

elements, and setting forth the obligations and responsibilities incident to ownership of each dwelling and its appurtenant undivided interest in the common elements, and said dwelling and common elements are further declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the land and improvements of the condominium.

8. Perpetual Non-Exclusive Easement in Common Elements. The common elements shall be and the same are hereby declared to be subject to a perpetual non-exclusive easement in favor of all of the owners of dwellings in the condominium for their use and for the use of their immediate families, guests and invitees for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended for the enjoyment of the said owners of dwellings. Notwithstanding anything above provided in this Article, Creek Villas Home Owners Association, Inc. hereinafter identified shall have the right to establish the rules and regulations pursuant to which the owner or owners of any dwelling may be entitled to the exclusive use of any parking space or spaces. The easements herein granted shall be located in both Phase I and Phase II and as to Phase II property shall become automatically operative and enforceable by submission of Phase II to the regime even if not specifically referred to.

9. Easements for Un-Intentional and Non-Negligent Encroachments. If any portion of the common elements now encroaches upon any condominium dwelling or if any condominium dwelling now encroaches upon any other condominium dwelling or upon any portion of the common elements as a result of the construction or repair of any building or if any such encroachment shall occur hereafter as a result of settlement or shifting of any building or otherwise, a valid easement for the encroachment and for the maintenance of the same, so long as the building stands, shall exist. In the event any building, any condominium dwelling, any adjoining condominium dwelling, or any adjoining common elements shall be partially or totally destroyed as the result of fire or other casualty or as the result of condemnation or eminent domain proceedings and the reconstructed encroachments of parts of the common elements upon any condominium dwelling or over any condominium dwelling, upon any other condominium dwelling or upon any portion of the common elements due to such reconstruction shall be permitted and valid easements for such encroachments and maintenance thereof shall exist so long as the building shall stand.

10. Restrain Upon Separation and Partition of Common Elements. It is declared that the percentage of the undivided interest in the common element appurtenant to each dwelling shall remain undivided and no owner of any dwelling shall bring or have any right to bring any action for partition or division. Provided, however, that the co-owners interest in the common elements may be diminished by the addition of Phase II as set forth in Paragraph 3 herein.