

Expenses. To the extent necessary for the collection thereof under the provisions of Section 6 of the Act, the Trustees of each respective Group shall have the right to treat VH - Common Expenses, IC - Common Expenses, and AL - Common Expenses in the manner set forth in clause (ii) of subsection (a) of said Section 6 of the Act.

5.5 Insurance.

5.5.1 Insurance Coverages to be Obtained. The Trustees of the Emerald Court Condominium Trust and the Trustees of each Unit Group shall, obtain and maintain, to the extent obtainable, the following insurance covering, in each instance, the Common Areas, Building(s), Fixtures, Amenities and Facilities for which each is responsible:

- (a) Fire insurance with extended coverage and vandalism and malicious mischief endorsements insuring the Common Areas and Facilities in the Condominium, including without limitation all such portions of the interior of Buildings within such Common Areas and Facilities as are for insurance purposes normally deemed to constitute part of the Building and are customarily covered by such insurance such as heating, hot water, air conditioning and other service machinery, interior walls, all finished wall surfaces and plumbing and lighting fixtures. Such insurance shall be in an amount at least equal to 100% of the replacement value of the property so covered, shall include coverage for costs of debris removal and demolition and shall be payable to the Trustees as Insurance Trustees for the Owners and their mortgagees, as their respective interests may appear. Also, if sprinkler systems are located in any of the Buildings and structures, sprinkler leakage coverage shall be obtained and if steam boilers are in operation in the Condominium, broad form boiler and machinery insurance in limits of at least \$100,000.00 per accident per location shall be obtained.
- (b) Public liability insurance in such amounts as the Trustee may from time to time determine, but in no event shall the limits of liability under such insurance be less than One Million Dollars (\$1,000,000.00) for bodily injury (both on a per person and per occurrence basis) and/or property damage, insuring the Trustee, the manager (if any), all persons acting or who may come to act as agents or employees of the Trustees or the manager, and all Owners and other persons entitled to occupy any Unit or other portion of the Condominium, and with cross liability coverage with respect to liability claims of any one insured thereunder against any other insured thereunder. This insurance, however, shall not insure against the individual liability of an Owner for negligence occurring within his own Unit, or EUA appurtenant to the Unit it being the Owner's obligation to provide such coverage.
- (c) Worker's Compensation insurance as required by law.
- (d) The Trustees shall obtain adequate fidelity bonds for all officers, employees and agents of the Condominium who handle or are responsible for Condominium funds. The fidelity bond shall cover the maximum amount of funds that will be in the custody of the Trust or its management agent at any time while the bond is in force.

- (e) Such other insurance as the Trustees may from time to time determine.

5.5.2 General Insurance Provisions. These provisions are applicable to the Trustees of the Emerald Court Condominium Trust as well as the Trustees of the Villa Home Units Group, the Trustees of the Independent Living Congregate Units Group, and the Trustee of the Assisted Living Group separately as to any separate policies of insurance which each Trustee may obtain, and jointly as to the policy or policies which the Trustees may obtain in common.

- (a) The Trustees shall deal with the insurer or insurance agent in connection with the adjusting of all claims covered by insurance policies provided for under Section 5.5.1 above and shall review with the insurer or insurance agent, at least annually, the coverage under said policies, and shall make any necessary changes in the policies provided for under Section 5.5.1 above in order to meet the coverage requirements thereof.
- (b) The Trustees shall be required to make every effort to see that all policies of insurance shall (1) contain waivers of subrogation by the insurer as to claims against the Trustees, the manager (if any), all Owners and other persons entitled to occupy any Unit or other portion of the Condominium and each of their respective agents and employees, except in case of arson or fraud; (2) contain a waiver of defense of invalidity on account of any act or neglect by any of the owners or other persons over which the Trustees have "no control" or by failure of the Trustees to comply with any warranty on any portion of the Condominium over which the Trustees have "no control"; (3) provide that such policies may not be canceled or substantially modified without at least thirty (30) days' advance written notice to all of the insureds thereunder, all mortgagees of Unit in the Condominium and any other named insureds; (4) provide that in no event shall the insurance under said policies be brought into contribution with insurance purchased individually by the Owners or their mortgagees; (5) exclude policies obtained by individual Owners from consideration under any "no other insurance" clause; and (6) in the case of fire and other hazard insurance, provide that, where the provisions of the policy give the insurance company the option of restoring the damage in lieu of making a cash settlement, said option may not be exercised without the approval of the Trustees and/or the service(s) for the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association or like entity which may have loans with respect to the condominium, nor may such option be exercised where it would conflict with any applicable requirement of law.
- (c) Each Owner may obtain additional insurance for his own benefit and at his own expense. No such policy shall be written so as to decrease the coverage under any of the policies obtained by the Trustees, and each owner hereby assigns to the Trustees the proceeds of any such policy to the extent that any such policy does in fact result in a decrease in such coverage, said proceeds to be applied pursuant to the terms hereof as if produced by such coverage. Copies of all such policies (except policies covering only personal property owned or supplied by individual Owners) shall be filed with the Trustees.

- (d) Each Owner shall obtain insurance for his own benefit and at his own expense insuring his Unit, all personal property presently or hereafter located in his Unit and all improvements to his Unit. Each such policy of insurance obtained by an Owner must contain waivers of subrogation by the insurer as to claims against the Trustees, the manager (if any), all Owners and other persons entitled to occupy any Unit or other portion of the Condominium and each of their respective agents and employees.

5.5.3. The Trustees, as insurance Trustees, shall collect and receive all casualty loss insurance proceeds and shall hold, use, apply and disburse the same in accordance with applicable provisions of Section 5.6 hereof. With respect to losses covered by such insurance which affect portions or elements of a Unit, or of more than one Unit to substantially the same or to different extent, the proceeds relating thereto shall be used, applied and disbursed by the Trustees in a fair and equitable manner.

5.5.4 The cost of all such insurance obtained and maintained by the Trustees pursuant to provisions of this Section 5.5 shall be a Common Expense.

5.5.5 Certificates of insurance with proper mortgagee endorsement, when requested, shall be issued to each Owner and his mortgagee(s).

5.5.6 Notwithstanding anything in this Trust and By-Laws to the contrary, if an Owner by virtue of any activities he conducts in his Unit causes an increase in the premiums for any insurance obtained by the Trustees, he shall pay the amount of all such increases to the Trustees on demand as an additional Common Expense attributable to his Unit.

5.5.7 Each Owner hereby waives, discharges and releases all claims and rights of recovery against the Trustees, the manager (if any), all Owners and other persons entitled to occupy any Unit or other portion of the Condominium and each of their respective agents and employees on account of any loss or damage, whether to person or property, insured against under the policies of insurance obtained by such owner for his own benefit. This waiver shall constitute a waiver of subrogation for purposes of such policies.

5.6 Rebuilding, Restoration and Condemnation.

5.6.1 In the event of any casualty loss to the Common Areas and Facilities or any Unit, the Trustees shall determine in their reasonable discretion whether or not such loss exceeds ten (10%) percent of the value of the Condominium immediately prior to the casualty, and shall notify all Owners of such determination.

- (a) Notwithstanding anything to the contrary contained herein or in the Master Deed, in the event of a total or partial loss of a single Unit, the Owner shall have the absolute right to repair or replace said Unit subject to Section 5.9 herein.
- (b) If such loss as so determined does not exceed ten (10%) percent of such value, the Trustees, acting as Insurance Trustees, shall promptly adjust and collect the loss, arrange for the prompt repair or restoration of the damaged area, and disburse the

proceeds of all insurance policies in payment of all costs and expenses incurred in connection with such repair or restoration in appropriate retainage.

- (c) If such loss as so determined exceeds ten percent (10%) of such value and if within one hundred twenty (120) days after the date of such loss, seventy-five (75%) or more of the Owners do not agree to proceed with repair or restoration, each Owner's proportionate share of the insurance with respect to the Common Areas and Facilities based upon his Unit's respective undivided ownership interest in said Common Areas and Facilities, together with the proportion of the insurance proceeds allocated to any Unit as a result of a loss to such Unit and/or its appurtenant Lot due to the casualty, shall, to the extent permitted by law, be divided among the Owners and shall be paid first to the holders of the first mortgages on their Units, if any, up to, but not in excess of, the amounts secured thereby, and thereafter to the Owners, and the Condominium shall be subject to partition at the suit of any Owner. Such suit shall be subject to partition sale together with any common funds of the Trust (adjusted for insurance proceeds paid or payable as aforesaid) shall be divided among the owners in proportion to their Unit's undivided interests in the holders of the first mortgages on their Units, if any, to the extent of the amounts secured thereby, and thereafter to the owners. If, on the other hand, seventy-five percent (75%) or more of the Owners agree to proceed with the necessary repair and restoration of the damaged areas, and disburse the proceeds of all insurance policies in payment of all costs and expenses incurred in connection therewith in appropriated progress payments and with appropriate progress retainage.

5.6.2 In the event that the total cost of repair or restoration as estimated on the basis of an independent appraisal, or as determined during the course of repair or restoration, exceeds the total sum of available insurance proceeds, then the Trustees shall assess all the Owners, as a Common Expense, the amount in excess of available insurance proceeds necessary to cover the cost of repairing or restoring improvements to a Unit, which improvements exceed a value of \$1,000.00 when they were made (said value to be determined by the reasonable judgment of the Trustees) and were not reported to the Trustees as required by Section 5.5.2(e) hereof, shall be borne exclusively by the Owner of the Unit involved; and provided further that if the casualty loss exceeds ten percent (10%) of the value of the Condominium prior to the casualty, any Owner not agreeing as provided in said Section 5.6.1(b) to proceed with the repair and restoration may apply to the Middlesex County Superior Court, on such notice to the Trustees as the Court shall direct, for an order directing the purchase of his Unit by the Trustees at the fair market value thereof as approved by the Court. The cost of any such purchase shall be a Common Expense.

5.6.3 The Trustees may perform emergency work essential to the preservation and safety of the Condominium or the safety of persons, or required to avoid the suspension of any essential service to the Condominium, without having first adjusted the loss or obtained the proceeds of insurance.

5.6.4 If there shall have been repair or restoration pursuant to the foregoing and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration, then the excess of such insurance proceeds, if any, shall be divided into separate shares for the Trust and

the Owners of the damaged Unit, in proportion to the respective costs of repair or restoration of the damaged portions of the Common Areas and Facilities and of each damaged Unit and shall then be paid over to the Trustees and/or each Owner entitled to a share.

5.6.5 In the event of a taking of all or part of the Condominium under the powers of eminent domain, the provisions of Sections 5.6.1 through 6.5.4 hereof shall apply as if the taking were a casualty loss with the proceeds of an insurance settlement if the taking award being treated in the same manner as would the proceeds of an insurance settlement. Provided, however, if the taking award specifically allocates certain damages as being attributable to the Common Areas and Facilities and/or particular Units or their appurtenant EUA's, such allocation shall be used in allocating the proceeds pursuant to the provisions of said Section 5.6.1 through 5.6.4.

5.7 Improvements to Common Areas and Facilities.

5.7.1. If and whenever the Trustees shall propose to make any improvement to the Common Areas and Facilities of the Condominium, or shall be requested in writing by twenty-five percent or more of the Owners to make any such improvement, the Trustees shall submit to all Owners (a) a form of agreement (which may be in several counterparts) specifying the improvement or improvements proposed to be made to make the same; and (b) a copy of the provisions of Section 18 of Chapter 183A. Notwithstanding the foregoing, so long as the Declarant has beneficial interest hereunder, the Trustees shall not submit the aforementioned documents to the Owners unless the request for improvements is also joined in by the Declarant. Upon whichever of the following shall first occur, namely, (a) the receipt by the Trustees of such agreement signed by fifty-one percent of the Owners, or (b) the expiration of six (6) months after such agreement was first submitted to the Owners, the Trustees shall notify all Owners of the aggregate percentage of Owners who have then signed such agreement. If the percentage of agreeing owners equals or exceeds seventy-five percent, then the Trustees shall proceed to make the improvement or improvements specified in such agreement and shall charge the costs thereof as a Common Expense, provided, however, that if such improvement costs are in excess of ten percent of the then value of the Condominium, any Owners not agreeing to the improvement may apply to the Middlesex Superior Court, on such notice to the Trustees as the Court shall direct, for an order directing the purchase of his Unit by the Trustees at the fair market value thereof as approved by the court. The cost of any such purchases shall be a Common Expense. If the percentage of agreeing Owners equals or exceeds fifty percent, but is less than seventy five-percent, the Trustees may, with the agreement of those Owners who wish the improvement to be made, proceed to make the improvement and charge the cost thereof as a Common Expense to such agreeing Owners only.

5.7.2 If and whenever any Owner shall propose to make an improvement to or affecting the Common Areas and Facilities of the Condominium which is not within the EUA appurtenant to his Unit at such Owner's own expense, and the Trustees determine in their reasonable discretion that such improvement would be consistent and compatible with the provisions and intent of the Master Deed, the Trustees may, but shall not be obligated to, authorize such improvement to be made at the sole expense of the Owner proposing the same, without the consent or approval of other Owners, subject to such contractual undertakings of the Owner proposing such improvements as the Trustees in their reasonable discretion deem to be necessary or desirable in the circumstances.