

# Occupancy Agreement

## Highleah Townhouses, Inc.

THIS AGREEMENT, made and entered into this \_\_\_\_\_ by and between HIGHLEAH TOWNHOUSES, INC. (hereinafter referred to as the Corporation), a corporation having its principal office and place of business at 2001 Pembroke Crescent West, Independence, Missouri, and \_\_\_\_\_ (hereinafter referred to as Member).

WHEREAS, the Corporation was formed for the purpose of acquiring, owning and operating cooperative housing located at 2001 Pembroke Crescent West, Independence, Missouri, with the intent that its members shall have the right to occupy the dwelling units thereof under the terms and conditions hereinafter set forth; and

WHEREAS the Member is the owner and holder of a certificate of membership of the Corporation and has a bona fide intention to reside in the property.

WHEREAS, the Member has certified to the accuracy of the statements made in the application and household income and agrees and understands that household income, household composition and other eligibility requirements are substantial and material requirements of initial and continuing occupancy.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Corporation hereby lets to the Member, and the Member hereby takes from the Corporation, dwelling unit number \_\_\_\_\_ located at \_\_\_\_\_.

TO HAVE AND TO HOLD said dwelling unit unto the Member, the member's executors, administrators, and authorized assigns, on the terms and conditions set forth herein and in the Corporate Charter and bylaws of the Corporation and any rules and regulations of the Corporation now or hereafter adopted pursuant thereto, from the date of this agreement, for a term terminating on renewable thereafter for successive three-year periods under the conditions provided for herein.

### ARTICLE 1. MONTHLY CARRYING CHARGES AND DOWN PAYMENTS

On or before the date of execution of this Occupancy Agreement the Member has paid to the Corporation: (1) a down payment in the amount of \$95.00 (which down payment is referred to in the bylaws of the Corporation as the "Value of Occupancy Agreement"); and (2) the subscription price for the membership in the amount of \$75.00.

Commencing at the time indicated in ARTICLE 2 hereof, the Member agrees to pay to the Corporation a monthly sum referred to herein as "carrying charges," equal to one-twelfth of the Member's proportionate share of the sum required by the Corporation, as estimated by its Board of Directors to meet its annual expenses, pertaining to the Property and to the community or other facilities which the Member is entitled to utilize including but not limited to the following items:

- (a) The cost of all operating expenses of the property and services furnished.
- (b) The cost of necessary management and administration.
- (c) The amount of all taxes and assessments levied against the property of the Corporation or which it is required to pay, and ground rent, if any.
- (d) The cost of fire and extended coverage insurance on the property and such other insurance as the Corporation may affect or as may be required by any mortgage on the Property.
- (e) The cost of furnishing all utilities if such utilities are furnished by the Corporation. (See Article 10 for a listing of those utilities which are to be furnished by the Corporation.)
- (f) All reserves are set up by the Board of Directors pertaining to the Property.
- (g) The estimated cost of repairs, maintenance, and replacements of the property to be made by the Corporation.
- (h) The amount of principal, interest, and other required payments on any mortgage.
- (i) Any other expenses of the Corporation approved by the Board of Directors include operating deficiencies, if any, for prior periods.

The Board of Directors shall determine the amount of the carrying charges annually, but may do so at more frequent intervals, should circumstances so require. No member shall be charged with more than their proportionate share thereof as determined by the Board of Directors. That amount of the carrying charges required for payment on the principal of the mortgage of the Corporation or any of the capital expenditures shall be credited upon the books of the

Corporation to the "Paid-In Surplus" account as a capital contribution by the members. Until further notice from the Corporation, the monthly carrying charges for the above-mentioned dwelling unit shall be \$\_\_\_\_\_.

The Member agrees, however, that if during the term of this agreement the total income of the household exceeds the limitations for occupancy which may be established from time to time, the Member will pay to the corporation, at the option of the Corporation and upon 30 days' written notice, additional monthly carrying charges in an amount commensurate with the amount of the household income in excess of the income limitations, pursuant to a plan previously developed by the Corporation.

## **ARTICLE 2. INTERIM RECERTIFICATION**

If any of the following changes occur, the Member agrees to advise the cooperative immediately:

- (a) If any household member moves out of the unit or another household member moves in.
- (b) If an adult member of the household, who was reported as unemployed on the most recent certification or recertification, obtains employment.
- (c) If the household's income cumulatively increases by \$40.00 or more per month.

The Member may report any decrease in income or any change in other factors considered in calculating the Member's monthly carrying charges. Unless the Cooperative has confirmation that the decrease in income or change in other factors will last less than one month, the Cooperative will verify the information and make the appropriate reduction in charges. However, if the Member's income will be partially or fully restored within two (2) months, the Cooperative may delay the certification process until the new income is known, but the reduction in charges will be retroactive and the Cooperative may not evict the Member for nonpayment of charges due during the period of the reported decrease and the completion of the certification process. The Member has thirty (30) days after receiving written notice of any rent due for the above-described time period to pay or the Cooperative can evict for nonpayment of monthly carrying charges.

If the Member does not advise the Cooperative of these interim changes, the Cooperative may increase the Member's monthly carrying charges to the approved market rent.

The Member may request to meet with the Cooperative to discuss how any change in income or other factors affected the monthly carrying charges or assistance payment, if any. If the Member requests such a meeting, the Cooperative agrees to meet with the Member and explain how the member's charges or assistance payment, if any, were computed.

SEE ADDENDUM A REGARDING FURTHER RECERTIFICATION REQUIREMENTS

## **ARTICLE 3. WHEN PAYMENT OF CARRYING CHARGES TO COMMENCE**

After thirty days' notice by the Corporation to the effect that the dwelling unit is available for occupancy, or upon acceptance of occupancy, whichever is earlier, the Member shall make a payment for carrying charges covering the unexpired balance of the month. Thereafter, the Member shall pay carrying charges in advance on the first day of each month.

## **ARTICLE 4. MEMBER'S OPTION TO RENEW**

It is covenanted and agreed that the term herein granted shall be extended and renewed from time to time by and against the parties hereto for further periods of three years each from the expiration of the term herein granted, upon the same covenants and agreements as herein contained unless: (1) notice of the Member's election not to renew shall have been given to the Corporation in writing at least four months prior to the expiration of the then current term, and (2) the Member shall have on or before the expiration of said term (a) endorsed the membership certificate for transfer in blank and deposited same with the Corporation, and (b) met all the obligations and paid all amounts due under this agreement up to the time of said expiration, and (c) vacated the premises, leaving same in good state of repair. Upon compliance with provisions (1) and (2) of this Article, the Member shall have no further liability under this agreement and shall be entitled to no payment from the Corporation.

## **ARTICLE 5. PREMISES TO BE USED FOR RESIDENTIAL PURPOSES ONLY**

The Member shall occupy the dwelling unit covered by this agreement as a private dwelling unit for the Member and others approved for occupancy and for no other purpose and may enjoy the use in common with other members of the corporation of all community property and facilities of the entire cooperative community so long as the Member continues to own a membership of the Corporation, occupies the dwelling unit, and abides by the terms of this agreement. Any sublessee of the Member, if approved pursuant to Article 7 hereof, may enjoy the rights to which the Member is entitled under this Article 5.

The Member and the member's household shall use the premises for residential purposes only. Such restriction shall not, however, prohibit a member from (1) maintaining business records and accounting records on the premises, (2) handling correspondence or business telephone calls from the premises, or (3) other uses incidental to residential use, so long as the Member's principal place of business is not on the premises. The Member shall not receive members of the general public on the premises for business purposes nor provide goods or services from the premises.

The Member shall not permit or suffer anything to be done or kept upon said premises which will increase the rate of insurance on the building, or on the contents thereof, or which will obstruct or interfere with the rights of other occupants, or annoy them by unreasonable noises or otherwise, nor will the Member commit or permit any nuisance on the premises or commit or suffer any immoral or illegal act to be committed thereon. The Member shall comply with all of the requirements of the Board of Health and of all other governmental authorities with respect to the said premises. If by reason of the occupancy or use of said premises by the Member the rate of insurance on the building shall be increased, the Member shall become personally liable for the additional insurance premiums.

## **ARTICLE 6. MEMBER'S RIGHT TO PEACEABLE POSSESSION**

In return for the Member's continued fulfillment of the terms and conditions of this agreement, the Corporation covenants that the Member may at all times while this agreement remains in effect, have and enjoy for the Member's sole use and benefit the dwelling unit hereinabove described, after obtaining occupancy, and may enjoy in common with all other members of the Corporation the use of all community property and facilities of the entire cooperative community.

## **ARTICLE 7. NO SUBLETTING WITHOUT CONSENT OF CORPORATION**

The Member hereby agrees not to assign this agreement, nor to sublet the dwelling unit without the written consent of the Corporation. The liability of the Member under this Occupancy Agreement shall continue notwithstanding the fact that the Member may sublet the dwelling unit with the approval of the Corporation and the Member shall be responsible to the Corporation for the conduct of the sublessee. Any unauthorized subleasing shall, at the option of the Corporation, result in the termination and forfeiture of the Member's rights under this Occupancy Agreement.

## **ARTICLE 8. TRANSFERS**

Neither this agreement nor the Member's right of occupancy shall be transferable or assignable except in the same manner as may now or hereafter be provided for the transfer of memberships by rules of the cooperative or in the bylaws of the Corporation.

The Member hereby certifies that upon offering the membership for sale neither the Member nor anyone authorized to act for the Member will refuse to sell the membership after receiving a bona fide offer, or refuse to negotiate for the sale of, or otherwise make unavailable or deny the membership to any person because of race, color, religion, national origin, sex, handicap, or familial status.

## **ARTICLE 9. MANAGEMENT, TAXES, AND INSURANCE**

The Corporation shall provide necessary management, operation and administration of the Property; pay or provide for the payment of all taxes or assessments levied against the Property; procure and pay or provide for the payment of fire insurance and extended coverage, and other insurance as required by any mortgage on the property, and such other insurance as the corporation may deem advisable on the property. The Corporation will not, however, provide insurance on the Member's interest in the dwelling unit or on the Member's personal property.

## ARTICLE 10. UTILITIES

The Corporation shall provide water in amounts which it deems reasonable. The Member shall pay directly to the supplier for all other utilities.

## ARTICLE 11. CONDITION OF PREMISES

The Member has inspected the premises and does acknowledge that the premises are in a clean, good, and habitable condition and that all doors and windows are in good repair with acceptable operating locks and keys. The Member accepts the premises in the present condition thereof, agrees to keep and maintain the same in as clean and good condition as at present, and free from debris, danger of fire or any nuisance. At the termination of this agreement, the Member will deliver the premises to the Cooperative in as clean and good condition as when the Member received the same.

## ARTICLE 12. REPAIRS

- (a) By Member. The Member agrees to repair and maintain the dwelling unit at the Member's own expense as follows:
- (1) Any repairs or maintenance necessitated by the Member's negligence or misuse or that of a family member, guest, or visitor.
  - (2) Any decoration of the dwelling unit; and
  - (3) Any repairs, maintenance or replacements required on items not furnished by the Corporation.
  - (4) Any repairs or maintenance necessitated by the act of a third party, known or unknown.
- (b) By Corporation. The Corporation shall provide and pay for all necessary repairs, maintenance, and replacements, except as specified in paragraph (a) of this Article. The officers and employees of the Corporation shall have the right to enter the dwelling unit of the Member in order to effect necessary repairs, maintenance, and replacements, and to authorize entrance for such purposes by employees of any contractor, utility company, municipal agency, or others, at any reasonable hour of the day and in the event of emergency at any time.
- (c) Right of Corporation to Make Repairs at Member's Expense. In case the Member shall fail to affect the repairs, maintenance or replacements specified in paragraph (a) of this Article in a manner satisfactory to the Corporation and pay for same, the latter may do so and add the cost thereof to the Member's next month's carrying charges payment.

## ARTICLE 13. ALTERATIONS AND ADDITIONS

The Member shall not, without the written consent of the Corporation, make any structural alterations in the premises or in the water or gas pipes, electrical conduits, plumbing, or other fixtures connected therewith, or remove any additions, improvements, or fixtures from the premises.

If the Member for any reason shall cease to be an occupant of the premises, the Member shall surrender to the Corporation possession thereof, including any alterations, additions, fixtures, and improvements.

The Member shall not, without the prior written consent of the Corporation, install or use in the dwelling unit any air conditioning equipment, electric heater, or power tools. The Member agrees that the Corporation may require the prompt removal of any such equipment at any time, and that the failure to remove such equipment upon request shall constitute a default within the meaning of Article 13 of this agreement.

## ARTICLE 14. DEFINITION OF DEFAULT BY MEMBER AND EFFECT THEREOF

It is hereby mutually agreed as follows: At any time after the happening of any of the events specified in clauses (a) to (s) of this Article, the Corporation shall give to the Member a notice that this agreement will expire at a date not less than ten (10) days thereafter. This agreement and all of the Member's rights under this agreement will expire on the date so fixed in such notice, unless in the meantime the default has been cured in a manner deemed satisfactory by the Corporation, it being the intention of the parties hereto to create hereby conditional limitations. It shall thereupon be lawful for the Corporation to re-enter the dwelling unit and to remove all persons and personal property therefrom, either by summary dispossession proceedings or by suitable action or proceeding at law or in equity or by any other proceedings

which may apply to the eviction of tenants or by force or otherwise, and to repossess the dwelling unit in its former state as if this agreement had not been made:

- (a) In case at any time during the term of this agreement the Member shall cease to be the owner and legal holder of a membership of the Corporation.
- (b) In case the Member attempts to transfer or assign this agreement.
- (c) In case at any time during the continuance of this agreement the Member shall be declared a bankrupt under the laws of the United States.
- (d) In case at any time during the continuance of this agreement a receiver of the Member's property shall be appointed under any of the laws of the United States or of any State.
- (e) In case at any time during the continuance of this agreement the Member shall make a general assignment for the benefit of creditors.
- (f) In case at any time during the continuance of this agreement the membership rights of a Member in the Corporation shall be duly levied upon and sold under the process of any Court.
- (g) In case the Member fails to effect and/or pay for repairs and maintenance as provided for in Article 12 hereof.
- (h) In case the Member shall fail to pay any sum due pursuant to the provisions of Article 1 or Article 21 hereof.
- (i) In case the Member shall default in the performance of any of the obligations under this agreement.
- (j) In case the Member fails to pay any charge which if not paid, could become a lien against the Property.
- (k) In case at any time during the term of this agreement the limitations for occupancy which may be established from time to time by the City of Independence, Missouri, are exceeded and the Corporation has elected to terminate this agreement.
- (l) In case at any time during the term of this agreement, the Member fails to comply promptly with all requests by the Corporation for information and certifications concerning the total current income of the Member and the household, the composition of the Member's household and other eligibility requirements for occupancy in the Property.
- (m) If the Member, the member's family, or guests, shall interfere with the peaceable possession, enjoyment, or other contractual rights of another member of the cooperative.
- (n) If the Member shall do any act which increases any insurance premiums for the Cooperative or its property or causes any policy of insurance to be canceled or not to be renewed.
- (o) If the Member violates any law, statute, ordinance, or regulation of any government authority pertaining to the premises of the Member's occupancy thereof.
- (p) If the Member shall commit any criminal act on the premises or against the Cooperative, its property, employees, agents, or members.
- (q) If the Member shall commit any other act which shall interfere with or disrupt the livability of the unit, or other members' units, adversely affect the health, safety, peaceful possession or quiet enjoyment of another member, interfere with the management of the property or the duties of any employee or the Cooperative, or have adverse financial effect on the Cooperative.
- (r) If the Member shall violate any other provision of this agreement or the rules and regulations of the Cooperative.
- (s) If the Member maintains a pet on the premises, in violation of such conditions and terms as determined by the Cooperative.

The Member hereby expressly waives any and all right of redemption in case the Member shall be dispossessed by judgment or warrant of any Court or Judge; the words "enter" and "re-entry," as used in this agreement are not restricted to their technical legal meaning, and in the event of a breach or threatened breach by the Member of any of the covenants or provisions hereof, the Corporation shall have the right of injunction and the right to invoke any remedy allowed at law or in equity, as if re-entry, summary proceedings, and other remedies were not herein provided for.

#### **ARTICLE 15. REMOVING VEHICLES AND OTHER PERSONAL PROPERTY**

The Cooperative reserves the right to control all parking areas. All vehicles shall be kept properly licensed, insured and in good operating condition. No vehicles shall be parked in a fire lane. The Cooperative may remove, without liability, any vehicle from a fire lane or any vehicle which is in violation of any law, ordinance, rule, regulation, or provision of this agreement at any time at the Member's expense, without any notice whatsoever.

## **ARTICLE 16. LANDLORD - TENANT RELATIONSHIP**

The Member expressly agrees and understands that the relationship created by this Occupancy Agreement between the Cooperative Corporation and the Member is that of landlord and tenant. The Member does not acquire, by this agreement, any ownership interest whatsoever in the real property owned by the Cooperative.

In the event of a breach or threatened breach by the Member of any covenant, condition, or provision of this agreement, the Cooperative shall have available to it all legal and equitable remedies which are available to a landlord for such breach.

The failure on the part of the Corporation to avail itself of any of the remedies given under this agreement shall not waive nor destroy the right of the Corporation to avail itself of such remedies for similar or other breaches on the part of the Member.

## **ARTICLE 17. MEMBER TO COMPLY WITH ALL CORPORATE REGULATIONS**

The Member covenants that the Member will preserve and promote the cooperative ownership principles on which the Corporation has been founded, abide by the Charter, bylaws, rules and regulations of the Corporation and any amendments thereto, and by acts of cooperation with other members bring about for all members a high standard in home and community conditions. The Corporation agrees to make its rules and regulations known to the Member by delivery or by promulgating them in such other manner as to constitute adequate notice. The Member hereby ratifies all agreements executed by the Corporation on or before the date hereof.

## **ARTICLE 18. EFFECT OF FIRE LOSS ON INTERESTS OF MEMBER**

In the event of loss or damage by fire or other casualty to the above-mentioned dwelling unit without the fault or negligence of the Member, the Corporation shall determine whether to restore the damaged premises and shall further determine, in the event such premises shall not be restored, the amount which shall be paid to the Member to redeem the membership of the Member and to reimburse the Member for such loss as the Member may have sustained.

If, under such circumstances, the Corporation determines to restore the premises, carrying charges shall abate wholly or partially as determined by the Corporation until the premises have been restored. If on the other hand the Corporation determines not to restore the premises, the carrying charges shall cease from the date of such loss or damage.

## **ARTICLE 19. INSPECTION OF DWELLING UNIT**

The Member agrees that the representatives of any mortgagee holding a mortgage on the property of the Corporation, the officers and employees of the Corporation, and with the approval of the Corporation the employees of any contractor, utility company, municipal agency or others, shall have the right to enter the dwelling unit of the Member and make inspections thereof at any reasonable hour of the day and at any time in the event of an emergency.

## **ARTICLE 20. SUBORDINATION CLAUSE**

It is specifically understood and agreed by the parties hereto that this agreement and all rights, privileges and benefits hereunder are and shall be at all times subject to and subordinate to the lien of a first mortgage and the accompanying documents executed by the Corporation and to any and all modifications, extensions and renewals thereof and to any mortgage or deed of trust made in replacement thereof and to any mortgage or deed of trust which may at any time hereafter be placed on the Property or any part thereof. The Member hereby agrees to execute, at the Corporation's request and expense, any instrument which the Corporation or any lender may deem necessary or desirable to effect the subordination of this agreement to any such mortgage, or deed of trust, and the Member hereby appoints the Corporation and each and every officer thereof, and any future officer, the Member's irrevocable attorney-in-fact during the term hereof to execute any such instrument on behalf of the Member. The Member does hereby expressly waive any and all such notices of default and notices of foreclosure of said mortgage which may be required by law. In the event a waiver of such notices is not legally valid, the Member does hereby constitute the Corporation as the Member's agent to receive and accept such notices on the Member's behalf.

## **ARTICLE 21. LATE CHARGES AND OTHER COSTS IN CASE OF DEFAULT**

The Member covenants and agrees that, in addition to the other sums that have become or will become due, pursuant to the terms of this agreement, the Member shall pay to the Corporation a late charge in an amount to be

determined from time to time by the Board of Directors for each payment of carrying charges, or part thereof, more than 10 days in arrears.

All payments by the Member to the Cooperative shall first be credited to the Member's outstanding balance, if any, for attorney fees and court costs, repairs or delinquent carrying charges, late fees, and lastly to the current month's carrying charges. If a member defaults in making a payment of carrying charges or in the performance or observance of any provision of this agreement, and the Cooperative has obtained the services of an attorney with respect to the defaults involved, the Member covenants and agrees to pay to the Cooperative any costs or fees involved, including reasonable attorney's fees, notwithstanding the fact that a suit has not yet been instituted. In case a suit is instituted, the Member shall also pay the costs of the suit, in addition to other aforesaid costs and fees. If the Cooperative prevails in defending a claim or counterclaim brought by the Member against the Cooperative, its employees or agents, Member agrees to pay any costs or attorney fees involved.

## **ARTICLE 22. NOTICES**

Whenever the provisions of law or the bylaws of the Corporation or this agreement require notice to be given to either party hereto, any notice by the Corporation to the Member shall be deemed to have been duly given, and any demand by the Corporation upon the Member shall be deemed to have been duly made if the same is delivered to the Member at the unit or to the Member's last known address; and any notice or demand by the Member to the Corporation shall be deemed to have been duly given if delivered to an officer of the Corporation. Such notice may also be given by depositing same in the United States Postal Service addressed to the Member as shown in the books of the Corporation, or to the President of the Cooperative, as the case may be, and the time of mailing shall be deemed to be the time of giving of such notice.

## **ARTICLE 23. ORAL REPRESENTATION NOT BINDING**

No representations other than those contained in this agreement, the Charter and the bylaws of the Corporation shall be binding upon the Corporation.

## **ARTICLE 24. REHABILITATION AND RESTORATION OF PREMISES/ MEMBER'S OBLIGATION WHEN VACATING**

The Member agrees to and understands, that the obligations for payment to the Cooperative of monthly carrying charges, late charges, and/or other charges pursuant to the Occupancy Agreement continue until such time as a new member occupies the dwelling unit, executes an Occupancy Agreement, and assumes responsibility for said monthly carrying charges.

The Member understands that upon vacating the premises (whether voluntary or involuntary) the Member is financially responsible for restoring the premises to the condition it was in when the Member first occupied the premises and must meet the standards set by the Cooperative for occupancy by a new member. The Cooperative's cost and expenses in rehabilitating and restoring the premises shall be deducted from the transfer value (or any other fund) which might otherwise be due to the outgoing member.

The fact that a repair may be necessary because of normal wear and tear shall not lessen the Member's responsibility under this Article.

The Member will deliver all keys to the Cooperative at the termination of this tenancy. The Member shall be deemed to be in possession of the unit until such delivery.

The Member does hereby authorize and appoints the Cooperative to sell the membership owned by the Member. For this service the Member agrees that a service charge will be retained by the Cooperative and the Cooperative is hereby authorized to deduct such charge from the proceeds of the sale of the membership.

The balance of the proceeds from the sale of the membership will be first applied toward any amounts which may be due the Cooperative under the terms of the Occupancy Agreement between the Member and the Cooperative for such things as monthly carrying charges, surcharges, utilities, excess over basic, late charges, attorney's fees, court costs, service charges, and the cost of estimated costs of all deferred maintenance, painting, redecorating, reconditioning, floor finishing, and such repairs, cleaning, and replacements as may be deemed necessary by the Cooperative to place the dwelling unit in a suitable condition for a new occupant.

The Member understands that the membership transfer value is to be paid by a new occupant and not by the Cooperative. The Member understands that neither this document nor any other agreement between the Member and the Cooperative obligates the Cooperative to pay the Member any sum of money whatsoever.

Any property of the Member remaining in or on the premises, either after termination of the agreement or after Member abandons the premises, may be removed, or disposed of by the Cooperative without liability to the Cooperative, therefore. The premises shall be deemed abandoned if (1) the Cooperative reasonably believes that the premises have been abandoned; (2) the monthly carrying charges are due and unpaid; (3) the Cooperative posts written notice on the premises and mails to the unit (or last known address of Member) by certified mail, return receipt requested, a notice of the Cooperative's belief of abandonment and (4) Member fails to respond in writing to the Cooperative's notice within the ten (10) days after the date of posting and deposit of such notice in United States Postal Service, stating Member's intention not to abandon the premises.

## **ARTICLE 25. REMEDIES**

The exercise of any of the rights or remedies as herein provided with respect to any default shall not preclude or affect the subsequent exercise of such rights or remedies at different times for different defaults.

The respective rights or remedies, whether provided by this agreement or by law, or available in equity, shall be cumulative and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or different times, of any other such rights or remedies for the same or different defaults, or for the same or different failures of the Member to perform or observe any provision of this agreement. Failure of the Cooperative to insist upon the strict performance of the terms, covenants, agreements, and conditions herein contained or any of them shall not constitute a waiver or relinquishment of the Cooperative's right thereafter to enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect.

The Member hereby agrees that Jackson County, Missouri, is a proper venue for any legal action under this agreement and the Member waives any question of venue for any suit brought against the Member by the Cooperative in Jackson County, Missouri.

The Member hereby expressly waives any and all right of redemption in case the Member shall be dispossessed by Judgment of any Court; the words "enter" and "re-enter," as used in the agreement are not restricted to their technical legal meaning, and in the event of a breach or threatened breach by the Member of the covenants or provision hereof, the Cooperative shall have the right of injunction and the right to invoke any remedy allowed at law or in equity, as if re-entry, summary proceedings, and other remedies were not herein provided for.

The Member understands and agrees that the Cooperative may, at its option, terminate the membership and revoke all membership rights, if the Member is in default of this agreement. In case of termination, the Member's certificate of membership and all rights incidentals thereto shall revert to the Cooperative.

## **ARTICLE 26. MEMBER'S RELEASE AND AGREEMENT TO INDEMNIFY**

The Cooperative is not liable for personal injury or for damage to or loss of personal property in or about the premises, regardless of the cause of such injury, loss, or damage, including but not limited to interruption of utilities or other casualty or occurrences. The Member for the member, the member's heirs, executors, administrators, approved successors and assigns, hereby releases, relinquishes and discharges, and agrees to indemnify, protect and hold harmless the Board of Directors, employees, corporate attorney, managing agent, and the Cooperative, its successors and assigns of and from any and all claims, demands and liability for any injury to, including death of, persons (whether they be third party person, the Member or employees of the parties hereto) and any loss of or damage to property by, growing out of, or happening in connection with, the Member's use and occupancy of the premises, fixtures, equipment, appliances, facilities, improvements, and common areas located or to be located thereon, or by reason of any like or different casualty. In like manner and to the extent set forth in the preceding sentence the Member agrees to exonerate and hold harmless the Cooperative even though the claim or loss of casualty is attributable to the negligence of the Cooperative. The Member agrees to be responsible for insurance on personal property, contents, and liability.

## **ARTICLE 27. ANTI-CRIME CONDITIONS**

The Cooperative and Member agree that the following are conditions of this Occupancy Agreement, and any violation of these conditions may be considered a default pursuant to Article 14:



- (a) Member, the Member's household, or the Member's guests shall not engage in criminal activity on or near Cooperative's premises.
- (b) Member, the Member's household, or the Member's guests shall not engage in any act intended to facilitate criminal activity on or near Cooperative's premises.
- (c) Member, the Member's household, or the Member's guests will not permit the dwelling unit to be used for or to facilitate criminal activity regardless of whether the individual engaging in such activity is a Member of the household or a guest.
- (d) Member, the Member's household, or the Member's guest shall not engage in acts of violence or threats of violence, including, but not limited to, the unlawful discharge of firearms, on or near Cooperative's premises.
- (e) Drug-related criminal activity engaged in on or near the premises, by any Member, a person of the household, a guest, or by any other person under the Member's control.
- (f) Determination made by the cooperative that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- (g) Criminal activity by a Member, any person of the Member's household, a guest or by any other person under the Member's control:
  - (1) that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property, management, staff); or
  - (2) that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises.
- (h) If the Member is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony or misdemeanor.
- (i) If the Member is violating a condition of probation or parole under Federal or State law;
- (j) Determination made by the Cooperative that a Member or person of the Member's household abuses or has a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.
- (k) Registration under any state sexual offender registration by Member or Member's household.
- (l) Conviction of any felony by a Member or Member's household;
- (m) Violation of the above provisions shall be a material violation of the Occupancy Agreement and good cause for termination of membership and tenancy. A single violation of any of the provisions of these conditions shall be deemed a serious violation and a material noncompliance with the Occupancy Agreement and shall be good cause for termination of the membership and tenancy. Proof of violation shall not require criminal conviction but shall be by a preponderance of the evidence.

#### **ARTICLE 28. LEAD WARNING STATEMENT**

Housing built before 1978 may contain lead-based paint, paint chips, and dust that can pose health hazards if not taken care of properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, owners must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Prospective Members must also receive a federally approved pamphlet on lead poisoning prevention.

#### **ARTICLE 29. WAIVER OF JURY TRIAL**

The Cooperative and the Member hereby waive trial by jury in any action, proceeding or counterclaim brought by any of the parties hereto against any other party on, or in respect of, any matter whatsoever, arising out of or in any way connected with the Occupancy Agreement, the relationship of Cooperative and Member hereunder, Member's use or occupancy of the premises (including a suit for unlawful detainer) and/or claim of injury or damage.

**ARTICLE 30. INTERPRETATION AND ENFORCEMENT**

- (a) **ENTIRE AGREEMENT.** This agreement, together with addenda, rules and regulations constitute the entire agreement between the parties. All prior understandings are merged into this agreement. The terms of this Occupancy Agreement shall not be modified except in writing and signed by the parties to be bound. Only the designated agent of the Cooperative shall have authority to execute any such writing.
- (b) **RELEASES AND WAIVERS BY CORPORATION.** The Member understands that only the Board of Directors of the Cooperative Corporation, acting as such, can release the Member from an obligation created by this agreement, or waive any provision thereof, and that any purported release or waiver by any other person or persons whatsoever, shall not be binding on the Cooperative unless ratified by the Board of Directors.
- (c) **JOINT AND SEVERAL RESPONSIBILITY and liability.** It is agreed that multiple Members, co-signers, and guarantors are jointly and severally responsible and liable for all terms of this agreement.
- (d) **SEVERABILITY.** If any part or parts of this agreement shall be unenforceable for any reason, the remainder of this agreement shall continue in full force and effect.
- (e) **HEADINGS.** The titles, headings, or captions in this agreement are for convenience only and are not to be construed to interpret, define, limit or change the intent of the meaning of the language contained in the agreement.
- (f) **INTERPRETATION.** In the construction and interpretation of this agreement, the reference to the "Member" shall be deemed to include both masculine and feminine genders, and all references to the Member include both singular and plural usage.

**IN WITNESS WHEREOF**, the parties hereto have caused this agreement to be signed and sealed the day and year first above written.

Highleah Townhouses, Inc.

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

**ADDENDUM 1 TO OCCUPANCY AGREEMENT**

Now on the \_\_\_\_\_ HIGHLEAH TOWNHOUSES, INC. (herein referred to as "Corporation") \_\_\_\_\_ (hereinafter referred to as "Member") agree, in furtherance of the Occupancy Agreement signed on this date, as follows:

1. That Corporation, as an operating entity, representing the totality of the memberships in said Corporation, has a responsibility to maintain certain health, appearance, aesthetic real property and other appropriate standards and values, for the protection and betterment of the membership at large, both financial and physical.
2. That in the furtherance of Corporation's compliance with the obligation placed upon it by paragraph 1, the Corporation is hereby authorized by Member, to refurbish, recondition and/or rehabilitate Member's dwelling unit, upon Member's abandonment and/or eviction, to a condition similar to said unit's condition at the time of Member's purchase of membership certificate and occupancy of corresponding dwelling unit. The expense for said refurbishment, reconditioning and/or rehabilitation shall be borne by the Member, such required work to be performed by Corporation, and an itemization of said labor and/or material charges shall be deducted from Member's transfer value, if any there be, and any remaining outstanding balance to be paid by Member to Corporation, or if any remaining credits exist in favor of Member, Corporation shall pay said outstanding balance upon resale of the Membership Certificate.
3. (a) That Member's membership value, sometimes referred to as equity, is not a monetary value carried in any account, drawing interest or otherwise existent in any form other than an accounting figure. Said amount being established by rules, bylaws, articles, and/or like. (b) Equity represents an additional accrued value based upon the formula promulgated in the Corporation's bylaws. (c) Said Member's membership and equity value are a figure owed Member, payable upon Member's sale of the Membership certificate, less any carrying charges, late fees, refurbishment expenses, utilities, and/or any other fees or charges assessable to membership upon Member's termination, eviction, sale or abandonment of the membership certificate and corresponding dwelling unit. (d) Said equity amount is not an amount owed by the Corporation to the Member but rather represents an estimated figure of what the market will bear.
4. That Corporation is not-for-profit entity, its budgeting and financial liquidity being solely funded and based upon the consistent timely monthly payment in full of Member's "monthly carrying charges" (sometimes referred to as: "rent"), same being budgeted on a yearly basis.
5. That in order to accomplish those requisites set forth in paragraph 4 above, it is understood that each Member shall be responsible for the timely and full payment of the "monthly carrying charges" so long as Member shall own a membership certificate, therefore until said membership certificate is resold, and such monthly carrying charge obligation is assumed by the purchaser of said membership certificate and corresponding dwelling unit.
6. That a \$50.00 fee for the resale of the membership certificate and corresponding dwelling unit shall be paid to Corporation by Member in the event the Corporation does in fact sell said membership certificate.
7. That the cooperative concept and corresponding lower housing charge (sometimes referred to as: "rent"), lower general upkeep and maintenance costs, non-profit operation of the overall premises, membership transfer value, appearance and aesthetic consideration, and all other advantages derived from the cooperative concept, are totally dependent upon Member and Corporation adherence, understanding dedication to the covenants, agreements, obligations and restrictions contained in the Occupancy Agreement and this Addendum thereto.

**IT IS SO AGREED, UNDERSTOOD, AND STATED.**

\_\_\_\_\_  
**MEMBER**

\_\_\_\_\_  
**CO-MEMBER**

\_\_\_\_\_  
**WITNESS**

**ADDENDUM 2 TO OCCUPANCY AGREEMENT**

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

\_\_\_\_\_  
DATE MEMBER

\_\_\_\_\_  
DATE MEMBER

\_\_\_\_\_  
DATE MEMBER

\_\_\_\_\_  
DATE WITNESS