

Common Elements; provided, however, that furnaces, water heaters, individual air conditioning units, household appliances and other interior mechanical equipment, and the interior surfaces of each Townhome shall be painted, maintained and repaired by the Co-Owners thereof, all such maintenance to be at the sole cost and expense of the particular Co-Owners;

(i) Any other materials, supplies, furniture, labor, services, maintenances, repairs, structural alterations, insurance, taxes or assessments which the Board is required to secure or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the operation of the Common Elements or for the enforcement of this Declaration, provided that if any such materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments are provided for particular Townhomes, the cost thereof shall be specifically assessed to the Co-Owners of such Townhomes.

The Board shall also pay any amount necessary to discharge any lien or encumbrance levied against The Property or any part thereof which may in the opinion of the Board constitute a lien against the Common Elements, rather than merely against the interests therein of particular Co-Owners. Where one or more Co-Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of such lien or liens shall be specially assessed to said Co-Owners;

(j) Maintenance and repair of any Townhome, if such maintenance or repair is reasonably necessary in the discretion of the Board to protect the Common Elements or preserve the appearance and value of The Property, and the Co-Owner or Co-Owners of said Townhome have failed or refused to perform said maintenance or repair within sixty (60) days after written notice of the necessity of said maintenance or repair within sixty (60) days after written notice of the necessity of said maintenance or

repair delivered by the Board, and the Board shall levy a special assessment against the Townhome of such Co-Owner or Co-Owners for the cost of said maintenance or repair.

The Board's powers hereinabove enumerated shall be limited in that Board shall have no authority to acquire and pay for out of the Maintenance and Administration Fund capital additions and improvements (other than for purposes of replacing portions of the Common Elements, subject to all the provisions of this Declaration) having a cost in excess of One Thousand Dollars (\$1,000.00) except as expressly provided herein.

Nothing herein shall authorize the Board to furnish to any person services primarily for the benefit or convenience of any Co-Owner or Co-Owners, or any occupant or occupants, of any Townhome other than services customarily rendered in connection with the rental of space for occupancy only.

(H) Board Powers Exclusive. The Board shall have the exclusive right and obligation to contract for all goods, services and insurance in connection with The Property, payment for which is to be made from the Maintenance Fund, except as otherwise specifically provided herein.

IV.

OWNERS' OBLIGATIONS TO REPAIR

Except for those portions of the Townhomes, if any, which the Board is required to maintain and repair hereunder, each Co-Owner shall, at his sole cost and expense, maintain and repair his Townhome, keeping the same in good condition.

V.

MAINTENANCE AND ADMINISTRATION FUND

(A) Assessments.

(1) Within thirty (30) days prior to the beginning of each calendar year the Board shall estimate the net charges to be paid during such year (including a reasonable provision for contingencies and replacements and less any expended income and any surplus from the prior year's fund). Said "estimated cash requirement" shall be assessed to the Co-Owners in the proportion to the

percentage interest of each Co-Owner in the Common Elements as set forth in the Plan. One twelfth (1/12) of the amount assessed against each Townhome shall be due and payable on the first day of each calendar month during each year. If said sum estimated proves inadequate for any reason, including non-payment of any Co-Owner's assessment, the Board may at any time levy a further assessment, which shall be assessed herein. Each Co-Owner shall be obligated to pay assessments made pursuant to this paragraph to the Board in equal monthly installments on or before the first day of each month during the year, or in such other reasonable manner as the Board shall designate;

(2) The rights, duties and functions of the Board set forth in this paragraph shall be exercised by Declarant for the period ending thirty (30) days after the election of the first Board hereunder.

(3) All funds collected hereunder shall be held in a Maintenance and Administration Fund and shall be expended only for the purposes designated herein.

(B) Amendments to this Paragraph V. (A) shall be effective only upon written consent of the Co-Owners holding at least seventy-five per cent (75%) of the votes. No Co-Owners may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his or her Townhome.

(C) Default in Payment of Assessments.

(1) Each monthly assessment and each special assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a continuing lien upon the Townhome (and the share of the Common Elements appurtenant thereto) against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Co-Owner of such Townhome at the time when the assessment fell due. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within ten (10) days after the due date, the assessment shall bear interest from

the date of delinquency at 6% per annum until paid and such assessment and interest shall become a continuing lien on the Town home which shall bind such Townhome in the hands of the then Co-Owner, his heirs, devisees, personal representatives and assigns. The Board may bring an action at law against the Co-Owner personally obligated to pay the same, or foreclose the lien against the Townhome, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each Co-Owner, by his acceptance of a deed to a Townhome, hereby expressly vests in the Board or its agents the right and power to bring all actions against such Co-Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including non-judicial foreclosure pursuant to Article 3810 of the Texas Revised Civil Statutes, and such Co-Owner hereby expressly grants to the board a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Board and shall be for the common benefit of all Co-Owners. The Board acting on behalf of the Co-Owners shall have the power to bid upon an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

(2) Upon the sale or conveyance of a Townhome, all unpaid assessments against a Co-Owner shall first be paid out of the sale price as provided in Section 18 of the Act; provided, however, that if such unpaid assessments are not paid or collected at the time of a sale or conveyance of a Townhome, the grantee of the same shall be jointly and severally liable with the selling Co-Owner for all unpaid assessments against the latter for his share of the common expenses up to the time of the grant of conveyance, without prejudice to the grantee's right to recover from the selling Co-Owner the amounts paid by the grantee therefor. Any grantee of a Townhome shall be entitled upon written request therefor, to a statement from the Board setting forth the amount of the unpaid assessments against the selling Co-Owner due the

Board and such grantee shall not be liable for, nor shall the Townhome conveyed be subject to a lien for any unpaid assessments made by the Board against the selling Co-Owner in excess of the amount set forth in the statement; provided, however, the grantee shall be liable for any assessments becoming due after the date of such statement.

(3) Where a Mortgagee of a Mortgage constituting a first lien or other purchaser of a Townhome (unit) obtains title to the same as a result of foreclosure of any such first-lien Mortgage, such acquirer of title, his successors and assigns shall not be liable for such unit's unpaid dues or charges including the share of the common expenses or assessments, which accrue prior to the acquisition of title to such unit by the Mortgagee and have not theretofore been paid by the acquisition of title to such Townhome by such acquirer.

VI.

MORTGAGE PROTECTION

(A) Anything herein to the contrary notwithstanding:

(1) The liens created hereunder to secure assessments upon any Townhome shall be subject and subordinate to, and shall not affect the rights of any Mortgagee of a Mortgage constituting a first lien upon such Townhome made in good faith and for value, provided that after the foreclosure of any such Mortgage there shall be a lien created pursuant to such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as a Co-Owner after the date of such foreclosure sale, which said lien shall have the same effect and be enforced in the same manner as provided herein;

(2) No amendment to this paragraph shall affect the rights of the holder of any such Mortgage recorded prior to recordation of such amendment who does not join in the execution thereof;

(3) By subordination agreement executed by a majority of the Board, the benefits of (1) and (2) above may be extended to Mortgages not otherwise entitled thereto; and

(4) No breach of any of the covenants, conditions, restrictions, limitations, or uses herein contained shall defeat or render invalid the lien of any Mortgage made in good faith and for value, but all of said matters shall be binding upon any Co-Owner whose title is derived through foreclosure or trustee's sale.

(5) Unless at least seventy-five percent (75%) of the first Mortgagees (based upon one vote for each first mortgage owned) or owners (other than the sponsor, developer, or builder) of the undivided Townhomes have given their prior written approval, the Council of Co-Owners shall not be entitled to:

(a) by act or omission, seek to abandon or terminate the Condominium Project;

(b) change the pro rata interest or obligations of any individual Townhome for the purpose of (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Townhome;

(c) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer within the meaning of this clause);

(d) use hazard insurance proceeds for losses to any property of the Condominium Project (whether to units or to common elements) for other than the repair, replacement or reconstruction of such property of the Condominium Project; except as provided by statute in case of substantial loss to the units and/or common elements of the condominium project.

(6) The Council of Co-Owners has agreed to give FHLMC notice (c/o Servicer at Servicer's address) in writing of any loss to, or taking of, the common elements of the Condominium Project if such loss or taking exceeds \$10,000.00 or damages to a Townhome covered by a Mortgage purchased in whole or in part by FHLMC exceeds \$1,000.00.

USE OF TOWNHOMES AND THE COMMON ELEMENTS

(A) The Townhomes and the Common Elements shall be occupied and used as follows:

(1) Each Townhome shall be used as a residence for a single family and for no other purpose;

(2) There shall be no obstruction of the Common Elements. Nothing shall be stored in the Common Elements without the prior consent of the Board except as hereinafter expressly provided;

(3) Nothing shall be done or kept in any Townhome or in the Common Elements which will increase the rate of insurance without prior written consent of the Board. No Co-Owner shall permit anything to be done or kept in his Townhome or in or on the Common Elements which will result in the cancellation of insurance on any Townhome, or any part of the Common Elements, or which will be in violation of any law. No waste will be committed in or on the Common Elements;

(4) No sign of any kind shall be displayed to the public view on or from any Townhome or the Common Elements without the prior consent of the Board;

(5) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Townhome or on or in the Common Elements except that dogs, cats or other household pets may be kept in a Townhome, subject to the rules and regulations adopted by the Board;

(6) No noxious or offensive activity shall be carried on in any Townhome or on or in the Common Elements nor shall anything be done therein which may be or become an annoyance or nuisance to the other Co-Owners;

(7) Nothing shall be altered or constructed in or removed from the Common Elements, except upon the written consent of the Board;

(8) No drilling, digging, quarrying or mining operation of any sort shall be permitted on The Property;

(9) No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be

ermitted on The Property at any time, temporarily or permanently, except with the prior written consent of the Board; provided, however, that temporary structures may be erected for use in connection with the repair or rebuilding of any Building or portion thereof;

(10) Outdoor drying of clothes shall not be permitted;

(11) No vehicle shall be parked in driveways. For a period not to exceed forty-eight (48) hours, family, guests and invitees of Co-Owners may park their vehicles in the guest parking area within The Property provided for such purpose. Guest parking areas are not intended for use by the Co-Owners for parking or storing boats, trailers, camping units, or any personal vehicles and the Board may insure the proper use of said areas in such legal manner as it deems necessary.

(12) Except in the individual patio space appurtenant to a Townhome, as designated on the Plan, no planting, transplanting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon The Property, except as approved by the Board. Maintenance, upkeep and repairs of any patio space shall be the sole responsibility of the Co-Owner having an easement thereon and not in any manner the responsibility of the Association.

(13) Motorcycles, motorbikes, motor scooters or other similar vehicles shall not be operated within The Property except for the purpose of transportation directly from a parking space to a point outside The Property, or from a point outside The Property directly to a parking space;

(14) None of the rights and obligations of the Co-Owners created herein, or by any deed delivered to any Co-Owner, shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of a Co-Owner or Co-Owners if said encroachment is due to the willful conduct of said Co-Owner or Co-Owners;

(15) Each area on the Plan described as "Parking" is an "assigned parking space", which may be assigned or reassigned to a Townhome by the Board; each unit has the number of "assigned parking spaces" for its own use as designated on "Exhibit B" attached hereto and made a part hereof;

(16) Each area on the Plan designated "Patio Area" is subject to an easement for patio purposes appurtenant to the contiguous Townhome, the exclusive use of which area is reserved to the Co-Owner of such contiguous Townhome;

(17) Each area on the Plan designated "balcony" is subject to an easement for balcony purposes appurtenant to the contiguous Townhome, the exclusive use of which area is reserved to the Co-Owner of such contiguous Townhome;

(18) Each Co-Owner shall have the exclusive right to paint, repaint, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his own Townhome; and the right to paint or decorate the interior surface of the fence around his patio space, and landscape and maintain the ground area of the patio space appurtenant of his own Townhome;

(19) Each Co-Owner, tenant or occupant of a Townhome shall comply with the provisions of this Declaration, the By-Laws of the Condominium Project, decisions, rules, regulations, and resolutions of the Board or its duly authorized representatives, all as lawfully amended from time to time, and failure to comply with any such provisions, decision, rules, regulations or resolutions, shall be grounds for an action to recover sums due for damages, or for injunctive relief. Without limiting any other rule-making authority it may have under this Declaration, the board is specifically authorized, in its discretion, (i) to promulgate and enact rules and regulations prohibiting any person below a certain age from being a resident or occupant of a Townhome, and (ii) not allow more than four (4) persons to live in a Townhome with two bedrooms. Also, not allow more than five (5) persons to live in a Townhome with three bedrooms, and (iii) to assign and to reassign parking spaces and outside storage areas to particular Townhomes, provided that each Townhome shall always be entitled to the use of at least one parking space.

ENTRY FOR REPAIRS

The Board or its agent may enter any Townhome when necessary in connection with any maintenance, landscaping or construction for which the Board is responsible. Such entry shall be made with as little inconvenience to the Co-Owners as practicable, and any damage caused hereby shall be repaired by the Board at the expense of the Maintenance and Administration Fund.

IX.

DAMAGE AND DESTRUCTION

(A) If any of the Buildings are damaged by fire or other casualty and said damage is limited to a single Townhome, all insurance proceeds shall be paid to the Co-Owner or Co-Owners, and the Board, as Trustee, or Mortgagee or Mortgagees, of such Townhome, as their respective interests may appear, and such Co-Owner or Co-Owners, Mortgagee or Mortgagees, shall use the same to build or repair such Townhome in accordance with the original plans and specifications therefor. If such damage extends to two or more Townhomes, or extends to any part of the Common Elements, such insurance proceeds shall be paid to the Board, as Trustee, or to a bank or trust company as may be designated by amendment hereof, to be held in trust for the benefit of the Co-Owners and their Mortgagees as their respective interests may appear. The Board shall thereupon contract to repair or rebuild the damaged portions of all Townhomes, Buildings, and the Common Elements in accordance with the original plans and specification therefor and the funds held in the insurance trust fund shall be used for this purpose. If the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, the Board shall levy a special assessment on all Co-Owners, in proportion to the percentage interest of each Co-Owner in the common Elements as set forth in the Plan, to make up any deficiency. If any Co-Owner shall fail to pay the special assessment within thirty (30) days after the levy thereof, the Board shall make up the deficiency by payment from the Maintenance Fund; provided, however, that such Co-Owner shall remain liable for such special assessment.

(B) If more than two-thirds (2/3) of all the Buildings on The Property are destroyed or damaged by fire or other casualty, as determined by a majority of the Co-Owners, proceeds shall be delivered to the Co-Owners or their Mortgagees, as their interests may appear, in proportion to the percentage interest of each Co-Owner in the Common Elements as set forth in the Plan; and the Board, as soon as reasonably possible shall sell The Property, in its then condition, free from the effect of this Declaration, which shall terminate upon such sale, and all funds held by said insurance trustee, shall thereupon be distributed to the Co-Owners or their Mortgagees, as their interests may appear, in proportion to the percentage interest of each Co-Owner in the Common Elements as set forth in the Plan.

(C) Within sixty (60) days after such damage occurs, the Board shall, or if they do not any Co-Owner, the insurer, the insurance trustee or any Mortgagee may, record a sworn declaration stating that such damage has occurred, describing it, identifying the Building suffering such damage, the name of any insurer against whom claim is made, and the name of any insurance trustee, reciting that the sworn declaration is recorded pursuant to this paragraph of this Declaration, and that a copy of such sworn declaration has been served on the Condominium Project through the Board.

(D) If the Co-Owners should not rebuild pursuant to subparagraph (A) of this Paragraph IX, and the Board fails to consummate a sale pursuant to subparagraph (B) of this Paragraph IX within twenty-four (24) months after the destruction or damage occurs, then the Board shall or if they do not, any Co-Owner or Mortgagee may, record a sworn declaration setting forth such decision and reciting that under the provisions of this Declaration the prohibition against judicial partition of The Property may be obtained pursuant to the laws of the State of Texas. Upon final judgment of a court of competent jurisdiction decreeing such partition, this Declaration shall terminate. The provisions of this Paragraph IX can be amended only by the unanimous written consent of the Co-Owners.