of the Owners oppose repair or restoration. Without acknowledging the right of any person to do so, in the event of partition of the Property, the Association, each Party and any successors in interest, and all assignees or creditors of such parties, waive any right to claim that said action in any way prohibits, limits, diminishes or interferes with any Lender's rights under the TIC Agreement, and further waive any right to claim that said action in any way prohibits, limits, diminishes or interferes with any Lender's right to pursue all rights and remedies under its Loan Documents, including but not limited to the right to foreclose and the right to obtain timely and full payment of its loan prior to any payment to such Lender's Borrower under the partition action.
- S. Dispute Resolution.** Lender shall not be subject to the mediation and arbitration provisions of the TIC Agreement.
- T. Foreclosure by Lender.** Notwithstanding the provisions of Sections 7.1 and 7.2, when an Ownership Interest is transferred to a foreclosing Lender by deed in lieu of foreclosure or as a result of a Trustee's sale resulting from a foreclosure, such Lender shall not be required to execute this Agreement.

U. Interpretation. For the purpose of this Subsection, an Approved Loan Document shall be a Loan Document: (i) executed by a Borrower; (ii) recorded in connection with the Borrower’s initial purchase or refinance of that Borrower’s undivided interest in the Property, and (iii) encumbers only the Borrower’s undivided interest in the Property. In the event of an inconsistency between this Agreement and an Approved Loan Document that would fully or partially obviate, or otherwise interfere with, a Borrowers obligation to repay a Lender, the terms of the Approved Loan Document shall control.

ARTICLE 9--DEFAULT

9.1 ENFORCEMENT. The Association shall exercise prudent business judgment in determining whether, when and how to enforce this Agreement. The Board shall be permitted to create and change “Operating Rules”, including those imposing fines and penalties. Notwithstanding that the Property is not a common interest subdivision, the Association shall comply with the requirements of Civil Code §§4340, 4350, 4355, and 4360 regard to such matters, with the requirements of Civil Code §5850 when it levies a Reimbursement Assessment and/or imposes monetary penalties on any Owner, and with the requirements of Civil Code §5855 when it imposes discipline of any kind on an Owner. The Association may not impair an Owner's right to use and enjoy his/her assigned Unit or Exclusive Use Common Area as part of any disciplinary action. Each Owner shall have a right of action against another Owner or the Association for failure to comply with this Agreement or with a decision of the Association. A failure by the Association to enforce any provision of this Agreement on one or more occasions shall not be deemed a waiver or estoppel of the Association's right to enforce a similar or other violation of this Agreement.

9.2 DELINQUENT ASSESSMENTS.

A. Delinquency Timing and Charges. Assessments are due and payable on their due dates without deduction or offset for any claim an Owner may have against the Association. Each Assessment, together with authorized charges, is the joint and several personal obligation of all Owners of the Ownership Interest against which it is levied. No Owner may exempt him/herself from liability for payment of Assessments. An Owner is permitted to pay any amount owed to the Association under protest to the extent allowed by applicable law. An Assessment becomes delinquent if payment is not received by the Association within fifteen (15) days after its due date. The Association may impose a late charge in the maximum amount permitted by applicable law on delinquent payments as compensation for additional administrative costs, charge, recover reasonable costs incurred in collecting delinquent Assessments including reasonable attorney fees, and charge interest on delinquent payments, late charges, collection costs, and attorney fees, at the maximum amount permitted by applicable law, beginning thirty (30) days after the due date and continuing until the date payment is received.

B. Repeated Delinquency. If a Regular Assessment installment is not paid within fifteen (15) days of the due date more than three (3) times during a fiscal year, the Association may declare the entire remaining unpaid balance of the Regular Assessment for that fiscal year immediately due and payable in full by providing Individual Notice to the Owner.

C. Assessment Liens. A delinquent Assessment, regardless of type, plus any late charges, interest, costs of collection or related charges, shall become a lien on the delinquent Owner's Ownership Interest beginning on the date the Association records a notice of delinquent Assessment with the County Recorder. Notwithstanding that the Property is not a common interest subdivision, the Association shall comply with all requirements of applicable law relating to the imposition of assessment liens in such a subdivision, including those described in Civil Code §§5660, 5670, 5673, 5675 and 5685, when recording such a notice. Such a lien may be enforced in any manner permitted by law.

D. Non-judicial Foreclosure. A lien for delinquent Regular Assessments and Special Assessments, and a lien for delinquent Reimbursement Assessments levied to reimburse the Association for costs associated with the repair of damage for which an owner is responsible, may be enforced by nonjudicial foreclosure as provided in the Declaration. However, notwithstanding that the Property is not a common interest subdivision, the Association shall comply with all requirements of applicable law relating to nonjudicial foreclosure of assessment liens in such a subdivision, including Civil Code §§5705, 5710, 5715 and 5720. A penalty, fine, charge or other financial obligation, including costs and expenses of collection, levied by the Association against an Owner as a Reimbursement Assessment for a violation of

the Rules, this Agreement, or the Declaration, may be made a lien against the Ownership Interest of such Owner, but may not be enforced by nonjudicial foreclosure except as allowed by law.

E. Payment of Delinquent Assessments. Payment toward a delinquent Assessment shall be credited first to satisfying the Assessment, and then to late charges, collection costs, attorney fees and interest. Upon payment of delinquent sums, the Association shall promptly record a notice acknowledging satisfaction and releasing the lien. The lien shall not be affected by the sale or transfer (other than through foreclosure) of the affected Owner's Ownership Interest. Upon receipt of Association Notice from an Owner containing a request, the Association shall provide the Owner with a written statement, signed by an authorized representative of the Association, stating the amount of all unpaid Assessments, fines, penalties, charges and other financial obligations owed to the Association by the Owner as of the date of the statement. The statement shall be conclusively presumed accurate as of its date in favor of any good faith purchaser of an Ownership Interest who relies on it. The Association may charge a reasonable fee for the statement that shall not exceed the actual administrative cost.

F. Homestead Waiver. Each Owner waives the benefit of statutory debtor protection, including homestead and exemption rights, to the full extent permitted by California and Federal law with respect to enforcement of Assessment liens.

9.3 SUSPENSION OF USAGE RIGHTS.

A. Association Rights and General Procedural Requirements. The Association may suspend an Owner's right to use a Unit and/or Exclusive Use Common Area assigned to him/her only upon satisfaction of the procedural requirements described in Section 9.1, and then only if the infraction upon which the suspension is based is either: (i) non-payment or underpayment of a Regular Assessment, Special Assessment, or Reimbursement Assessment; or (ii) there has been an arbitrator's decision, or a court judgment, under which the existence of the infraction has been confirmed. In the event of a suspension of usage rights, the Association may seek a rental tenant for any portion of the Property assigned to the defaulting Owner and, to the extent that rental income is derived, the Association shall apply such income to repay amounts owed by the defaulting Owner. In instances where a rental tenant is occupying the Owner's assigned Unit at the time of suspension, all rent payable by that rental tenant shall become payable to the Association beginning when the suspension takes effect. Each Owner agrees that, if a rental tenant occupying his/her assigned Unit reasonably believes that the occupancy rights of his/her Owner/landlord have been suspended based on information provided by the Association, such rental tenant is required to begin paying all rents to the Association and further agrees that, if such rental tenant does so, the Owner shall have no recourse whatsoever against the rental tenant for nonpayment of rent even if it is later determined that the suspension of occupancy and income rights was wrongful.

B. Lender Protections. Notwithstanding anything to the contrary in Subsection A, where a Lender has a deed of trust recorded against an Owner's interest in the Property, the loss of occupancy and income rights shall not take effect against such Owner unless the Lender has received written notice of the Association's intent to suspend such rights and, within sixty (60) days of receiving such notice, failed to initiate remedies under its Loan Documents with the Owner. No loss of occupancy or income rights shall apply to any successor in interest to the Owner who is an Owner Through Foreclosure as defined in this Agreement.

9.4 VOTING DISQUALIFICATION. An Owner shall be disqualified from voting on any matter relating to his/her alleged violation of this Agreement and on the consequences of such violation. In addition, an Owner shall lose his/her voting rights on all matters during any period while the Association has suspended his/her right to use a Unit and/or Exclusive Use Common Area pursuant to Section 9.3A.

9.5 OTHER RIGHTS AND REMEDIES. In the event of a violation of this Agreement, the Association shall be entitled to any remedy described in this Agreement or the Declaration, or available at law or equity, serially or concurrently, including judicial foreclosure or judicial execution. Except as otherwise provided by law, the pursuit of any of these remedies is not a waiver of the right to subsequently elect any other remedy.

ARTICLE 10—GENERAL PROVISIONS

10.1 DISTRIBUTIONS.

- A. Proceeds from condemnation, partition, or sale of the Property shall be distributed among the Owners based upon the “Relative Value Percentages” of their “Assigned Spaces”. For the purposes of this Section, each Owner’s Assigned Space shall consist of his/her assigned Unit and his/her Exclusive Use Common Area. The Relative Value Percentage of an Owner’s Assigned Space shall be determined as follows: the Association shall obtain the Appraised Value of the Owner’s Assigned Space as described in Subsection B, and then divide such Appraised Value into the total of the Appraised Values of all of the Owners’ Assigned Spaces. Unless otherwise agreed by all Owners and all Lenders, distributions allocations shall not be based upon the manner or percentage in which title to the Property is held, or the manner in which any ownership expense is allocated.
- B. To determine the Appraised Value of each Owner’s Assigned Space, the Association shall retain four (4) appraisers meeting the following requirements: (i) having at least two (2) years experience appraising real estate similar to the Ownership Interests in the area where the Property is located, (ii) holding a valid appraisal license, (iii) having no prior personal relationship with any Owner, and (iv) agreeing in writing to complete his/her appraisal within fourteen (14) calendar days of retention. The Association shall instruct each appraiser to determine fair market value based on the physical conditions that existed on the date immediately preceding the destruction or other event triggering the need for valuation. Upon receiving the valuations of all four (4) appraisers for a particular Owner’s Assigned Space, the Association shall disregard the lowest and highest of such values, then average the remaining two (2) values, and such average shall be the final and binding Appraised Value for such Owner’s Assigned Space.

10.2 NOTICES.

- A. **Association Notice.** The term “Association Notice” shall include any notice to be given to the Association, including those notifications required by this Agreement. Each Association Notice shall be incorporated in a writing given to the person specified to receive Association Notice in the most recent Annual Policy Statement or, if not such person has been designated, to the Association president or secretary. The Association hereby consents to Association Notice being given to such person by email at the email address last provided by the Association in an Annual Policy Statement or other General Notice. Association Notice may also be given by first class mail, postage prepaid, to the postal address last provided by the Association in an Annual Policy Statement or other General Notice. Association Notice shall be deemed delivered on the date it is transmitted by email or on the date it is deposited in the U.S. mail. Association Notice given in any manner other than by properly addressed email or first class mail shall not be deemed valid.
- B. **General Notice.** When this Agreement provide for a “General Notice” to be given, it shall be in writing, and may be distributed to all Owners in the same manner as an Individual Notice. Alternatively, a General Notice may be given: (i) by inclusion in a billing statement, newsletter, or other document that is delivered to all Owners in a manner approved for an Individual Notice; or (ii) posted in a prominent location that has been has been designated for the posting of General Notices in an Annual Policy Statement, and is accessible to all Owners. Notwithstanding anything to the contrary in this Subsection, if an Owner has requested, in an Association Notice, that he/she receive all General Notices in the same manner as Individual Notices, that Owner shall thereafter receive all General Notices in such manner.
- C. **Individual Notice.** When this Agreement provide for an “Individual Notice” to be given, it shall be in a writing transmitted in the following manner. When an Owner consists of multiple Parties, a transmittal to any of them shall be deemed a transmittal to all of them.
 - (1) **Email Method.** Each Owner hereby consents to receive Individual Notice by email at the email address he/she most recently provided to any office, director, manager, or other representative of the Association. Any Owner who wishes to change the email address used by the Association for delivery of Individual Notice may do so at any time by providing an Association Notice. Similarly, any Owner may revoke his/her consent to receive Individual Notice by email at any time by providing Association Notice of such revocation, after which Individual Notice shall be

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Owner Initials: ___ Owner Initials: ___ Owner Initials: ___ Owner Initials: ___
Owner Initials: ___ Owner Initials: ___ Owner Initials: ___ Owner Initials: ___
Owner Initials: ___ Owner Initials: ___ Owner Initials: ___ Owner Initials: ___
Owner Initials: ___ Owner Initials: ___ Owner Initials: ___ Owner Initials: ___

given to such Owner only as provided in Subsection (2). Individual Notice by email shall be deemed delivered on the date it is transmitted.

(2) Postal Method. Individual Notice may also be transmitted by first-class mail postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier, addressed to the recipient at the address last shown on the books of the Association. Individual Notice sent via any method described in this Subsection shall be deemed delivered on the date it is deposited with the U.S. Postal Service or express service carrier.

10.3 EFFECTIVE DATE OF AGREEMENT. The “Effective Date” of this Agreement shall be the date the Agreement is signed by the first person to sign it.

10.4 CONFLICTING VERSIONS OF AGREEMENT The “Reference Date” of this Agreement shall be the date so described in the recorded Declaration. Each authentic page of this Agreement shall bear the Reference Date in its footer, and pages that fail to do so shall not be deemed authentic. Where different versions of a page bear the Reference Date, the latest version on record in the files of Sirkin & Associates shall be deemed the controlling version.

10.5 TERMINATION OF AGREEMENT. This Agreement shall bind the Parties for ninety (90) years or until such time as one (1) of the following events occurs: (i) one hundred percent (100%) of the Property is resold in a single transaction; (ii) all Owners explicitly agree in writing to no longer be bound by this Agreement; or (iii) this Agreement is superseded or lapses by operation of law.

10.6 VACANCY UPON FORCED SALE. Notwithstanding anything to the contrary in this Agreement, in the event of any Forced Sale, no proceeds shall be distributed to the affected Owner until (i) such Owner and all of his/her relatives, guests, pets, tenants or subtenants have vacated the Property and removed all personal property and debris, and (ii) such Owner has broom-cleaned his/her assigned Unit and Exclusive Use Common Area.

10.7 INDEMNITY. Each Owner shall indemnify, defend and hold harmless the Association, and each other Owner (and any Party that is part of a Group comprising such other Owner), from any loss, cost or liability, including attorney fees, resulting from: (i) any claim made by any person, including a claim made by an Occupant, guest or invitee of such Owner’s assigned Unit, for personal injury or property damage occurring within his/her assigned Unit or within any Exclusive Use Common Area assigned to him/her, unless the injury or damage occurred by reason of the negligence of another Owner temporarily visiting in his/her Unit or Exclusive Use Common Area, or is fully covered by insurance; (ii) any claim for personal injury or property damage sustained or occurring anywhere on the Property resulting directly or indirectly from the use of his/her assigned Unit as a rental, unless the injury or damage is fully covered by insurance; (iii) without limiting the generality of the preceding clauses, any loss, cost or liability, including attorney fees, arising out of claims related to an animal brought to the Property by an Occupant of such Owner’s assigned Unit, or a guest of such Occupant; and (iv) any claims related to the ownership, maintenance or use of motor vehicles on the Property by such Owner, such Owner’s invitees, the Occupants of such Owner’s Unit, and the invitees of any such Occupant. If a Party becomes subject to any claim, liability, obligation, or loss arising from or related to the willful or negligent act or omission of another Party, such other Party, and the Owner in which he/she holds an ownership interest, shall fully indemnify him/her from all associated costs and expenses including attorney fees.

10.8 AMENDMENTS. This Agreement may be amended with Majority Owner Approval provided that the amendment would not effectively circumvent more specific voting requirements within the document.

10.9 DISPUTE RESOLUTION.

A. Applicability of ADR Provisions. In general, the provisions of this Section shall apply to all disputes between Parties, or between the Association and any Party, relating to this Agreement or the Property. However, the provisions of this Section shall not apply to disputes involving the Seller. In addition, where the Association is attempting to collect all or any portion of a Regular Assessment, Special Assessment, or Reimbursement Assessment, it shall be permitted, but not obligated, to use all or some of the procedures described below, in its sole discretion. If it chooses to invoke any of these procedures, any Party from whom it is attempting to collect such Assessment shall be obligated to participate and, in the

case of arbitration, the result of the procedure shall be binding. A Party that wishes to challenge the validity of the Assessment may do so only after paying the Assessment. An action or proceeding brought by a Lender to foreclose, evict or otherwise enforce its rights under its Note and Deed of Trust or to enforce the Lender protection provisions of this Agreement is excluded from the provisions of this Section.

B. Internal Procedure. Even though the Property is not a Common Interest Subdivision, the parties to any dispute between the Association and an Owner shall participate in the internal dispute resolution procedure that would be required by Civil Code §5915 if the Property were a Common Interest Subdivision; provided, however, that this requirement shall not apply to disputes subject to the procedures of Section 3.11 or to the requirements of Civil Code §5855.

C. Arbitration.

(1) Arbitration is a voluntary or mandatory method of resolving a dispute by delegating decision making authority to a neutral individual or panel. Except as otherwise provided in this Agreement, any dispute related to the Property or the Association shall be resolved through mandatory arbitration by the American Arbitration Association or another private arbitration service or individual acceptable to all parties. Any Party affected by a dispute may initiate arbitration by written demand. All Parties shall pursue arbitration to a conclusion as quickly as possible and conclude every case within six (6) months from the date of the initial written demand for arbitration. Arbitrators shall have discretion to allow the Parties reasonable and necessary discovery in accordance with Code of Civil Procedure §1283.05, but shall exercise that discretion mindful of the need to promptly and inexpensively resolve the dispute. If a Party refuses to proceed with or unduly delays the arbitration process, any other Party may petition a court for an order compelling arbitration or other related act, and shall recover all related expenses, including attorney’s fees, unless the court finds that the Party against whom the petition is filed acted with substantial justification or that other circumstances make the recovery of such expenses unjust. An arbitration award may be entered as a court judgment and enforced accordingly. The arbitration award shall be binding in every case.

(2) *EACH PARTY IS AGREEING TO HAVE ANY DISPUTE RELATED TO THE PROPERTY OR THE ASSOCIATION DECIDED BY ARBITRATION AND IS GIVING UP ANY RIGHTS HE/SHE MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. IF A PARTY REFUSES TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, HE/SHE MAY BE COMPELLED TO ARBITRATE. EACH PARTY’S AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.*

(3) The following matters need not be submitted to binding arbitration: (i) an action for unlawful detainer; (ii) an action brought pursuant to the California Small Claims Act; (iii) an action or proceeding to compel arbitration, including an action to impose sanctions for frivolous or bad faith activity designed to delay or frustrate arbitration; (iv) an action or proceeding which is within the jurisdiction of a probate or domestic relations court; (v) an action to record a notice of pending action, or for an order of attachment, receivership, injunction or other provisional remedy which action shall not constitute a waiver of the right to compel arbitration.; or (vi) an action or proceeding brought by a Lender to foreclose, evict or otherwise enforce its rights.

10.10 CATASTROPHIC DAMAGE. As used in this Section, “Catastrophic Damage” means sudden and unexpected physical damage for which the Association Maintenance Costs will exceed forty thousand dollars (\$40,000).

A. Obtaining Bids/Determining Funds Availability. As soon as practical after any event causing Catastrophic Damage, the Association shall (i) determine the amount of all funding available for restoration from Association funds and insurance proceeds, and (ii) obtain two or more written bids from separate licensed contractors. Restoration bids shall include at a minimum a detailed scope of work, a fixed or not-to-exceed contract price, a completion date and a provision for adequate insurance coverage by the contractor.

B. Decision To Restore. Provided that restoring the damaged areas of the Property would not necessitate a Special Assessment of more than one hundred thousand dollars (\$100,000) on any Owner, the Association shall restore, and any difference between the total funds available and the actual cost shall be imposed as a Special Assessment. If restoration would necessitate a Special Assessment of more than one hundred thousand dollars (\$100,000) on any Owner, the Association shall not restore unless all such Owners vote to do so. If the Association does not restore, it shall sell the entire Property in its then existing condition on the best available terms. The sale proceeds together with any insurance proceeds shall then be distributed as provided in Section 10.12. If the Association fails to sell the Property within a reasonable period of time, any Owner may bring an action for judicial partition.

C. Restoration Procedure. All individuals or entities performing restoration of Catastrophic Damage for the Association shall (i) hold all licenses legally required for such work and (ii) enter into a written contract with the Association which satisfies all of the requirements for bids specified in Subsection A. The Owners shall ensure that work is diligently pursued to completion in accordance with best construction practices prevailing in the locale at the time the work is done. Payment and performance bonds shall be required in contracts exceeding one hundred thousand dollars (\$100,000).

D. Emergency Repair. Any Owner may make temporary repairs or take any other necessary action in an Emergency without first complying with the provisions of this Section.

10.11 PARTITION. Each Party agrees to waive his/her right to seek partition as described in Section 8.3.

10.12 OTHER GENERAL PROVISIONS. Time is expressly declared to be of the essence in this Agreement. Except as specifically provided in this Agreement, a provision of the Agreement shall be waived (i) by an Owner, only when a written document explicitly describing the waiver is signed by one (1) representative of the Owner, and (ii) by the Association, only when a written document explicitly describing the waiver is signed by one (1) representative of each Owner. No waiver by any Owner, or by the Association, of any breach of this Agreement shall constitute a waiver of any subsequent breach of the same or different provision of this Agreement. All pronouns shall be deemed to refer to the masculine, feminine, or neuter, singular or plural, as the context in which they are used may require. All headings are inserted only for convenience and ease of reference and are not to be considered in the interpretation of any provision of this Agreement. Numbered or lettered articles, sections and subsections refer to articles, sections and subsections of this Agreement unless otherwise expressly stated. In the event any claim is made by any Party relating to any conflict, omission or ambiguity in this Agreement, no presumption or burden of proof or persuasion shall be implied by virtue of the fact that this Agreement was prepared by or at the request of a particular Party or his or her counsel. To the extent that recourse to any court is permitted by this Agreement, each Party hereby consents to the exclusive jurisdiction of the state and federal courts sitting in California in any action on a claim arising out of, under or in connection with this Agreement or the transactions contemplated by this Agreement. Each Party further agrees that personal jurisdiction over him/her may be effected by service of process by registered or certified mail addressed as provided in this Agreement, and that when so made shall be as if served upon him or her personally within the State of California. If any provision of this Agreement or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Agreement or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected. This Agreement may be signed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

10.13 LEGAL ACTIONS. The Association may institute, defend, settle or intervene in litigation, mediation, arbitration or administrative proceedings in any matter relating to the Property including but not limited to (i) enforcement of this Agreement, (ii) damage to the Common Area, (iii) damage to other parts of the Property which the Association is obligated to Maintain, or (iv) damage to Units or Exclusive Use Common Areas which arises out of, or is integrally related to, damage to the Common Areas or other parts of the Property which the Association is obligated to Maintain. The Association shall not be required to conduct inspections, maintain inspection records, exhaust any applicable casualty insurance coverage, or provide an opportunity to cure prior to initiating a civil action.

10.14 ATTORNEY FEES. In the event that any dispute between the Parties related to this Agreement or to the Property should result in litigation or arbitration, the prevailing Party in such dispute shall be entitled to recover from the other Party all reasonable fees, costs and expenses of enforcing any right of the prevailing Party, including without limitation, reasonable

attorneys' fees and expenses, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of attorney fees and costs incurred in enforcing such judgment and an award of prejudgment interest from the date of the breach at the maximum rate allowed by law. For the purposes of this Section: (i) attorney fees shall include, without limitation, fees incurred in the following: (a) post-judgment motions; (b) contempt proceedings; (c) garnishment, levy, and debtor and third Party examinations; (d) discovery; and (e) bankruptcy litigation and (ii) prevailing Party shall mean the Party who is determined in the proceeding to have prevailed or who prevails by dismissal, default or otherwise.

10.15 ATTORNEY DISCLOSURES. The Parties acknowledge that the legal and tax aspects of cotenancy have not yet been fully tested through litigation in the court or tax system. The Parties acknowledge that they have been advised to independently hire economic, tax and legal counsel to evaluate and review the financial, tax and legal consequences of this transaction and this Agreement. The Parties acknowledge that they have either conducted their own independent tax and legal analysis of each of the terms of this Agreement or hereby knowingly waive their right to do so.

10.16 SIGNATURE PAGES. Each Party to this Agreement shall signify that he/she has read and fully understands all of the terms and conditions of this Agreement, and agrees to abide by each and every one of them, by doing all of the following: (i) Initialing the bottom of each page of the Agreement; (ii) Initialing Exhibit B ("Owner Identities") in the space adjacent to the Ownership Interest he/she is acquiring; and (iii) Signing an "Assumption and Release of Obligations" in the form attached to this Agreement as Exhibit D.

THE SELLER: 1300 Douglas Partners, LLC, a California limited liability company, by:

Eddie J. Kohan, Managing Member

DATE

Marcus McInerney, Managing Member

DATE

EXHIBIT "A" TO THE TENANCY IN COMMON AGREEMENT OF
1300 DOUGLAS STREET, LOS ANGELES, CA 90026 (UNITS 1-9)
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

BEING THAT PARCEL DESCRIBED IN THE DEED RECORDED AUGUST 29, 2019
AS DOCUMENT NO. 20190878942 IN THE OFFICIAL RECORDS OF THE
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA
ALSO BEING ASSESSOR'S PARCEL NO. 5406-011-020.

GENERAL NOTES:

1. UNIT CONSISTS OF THE AREA BOUNDED BY THE INTERIOR UNFINISHED SURFACES OF ITS PERIMETER WALLS, BEARING WALLS, FLOORS, FIREPLACES, CEILINGS, WINDOWS AND INTERIOR PORTIONS OF WINDOW FRAMES AND TRIM, DOORS (INCLUDING WINDOWS IN DOORS) AND INTERIOR PORTIONS OF DOOR FRAMES AND TRIM, AND INCLUDES BOTH THE PORTIONS OF THE BUILDING SO DESCRIBED AND THE AIRSPACE SO ENCOMPASSED. A UNIT INCLUDES (I) THE PAINT ON ALL INTERIOR SURFACES LOCATED OR EXPOSED WITHIN THE UNIT, (II) WINDOW SASHES OR OTHER ELEMENTS THAT DIRECTLY CONTACT THE GLASS PORTION OF THE WINDOW. (III) DOOR AND WINDOW HARDWARE AND ALL MECHANICAL ELEMENTS OF DOORS AND WINDOWS, AND (IV) PORTIONS OF THE PLUMBING, HEATING, AND ELECTRICAL SYSTEMS SERVING ONLY THE UNIT. A UNIT DOES NOT INCLUDE ANY PORTION OF THE FRAMES OF WINDOWS OR EXTERIOR DOORS WHICH IS NOT EXPOSED WITHIN A UNIT INTERIOR, OR ANY STRUCTURAL COMPONENT OF WALLS, CEILINGS, AND FLOORS.
2. THE COMMON AREA CONSISTS OF THE ENTIRE PROPERTY EXCEPT FOR THE UNITS.
3. EXCLUSIVE USE COMMON AREA CONSISTS OF THOSE PORTIONS OF COMMON AREA RESERVED FOR THE EXCLUSIVE USE OF A PARTICULAR CO-TENANT IN THIS AGREEMENT, AND ANY OTHER BUILDING COMPONENT DESIGNED TO SERVE ONLY ONE UNIT BUT LOCATED OUTSIDE THE INTERIOR BOUNDARIES OF THAT UNIT.
4. THE DIMENSIONS AND ELEVATIONS OF ALL UNITS ARE INTENDED TO BE THE UNFINISHED FLOORS, WALLS, AND CEILINGS OF THE UNIT.
5. ALL ANGLES ARE 90 DEGREES UNLESS OTHERWISE NOTED.
6. ALL DISTANCES ARE MEASURED IN FEET AND DECIMALS THEREOF.
7. ALL LEVEL ONE WALLS ARE 0.5' TO 0.8' THICK, AND ALL OTHER WALLS ARE 0.75' THICK UNLESS OTHERWISE NOTED.
8. THE ELEVATIONS SHOWN ON THESE SHEETS ARE BASED ON NORTH AMERICAN VERTICAL DATUM OF 1988. THE BENCHMARK FOR THIS SURVEY IS THE WIRE SPIKE IN NORTH CURB OF SUNSET BLVD., NORTH ROADWAY, 49.1 FEET WEST OF DOUGLAS ST. ELEVATION = 459.357 (BM ID 12-19341) (2000 ADJUSTMENT)
9. THE AREAS LABELED P-1, P-1A, P-2, P-2A, P-3, P-3A, P-4, P-4A, P-5, P-5A, P-6, P-6A, P-7, AND P-7A SHOWN ON SHEET 2 ARE PATIOS. EXCLUSIVE USE OF SAID PATIOS MAY BE ASSIGNED AS AN APPURTENANCE TO THE UNIT WITH THE CORRESPONDING NUMBER.
10. THE AREAS LABELED B-1, B-1A AND B-1B SHOWN ON SHEET 2 ARE BALCONIES. EXCLUSIVE USE OF SAID BALCONIES MAY BE ASSIGNED AS AN APPURTENANCE TO THE UNIT WITH THE CORRESPONDING NUMBER.
11. THE AREA LABELED GARAGE-1 IS A PARKING GARAGE BENEATH UNIT 1. EXCLUSIVE USE OF THIS GARAGE MAY BE ASSIGNED AS AN APPURTENANCE TO THE UNIT WITH THE CORRESPONDING NUMBER.

UNIT DIAGRAMS

EXHIBIT "A" TO THE TENANCY IN COMMON AGREEMENT OF
 1300 DOUGLAS STREET, LOS ANGELES, CA 90026 (UNITS 1-9)
 COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

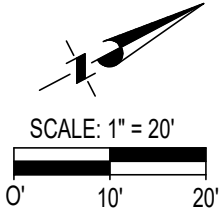


TABLE OF UNIT DIMENSIONS

UNIT	AREA	L.E. 1	L.E. 2	U.E. 1	U.E. 2	
UNIT 1	663± SQ. FT.	488.2	491.2	501.0	501.0	(1ST FLOOR)
UNIT 1	657± SQ. FT.	501.4	NA	511.2	NA	(2ND FLOOR)
UNIT 2	656± SQ. FT.	485.7	NA	496.2	494.6	
UNIT 3	656± SQ. FT.	485.7	NA	496.2	494.6	
UNIT 4	656± SQ. FT.	484.0	NA	494.6	492.9	
UNIT 5	656± SQ. FT.	482.0	NA	492.7	490.9	
UNIT 6	656± SQ. FT.	480.4	NA	491.0	489.3	
UNIT 7	656± SQ. FT.	480.5	NA	491.8	489.4	

NOTE: UNITS HAVE A SPLIT LEVEL CEILING

TABLE OF PATIO DIMENSIONS

PATIO	AREA	L.E.	PATIO	AREA	L.E.
P-1	53± SQ. FT.	487.8	P-1A	33± SQ. FT.	488.5
P-2	167± SQ. FT.	485.3	P-2A	60± SQ. FT.	485.4
P-3	112± SQ. FT.	485.2	P-3A	86± SQ. FT.	485.5
P-4	132± SQ. FT.	483.7	P-4A	82± SQ. FT.	483.7
P-5	64± SQ. FT.	481.9	P-5A	84± SQ. FT.	481.7
P-6	102± SQ. FT.	480.2	P-6A	89± SQ. FT.	479.7
P-7	177± SQ. FT.	480.4	P-7A	28± SQ. FT.	479.7

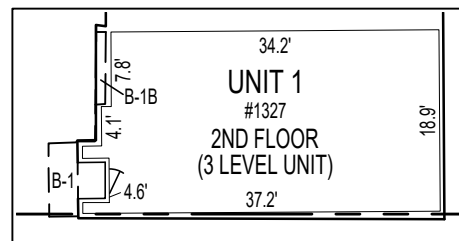
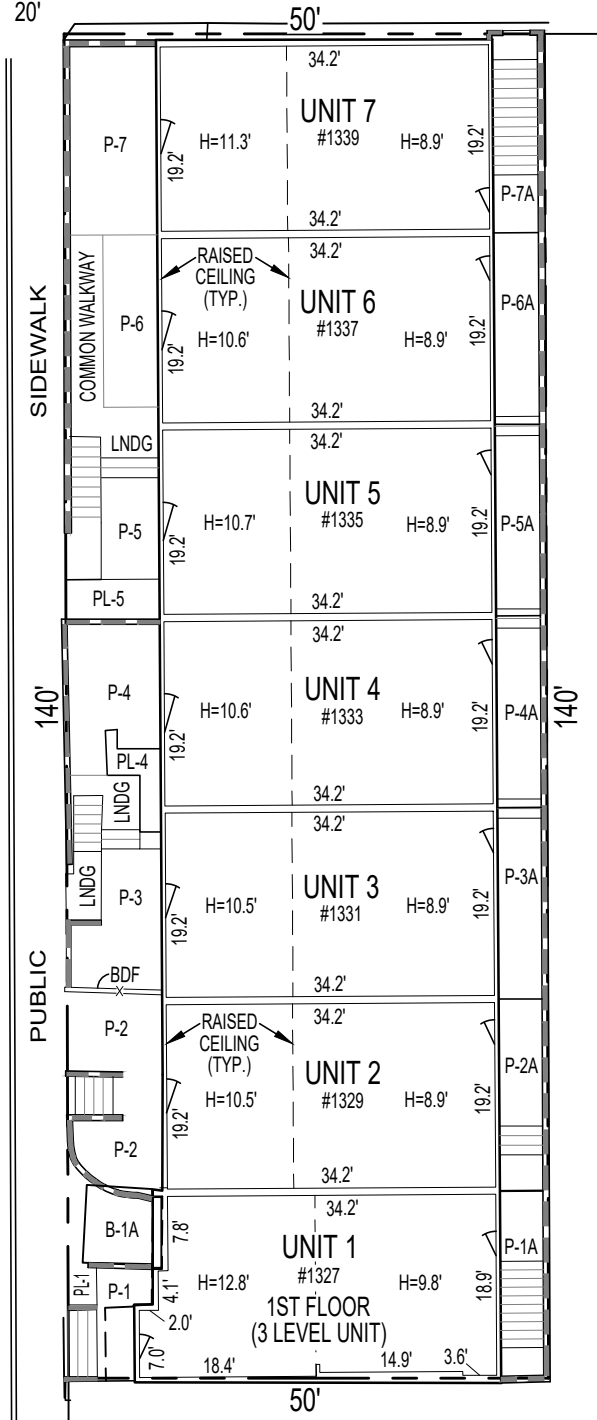
TABLE OF BALCONY DIMENSIONS

PATIO	AREA	L.E.
B-1	23± SQ. FT.	501.0
B-1A	63± SQ. FT.	491.7
B-1B	7± SQ. FT.	501.0

ABBREVIATIONS

- B BALCONY
- BDF BOARD FENCE
- H HEIGHT
- LNDG LANDING
- L.E. LOWER ELEVATION
- NA NOT APPLICABLE
- P PATIO
- PL PLANTER
- SQ. FT. SQUARE FEET
- TYP TYPICAL
- U.E. UPPER ELEVATION

LILAC TERRACE

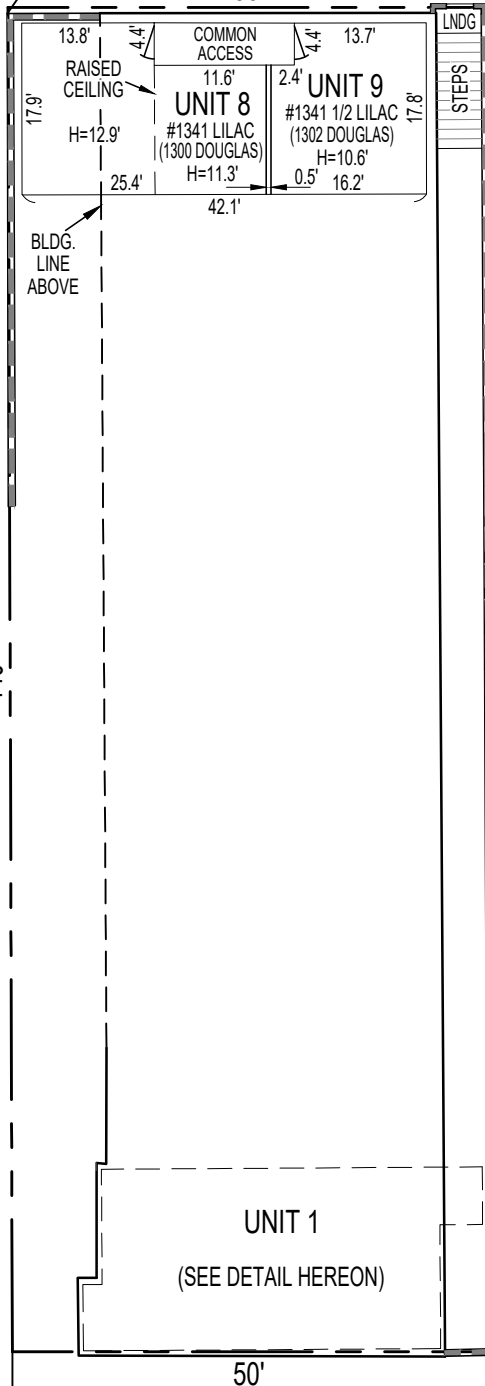


UNIT DIAGRAMS

EXHIBIT "A" TO THE TENANCY IN COMMON AGREEMENT OF
 1300 DOUGLAS STREET, LOS ANGELES, CA 90026 (UNITS 1-9)
 COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

DOUGLAS ST.

PUBLIC 50' SIDEWALK



SCALE: 1" = 20'



TABLE OF UNIT DIMENSIONS

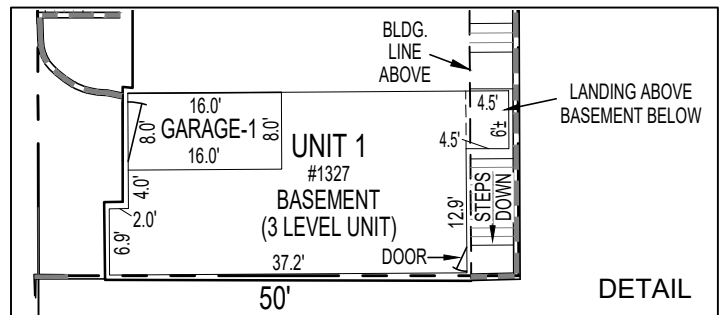
UNIT	AREA	L.E.	U.E.	
UNIT 8	403± SQ. FT.	467.9	479.2	(STREET LEVEL- BELOW UNIT 7)
UNIT 9	277± SQ. FT.	467.9	478.5	(STREET LEVEL- BELOW UNIT 7)

ABBREVIATIONS

H	HEIGHT
LNDG	LANDING
L.E.	LOWER ELEVATION
SQ. FT.	SQUARE FEET
TYP	TYPICAL
U.E.	UPPER ELEVATION

TABLE OF UNIT DIMENSIONS

UNIT	AREA	L.E.	U.E.	
UNIT 1	578± SQ. FT.	±480.0	±487.4	(BASEMENT)
UNIT 1	128± SQ. FT.	±480.0	±487.4	(GARAGE)



LILAC TERRACE

**TENANCY IN COMMON AGREEMENT
FOR
1300 DOUGLAS STREET
EXHIBIT B--OWNER IDENTITIES**

NAME	INITIALS	UNIT	PRICE	BASE %	TITLE %	E.U.C.A.
Owner One:		1 (1327)		30.48%	1/9 th	Garage-1; P-1; P-1A; B-1; B-1A; B-1B
Owner Two:		2 (1329)		9.88%	1/9 th	P-2; P-2A
Owner Three:		3 (1331)		9.88%	1/9 th	P-3; P-3A
Owner Four:		4 (1333)		9.88%	1/9 th	P-4; P-4A
Owner Five:		5 (1335)		9.88%	1/9 th	P-5; P-5A
Owner Six:		6 (1337)		9.88%	1/9 th	P-6; P-6A
Owner Seven:		7 (1339)		9.88%	1/9 th	P-7; P-7A
Owner Eight:		8 (1341)		6.07%	1/9 th	none assigned
Owner Nine:		9 (1341 1/2)		4.17%	1/9 th	none assigned

**TENANCY IN COMMON AGREEMENT
FOR
1300 DOUGLAS STREET**

EXHIBIT C-- ANNUAL CERTIFICATE OF VALIDITY/MANAGER'S CERTIFICATE

THIS CERTIFICATE pertains to property commonly known as 1300 DOUGLAS STREET, LOS ANGELES, CALIFORNIA ("Property"), for which there exists an Agreement entitled "TENANCY IN COMMON AGREEMENT FOR 1300 DOUGLAS STREET" dated November 6, 2019 ("Agreement"). The purpose of this Certificate is to maintain an annual record of all changes to the Agreement since the Effective Date, in accordance with Section 5.1K of the Agreement.

1. **AMENDMENTS:** Since the Effective Date of the Agreement, the following Amendments have been made to the Agreement. True and correct copies of all Amendments are attached to this Certificate.

Date of Amendment	Title of Amendment

2. **TRANSFER OF OWNERSHIP:** Since the Effective Date of the Agreement, the following Ownership Interests have been transferred. True and correct copies of all "Assumption and Release of Obligations" for each transfer are attached to this Certificate.

Date of Transfer	Ownership Interest Number

3. **CURRENT THIRD PARTY RENTALS:** The following chart accurately lists all Units located in the Property that are not owner-occupied as of the date of this Certificate, the names of all occupants, the rental amount, and the remaining duration of any rental agreement.

Unit #	Names of All Tenants and Occupants	Rent	Lease End

In order to validate this Certificate, (i) at least one (1) representative of each Owner and the President must sign below and (ii) the President's signature must be notarized. (Signatures on following page)

THE OWNERS:

DATE

DATE

DATE

DATE

DATE

DATE

THE PRESIDENT:

DATE

ATTACH NOTARY ACKNOWLEDGEMENT

**TENANCY IN COMMON AGREEMENT
FOR
1300 DOUGLAS STREET**

EXHIBIT D--ASSUMPTION AND RELEASE OF OBLIGATIONS

THIS ASSUMPTION AND RELEASE OF OBLIGATIONS pertains to property commonly known as 1300 DOUGLAS STREET, LOS ANGELES, CALIFORNIA ("Property"), for which there exists an Agreement entitled "TENANCY IN COMMON AGREEMENT FOR 1300 DOUGLAS STREET" dated November 6, 2019 ("Agreement"). An interest in the Property, which interest is identified in the Agreement as "Owner _____" (the "Transfer Share") is being transferred by the individual(s) signing below as "Transferor" to the individual(s) signing below as "Transferee". The full purchase price being paid by Transferee to Transferor for such interest is _____. Under the Agreement, the Transferee is assigned the exclusive right to use the following spaces within the Property: _____.

1. Transferee has read and fully understands all of the terms and conditions of the Agreement, and agrees to abide by each and every one of them. Transferee shall assume all of the duties and obligations, and shall be entitled to all the rights and benefits, of the Transfer Share, and Transferor is hereby released from all such duties and obligations and hereby relinquishes all such rights and benefits.
2. Exhibit B of the Agreement is replaced and superseded by Exhibit B to this Assumption and Release of Obligations.
3. The President certifies that if the Agreement has been amended since the Effective Date, true and correct copies of all documents amending, altering or otherwise supplementing the Agreement are attached to this Assumption and Release of Obligations.

PRINTED NAME OF EACH TRANSFEROR: _____

TRANSFEROR #1 SIGNATURE AND DATE: _____

TRANSFEROR #2 SIGNATURE AND DATE: _____

PRINTED NAME OF EACH TRANSFEE: _____

TRANSFEE #1 SIGNATURE AND DATE: _____

TRANSFEE #1 INITIALS: _____

TRANSFEE #2 SIGNATURE AND DATE: _____

TRANSFEE #2 INITIALS: _____

PRINTED NAME OF PRESIDENT: _____

PRESIDENT SIGNATURE AND DATE: _____

ATTACH NOTARY ACKNOWLEDGEMENT

**TENANCY IN COMMON AGREEMENT
FOR
1300 DOUGLAS STREET**

EXHIBIT E--REFINANCE CERTIFICATE

THIS REFINANCE CERTIFICATE pertains to property commonly known as 1300 DOUGLAS STREET, LOS ANGELES, CALIFORNIA (“Property”), for which there exists an Agreement entitled “TENANCY IN COMMON AGREEMENT FOR 1300 DOUGLAS STREET” dated November 6, 2019 (“Agreement”). The purpose of this Refinance Certificate is to assist the individual(s) signing below as “Refinancing Owner” with an application to refinance an individual encumbrance on his/her/their Ownership Interest by documenting changes to the Agreement since the Effective Date. Pursuant to Section 5.1K of the Agreement, this form, (or an alternate form approved by Lender) must be signed by the President.

1. **AMENDMENTS:** Since the Effective Date of the Agreement, the following Amendments have been made to the Agreement. True and correct copies of all Amendments are attached to this Refinance Certificate.

Date of Amendment	Title of Amendment

2. **TRANSFER OF OWNERSHIP:** Since the Effective Date of the Agreement, the following Ownership Interests have been transferred. True and correct copies of all “Assumption and Release of Obligations” for each transfer are attached to this Refinance Certificate.

Date of Transfer	Ownership Interest Number

3. **CURRENT THIRD PARTY RENTALS:** The following chart accurately lists all Units located in the Property that are not owner-occupied as of the date of this Refinance Certificate, the names of all occupants, the rental amount, and the remaining duration of any rental agreement.

Unit #	Names of All Tenants and Occupants	Rent	Lease End

PRINTED NAME OF EACH REFINANCING OWNER: _____

REFINANCING OWNER #1 SIGNATURE AND DATE: _____

REFINANCING OWNER #2 SIGNATURE AND DATE: _____

PRINTED NAME OF PRESIDENT: _____

PRESIDENT SIGNATURE AND DATE: _____

ATTACH NOTARY ACKNOWLEDGEMENT