

COMMON INTEREST COMMUNITY NUMBER  
(Planned Community)

MARSH RIDGE TOWNHOMES

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made as of this 29<sup>th</sup> day of March, 2000 by Marsh Ridge Partners, LLC, a Minnesota limited liability company (the "Declarant"), pursuant to the provisions of Minnesota Statutes Chapter 515B, known as the Minnesota Common Interest Ownership Act (the "Act"), for the purpose of creating Marsh Ridge Townhomes, a planned community.

W I T N E S S E T H:

WHEREAS, Declarant is the owner in fee simple of the real property situated in the City of Delano, in the County of Wright, in the State of Minnesota, legally described on Exhibit "A" attached hereto and incorporated herein by reference (the "Subject Property"); and

WHEREAS, the undersigned desires to provide for the preservation of the values and amenities in the Subject Property and to this end desires to subject the Subject Property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said Subject Property and each owner thereof; and

WHEREAS, the undersigned has deemed it desirable for the efficient preservation of the value and amenities in said community to create a non-profit corporation to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated the Marsh Ridge Homeowners Association, Inc., a non-profit corporation under the provisions of Minnesota Statutes Chapter 517A, for the purpose of exercising the functions aforesaid; and

WHEREAS, Declarant is about to sell, dispose of and convey townhouse and single family dwelling interests or estates in and to the Subject Property, together with the buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon, and any and all rights and privileges belonging to or in anyway appertaining thereto, and to accomplish this purpose desires to submit the Subject Property to the requirements of this Declaration and to the Act; and

WHEREAS, Declarant desires and intends that the owners, mortgagees, occupants and other persons hereafter acquiring any interest in the Subject Property shall at all times enjoy the rights, easements, privileges and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspect of the townhouse form of

ownership of the Subject Property and are established for the purposes of enhancing and perfecting the value, desirability and attractiveness of the same;

NOW, THEREFORE, Declarant, as the sole owner of the Subject Property and for the purposes above set forth, hereby submits the Subject Property to the Act as a planned community under the name "Marsh Ridge Townhomes" and declares as follows:

## ARTICLE I DEFINITIONS

The following words, when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Association" shall mean and refer to the Marsh Ridge Homeowners Association, Inc., a Minnesota non-profit corporation, its successors and assigns.
- (b) "Common Area" shall mean and refer to all real property managed by the Association for the common use and enjoyment of the Owners and such other persons to whom the Owners may delegate this right pursuant to this Declaration and to all improvements located thereon and owned or otherwise held by the Owners for the common use and enjoyment of said persons.

The Common Area owned or to be owned by the Owners is legally described on Exhibit "B" attached hereto. Only an Owner may own a percentage interest in the Common Area.

- (c) "Consumer Price Index" means the Consumer Price Index - All Items, Minneapolis/St. Paul Average, All Urban Consumers as published by the United States Department of Labor's Bureau of Labor Statistics or a similar government index of inflation in the event such index is no longer published.
- (d) "Declarant" shall mean and refer to Marsh Ridge Partners, LLC, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Unit from the Declarant for the purpose of development.
- (e) "Declarant Control Period" shall mean the period commencing on the date of conveyance of the first Unit to an Owner other than the Declarant and continuing until the earlier of the date five (5) years after said date or the date sixty (60) days after conveyance of seventy-five percent (75%) of the Units to Owners other than Declarant. In determining the Declarant Control Period, the percentage of the Units which have been conveyed shall be computed by including all Units in the Planned Community which the Declarant has reserved the right to build in this Declaration.
- (f) "Declaration" shall mean this document and all amendments and supplements hereto.
- (g) "Dwelling" shall mean and refer to any portion of a building situated upon the Subject Property designated and intended for use and occupancy as one residential unit.

- (h) "Governing Documents" shall mean and refer to this Declaration, and the Articles of Incorporation and By-Laws of the Association, as amended from time to time, all of which shall govern the use and operation of the Subject Property.
- (i) "Member" shall mean and refer to all Owners who are members of the Association as provided in Article III, Section 1, hereof.
- (j) "Owner" shall mean and refer to the record Owner or contract vendee, whether one or more persons or entities, of a fee simple title to any Unit situated upon the Subject Property but excluding contract vendors, unless the contract provides otherwise, and others having such interest merely as security for the performance of an obligation.
- (k) "Planned Community" shall mean the real estate, portions of which are designated for separate ownership as Units and the remainder of which is designated as Common Area which is subject to this Declaration. Specifically, as the term is used herein, it means and refers to Marsh Ridge Townhomes, Common Interest Community No. \_\_\_\_, the Planned Community established by this Declaration.
- (l) "Plat" shall mean the recorded plat depicting the Subject Property pursuant to the requirements of Section 515B.2-110(d) of the Act, and satisfying the requirements of Minnesota Statutes Chapter 505, 508 or 508A, as applicable, including any amended or supplemental Plat recorded from time to time in accordance with the Act.
- (m) "Subject Property" shall mean and refer to all properties that are subject to this Declaration as defined in Article II, Section 1.
- (n) "Single Family Units" shall refer to the fifteen detached dwelling Units.
- (o) "Single Family Assessments" shall mean 1/65<sup>th</sup> of the costs of the Association arising out of administrative costs, sprinkling costs and maintenance, snow removal, general insurance expenses (excluding, among other things, insurance costs and maintenance reserves for Twinhome Units), common area expenses, and such other costs that benefit the Single Family Units.
- (p) "Twinhome Units" shall mean the fifty twinhome dwelling Units and lots.
- (q) "Twinhome Assessments" shall mean 1/65<sup>th</sup> of the Single Family Assessments, and 1/50<sup>th</sup> of all expenses and reserve amounts that are not subject to Single Family Assessments.
- (r) "Unit" shall mean and refer to a Dwelling (Single Family Units and Twinhome Units) together with the parcel of property or percentage interest in the parcel of property upon which the Dwelling is situated, as legally described in the instrument of conveyance in favor of the current Owner. Unit shall not be construed to include Common Area as herein defined.

ARTICLE II  
PROPERTY SUBJECT TO THIS DECLARATION  
AND USE THEREOF

Section 1. EXISTING PROPERTY.

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the City of Delano, County of Wright, and State of Minnesota, and is legally described as shown on Exhibit "A", all of which real property shall hereinafter be referred to as the "Subject Property".

Section 2. UNITS.

There are sixty-five (65) Units, fifty (50) Twinhome Units and fifteen (15) Single Family Units. Except for any rights reserved to the Declarant under this Declaration, no person may create additional Units by the subdivision or conversion of Units pursuant to Section 515B.2-112 of the Act.

Each Unit constitutes a separate parcel of real estate. The Units shall each be improved with one Dwelling and all Units and Dwellings will be restricted to residential use. Unless stated otherwise in this Declaration, an Owner shall be responsible for maintenance of the Unit and the Dwelling thereon.

The identifiers and locations of the Units are shown on the Plat, which is incorporated herein by reference. The identifier for a Unit shall be its lot and block numbers and the subdivision name. The front, rear and side boundaries of each Unit shall be the boundary lines of the platted lot upon which the Dwelling is located or intended to be located as shown on the Plat.

Section 3. COMMON AREA.

The Common Area shall be owned by the Owners equally, each Owner owning a 1/65<sup>th</sup> interest as a tenant in common, and said areas shall be used for open space, private utilities, and related activities. Maintenance, replacement and repair of sanitary sewer, storm sewer and water lines on the Common Area are the responsibility of the Association. The Common Area shall be conveyed to the Owner as of the date of the initial conveyance of any Unit to an Owner other than Declarant.

ARTICLE III  
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION  
POWERS OF THE ASSOCIATION.

Section 1. MEMBERSHIP.

Every Owner of a Unit which is subject to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Unit which is subject to assessment by the Association. The foregoing is intended to exclude persons or entities holding an interest merely as security for the performance of an obligation

including contract vendors (unless the contract for deed provides otherwise) until such time such person acquires a fee simple interest in such Unit by foreclosure or by a proceeding in lieu thereof, or as to a contract thereunder, until such time as the contract for deed is cancelled. Ownership of such Unit shall be the sole qualification for membership.

## Section 2. VOTING RIGHTS.

The Association shall have two classes of voting memberships.

Class A. All Members described in Section 1 above, with the exception of the Declarant, its successors and assigns, shall be Class A members and shall be entitled to the percentage voting power in the Association indicated on Exhibit C attached hereto. When more than one (1) person holds the interest in a Unit, all such persons shall be Members but the vote for such Unit shall be exercised as they among themselves shall determine, subject, however, to limitation that the voting power for any Unit may not be split. The vote for any Unit which is owned by more than one (1) Member may not be cast at any meeting unless such members have filed with the Secretary of the Association prior to such meeting the name of one (1) of their number who then shall be the only person authorized to cast such vote at such meeting. In lieu of such filing prior to every meeting such Members may file a document executed by all of them, designating one (1) of their number as the person authorized to cast their vote at all future meetings and such authorization shall continue to be valid until such time as such authorization shall have been rescinded in writing by all of such Members.

Class B. The Class B Member shall be the Declarant (as defined in Article I), its successors and assigns, which shall be entitled to three (3) times the voting power indicated on Exhibit C for each Unit owned. The voting power to which Declarant is entitled shall at all times be calculated to include all Units owned by Declarant. Upon the end of the Declarant Control Period, the Class B member shall be deemed to be a Class A member, and if then an Owner, shall be entitled to the voting power indicated on Exhibit C for each Unit in which Declarant holds the interest required for Class A membership.

## Section 3. SUSPENSION OF VOTING RIGHTS.

The right of any Member to vote and the right of any Member, his family or guests to use any recreational facilities that may be acquired by the Association shall be suspended during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended, after notice and hearing, for a period not to exceed sixty (60) days for any infraction of any rules or regulations adopted by the Association.

## Section 4. POWERS OF THE ASSOCIATION.

Declarant hereby delegates to, and the Association hereby is permitted to exercise all powers described in the Governing Documents, the Act and the statute under which it was incorporated.



ARTICLE IV  
PROPERTY RIGHTS AND OBLIGATIONS IN THE COMMON AREA

Section 1.     MEMBERS' EASEMENT AND ENJOYMENT.

Subject to the provisions of Section 2 below, every Member shall have a non-exclusive easement of ingress and egress over the Common Area and a non-exclusive easement and right of enjoyment in and to the Common Area, and such easements shall be appurtenant to and shall pass with the title to every Unit.

Section 2.     EXTENT OF MEMBERS' EASEMENTS.

The rights and easements in favor of the Members created hereby and the title of the Association to the Common Area shall be subject to the following and as further provided herein:

- (a)     Rights, if any, of the City of Delano to maintain the Common Area in the event of failure by the Association to do so;
- (b)     Utility and drainage easements to install sewer, water, gas, electric and telephone lines, transformers towers, poles, lighting fixtures, pipes, conduits, cables, wires, drainage channels and other utility facilities, including the right of access thereto for the purpose of constructing, installing, repairing, maintaining, altering and modifying any such facilities.
- (c)     The right of the Association to regulate the use thereof as provided by the Governing Documents.

Section 3.     DELEGATION OF USE.

Any Owner may delegate, in accordance with the Bylaws, his or her right of enjoyment to the Common Area and facilities to the members of his or her family or to his or her tenants who reside on the Subject Property, subject to the limitation contained in Article IX, Section 9 regarding rental of Dwellings.

Section 4.     TAXES AND MUNICIPAL SPECIAL ASSESSMENTS ON COMMON AREAS.

Taxes and special assessments that would normally be levied against the Common Area shall be divided and levied in equal amounts against the individual Units in the Subject Property, or as the governmental taxing authorities shall determine, which levies shall be a lien against said individual Units.

Section 5.     ASSOCIATION'S EASEMENTS.

The Association or its agents or employees shall have the right to go upon any Unit in

connection with the maintenance or repair of the Common Area or any improvements thereon or in connection with its maintenance responsibilities set forth in Article XIII.

## ARTICLE V SPECIAL DECLARANT RIGHTS

### Section 1. RESERVATION OF RIGHTS.

The Declarant shall have and hereby reserves for its benefit the exclusive and unconditional right to:

- (a) complete improvements indicated on the Plat;
- (b) create Units and/or Common Area on the Subject Property or relocate boundaries between Units or to otherwise alter Units owned by it;
- (c) maintain a sales office, a management offices, model Units and Dwellings, sales and rental facilities and signs advertising the Subject Property within the Common Area and/or any Units owned by the Declarant from time to time, located anywhere on the Property;
- (d) control the operation and administration of the Association, including without limitation the power to appoint and remove the members of the Board of Directors of the Association pursuant to Section 515B.3-103 of the Act, until the earlier of the voluntary surrender of control by Declarant or the end of the Declarant Control Period. Notwithstanding the foregoing, the Members other than Declarant shall have the right to nominate and elect not less than 33 1/3% of the directors of the Association at a meeting of the Members which shall be held within 60 days following the conveyance by Declarant of 50% of the total number of Units authorized to be included in the Subject Property.
- (e) To have and use easements, for itself, its employees, contractors, agents, and prospective purchasers through and over the Common Area for the purpose of exercising its special declarant rights.
- (f) To erect and maintain signs and other sales displays offering the Units for sale or lease, in or on any Unit owned by Declarant and on the Common Area.
- (g) As long as Delcarant owns any of the subject Property or an unsold Unit, Declarant's written consent shall be required for any amendment to the Governing Documents or Rules and Regulations which directly or indirectly affects or may affect Declarant's rights under the Governing Documents.

Additionally, for so long as Declarant is a Class B Member of the Association, Declarant's written consent shall be required for any amendment to the Governing Documents which directly or indirectly

affects or may affect Declarants rights under the Governing Documents.

Section 2. DECLARANT'S EASEMENT.

The Declarant shall convey fee simple title to the Common Area to the Owners as of the date of conveyance of the Units to an Owner other than Declarant, provided, however, that Declarant shall have and does hereby reserve the right and easement to enter upon and pass through, on and over such Common Area for the purpose of maintaining, developing and improving the Common Area or Units and marketing and selling Units. The Declarant shall improve the Common Area, in locations selected by it and pursuant to its plans and specifications, with landscaping and such other improvements and amenities as the Declarant shall determine. The Association shall at all times have responsibility for management and maintenance of the Common Area and shall govern and control the same to the same extent as if the Common Area were owned by the Association, except for the rights and easements of Declarant provided in this Section 2. The cost of such maintenance shall be assessed against the various Units as set forth in Article VI herein.

ARTICLE VI  
COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATIONS OF ASSESSMENTS.

The Declarant, for each Unit owned by it within the Subject Property, hereby covenants, and each Owner of any Unit by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (a) Twinhome Assessments or Single Family Assessments; and (b) special assessments (as hereinafter qualified). Such assessments, together with interest, costs of collection and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs of collection and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them, but may continue to be a lien on the Unit. No Owner may avoid the lien of, or personal liability for, such assessment by nonuse of the Common Area or abandonment of the Owner's Unit. All assessments shall be fixed, established and collected in the manner provided in this Article. Fees, charges, late charges, fines and interest may be assessed as provided in Sections 515B.3-102(a) and 515B.3-116(a) of the Act. A lien created under this Article is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before the Declaration, (ii) any first mortgage.

Section 2. PURPOSE OF ASSESSMENTS.

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Subject Property and for the improvements and maintenance of the Common Area and other areas that the Association is obligated to maintain as provided herein (primarily the Twinhome Units). The annual assessments shall be payable in regular



installments and shall be used for (but not limited to) hazard insurance for Common Area and Twinhome Units; maintenance to be performed by the Association pursuant to Article XIII; an adequate reserve fund for maintenance, repairs and/or replacement of the Common Area and Twinhome Units and improvements thereon and other areas that must be replaced on a periodic basis; and maintenance, repairs and replacement of water, sewer and the utility lines and fixtures that are not the responsibility of the City of Delano, which serve the Common Area or any Unit. Said annual assessments shall also be used for maintenance and replacement of lawn, landscaping and shrubbery on Common Areas and Twinhome Units, for snow removal from paths, driveways and sidewalks located on Units and Common Area and exterior maintenance of the Twinhome Units situated upon the Subject Property.

### Section 3. BASIS OF ANNUAL ASSESSMENTS.

Except as provided in Section 8, below, annual Single Family Assessments, Twinhome Assessments, and special assessments shall be levied as provided herein. Until a common expense assessment is levied, Declarant shall pay all accrued expenses of the Common Interest Community.

After the declaration of the amount of Single Family Assessments and Twinhome Assessments and the levy thereof, the annual assessment for each category maybe subsequently increased by the Board, except that until termination of the Declarant Control Period, the annual assessments for each category may be increased each year not more than the greater of (a) ten percent (10%) above the maximum assessment for the previous calendar year; or (b) the percentage increase in the Consumer Price Index for the previous twelve months. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year in a lesser amount. The maximum annual assessment may be increased by a greater amount by the affirmative vote of Members holding at least eighty percent (80%) of the voting power of the Association and who are voting in person or by proxy at a meeting duly called for this purpose.

### Section 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.

In addition to the annual assessments authorized by Section 3 hereof, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of a capital improvement, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of the majority of Owners of Twinhome Units and who are voting in person or by proxy at a meeting duly called for this purpose. The Association may not assess Owners of Single Family Units for the cost of any construction, reconstruction, unexpected repair or replacement of a capital improvement pertaining to Twinhome Units.

### Section 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4.

Written notice of any meeting of the general membership required for an action authorized

under Sections 3 or 4 shall be sent to all Members not less than twenty-one (21) nor more than forty-five (45) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the entire voting power of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the quorum required at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. ANNUAL AND SPECIAL ASSESSMENTS.

Except as provided in Section 7, below, Single Family Assessments, Twinhome Assessments, and special assessments must be allocated as defined herein. This requirement shall not apply to:

- (a) common expenses or portions thereof benefiting fewer than all of the Units, which may be assessed exclusively against those Units benefited in proportion to the common expense liability percentages indicated on Exhibit C attached hereto for those Units;
- (b) reasonable attorney's fees incurred by the Association in connection with the collection of assessments or the enforcement of the Governing Documents or the Rules and Regulations against a Member, occupant, or their guests, which may be assessed against the Member's Unit;
- (c) fees and charges, interest, fines and late charges for: services provided to specific Units, late payments of assessments, violations of the Governing Documents or Rules, fees for preparation of Association documents, resale certificates, etc.; and
- (d) willful or negligent acts as set forth in Section 11 hereof.

If additional Units are added to the Subject Property (by the subdivision or conversion of Units by Declarant), the Owner of each additional Unit shall be responsible for all special assessments levied on or after the date of such addition.

Section 7. ALTERNATIVE ASSESSMENT PROGRAM FOR DECLARANT.

Notwithstanding anything to the contrary in this Article, any Unit owned by the Declarant shall be assessed at the rate of 25% of the amount which would otherwise be assessed against such Units until such time that a Certificate of Occupancy is issued by the City of Delano for the Unit. This alternative assessment does not apply to the portion of assessments allocated to replacement reserves. This reduced assessment shall apply to each Unit owned by Declarant and shall continue until the issuance of the certificate of occupancy as previously described. Declarant makes no assurances that this alternative assessment program will have no effect on the level of services for

items set forth in the Association's budget.

Section 8. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS, DUE DATES.

The annual assessments provided for herein shall commence as to all Units on the date that the first Unit is sold to an Owner other than Declarant (or its affiliate).

The first annual assessment shall be made for the balance of the calendar year and shall become due and payable in equal installments on payment dates to be established by the Board of Directors.

The amount of annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in the year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section 4 shall be fixed by the resolution authorizing such assessment.

Section 9. DUTIES OF THE BOARD OF DIRECTORS.

The Board of Directors of the Association shall fix the amount of the assessment against each Unit for each assessment period at least thirty (30) days in advance of such date or period.

Written notice of the assessment shall be sent to every Owner subject thereto, provided, however that the failure to send such written notice shall not render any assessment invalid.

The Board shall have the right to collect any annual or special assessment on a monthly basis. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a given Unit have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 10. ASSESSMENT OF COST DUE TO WILLFUL OR NEGLIGENT ACTS.

If the need for maintenance or repair is due to the willful or negligent acts of an Owner or the Owner's family, guests, tenants or invitees, the cost of such maintenance less the net insurance proceeds received by the Association due to such act or neglect, if any, shall be assessed against such Owner's Unit and shall be added to and become a part of the current annual assessment against that Unit and, at the option of the Board, shall be payable in full with the next monthly installment of the then current annual assessment, or divided equally over the remaining months for the then current annual assessment and payable with and in addition to the monthly installments of the then current

annual assessment.

Section 11. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) per annum. The Association may bring (a) an action at law against the Owner personally obligated to pay the assessments, and/or (b) foreclose its lien for the amounts owed by the Owner.

To evidence a lien for sums assessed pursuant to this Article, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Unit, and a description of the Unit and file or record the same but such notice of lien shall not be recorded until such assessment has been wholly or partially unpaid for at least thirty (30) days from the due date. Such lien may be enforced and foreclosed by the Association in the same manner in which mortgages on real property may be foreclosed by action or by advertisement under a power of sale in Minnesota. Each Owner, by acceptance of a deed for any Unit, does further hereby give full and complete power of sale to the Association and does consent to a foreclosure of the assessment lien as if such lien were a mortgage containing a power of sale. In the event of any such foreclosure, and in the further event that the Association shall prevail in any such foreclosure, the person personally obligated to pay the same shall be required to pay all costs of foreclosure, including but not limited to, reasonable attorney's fees. The person personally obligated to pay such lien shall also be required to pay the Association any assessments against the Unit which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use, and otherwise deal with the Unit as the Owner thereof. Prior to reselling the Unit after foreclosure, no assessments shall be levied against the subject Dwellings; provided, however, that if the Association rents or leases the Dwelling, the Association shall once again have the right to levy assessments against said Dwelling. A release or satisfaction of the notice of lien shall be executed by an officer of the Association and recorded upon payment of all sums secured by such lien.

Section 12. SUBORDINATION OF LIEN TO MORTGAGES.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon a Unit. Sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof (including the delivery of a deed in lieu thereof) shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall release such Unit from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments.

All other parties acquiring liens on any Unit after this Declaration is recorded shall be deemed to consent that their liens shall be and remain inferior to future liens provided for herein.



The Association shall, upon written request, report to any first Mortgagee or other encumbrance of a Unit the amount of the assessments remaining unpaid for a period longer than ninety (90) days after the same shall become due.

Section 13. EXEMPT PROPERTY

The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

- (a) All properties dedicated and accepted by the local public authority and devoted to public use;
- (b) All properties exempted from taxation by the laws of the State of Minnesota upon the terms and to the extent of such legal exemption: and
- (c) All Common Area as defined in Article I hereof.

Notwithstanding any provision herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VII  
PARTY WALLS

Section 1. GENERAL RULES OF LAW TO APPLY

Each wall which is built as a part of the original construction of the Dwelling upon the Subject Property and placed on the dividing line between the Twinhome Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. SHARING OF REPAIR AND MAINTENANCE

The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use; provided (i) that any maintenance, repair or replacement necessary due to the acts or omissions of a certain Owner or Occupant sharing such party wall shall be paid for by such Owner, and (ii) that the Association may contract for and supervise the repair of damage caused by an Owner or Occupant and assess the Owners for their respective shares of the costs to the extent not covered by insurance.

Section 3. DESTRUCTION BY FIRE OR OTHER CASUALTY

If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such



Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4.     WEATHERPROOFING.

Notwithstanding any other provision of this Article, an Owner who by his or her negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5.     RIGHT TO CONTRIBUTION RUNS WITH LAND.

The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6.     ARBITRATION.

In the event of any dispute arising concerning any party wall or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all of the arbitrators.

Section 7.     LIEN RIGHTS.

As soon as any expenses for repair and maintenance of a party wall are known, each Owner agrees to make the necessary payments due as soon as reasonably possible. If an Owner fails to make any payment which is due or is necessary to avoid a payment to any contractor, supplier or creditor becoming delinquent, the other Owner shall have the right to make such payment and upon making such payment, such payment shall be deemed to be due and owing from the defaulting Owner and the nondefaulting Owner shall have the right to file a lien against the defaulting Owner's Unit together with interest at the judgment rate as that rate is established from time to time. To evidence such lien, the non-defaulting Owner may prepare a written notice of lien, setting forth the amount due together with the interest, which notice shall be filed against the defaulting Owner's Parcel in the office of the Wright County Recorder. This lien shall be superior to all other liens and encumbrances except liens for general real estate taxes and assessments and the lien of any first mortgage. Such lien can be enforced and foreclosed by an action in the same manner in which mechanic's liens can be enforced and foreclosed under the laws of the State of Minnesota and in such action the defaulting Owner shall be liable for all costs of such action including attorneys' fees.

ARTICLE VIII  
ARCHITECTURAL CONTROL COMMITTEE

Section 1.     No exterior additions, removals or alterations (including changes in color or appearance) to any building on the Subject Property, additional fences, patio, deck, hedges, walls, walkways, and other structures shall be commenced, erected or maintained except such as are installed or approved by the Declarant in connection with the initial construction of the improvements on the Subject Property, until the plans and specifications showing the nature, kind, shape, height,

materials, location and approximate cost of same shall have been submitted to and approved in writing as to harmony of the external design and location in relation to surrounding buildings erected upon the Subject Property by an architectural committee composed of the Board of Directors of the Association or three (3) or more representatives appointed by the Board of Directors. In the event said Board or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, such approval shall be deemed to have been given. If no application has been made to the architectural committee or their representatives, or if such application has been rejected, a suit to enjoin or remove such additions, alterations or changes may be instituted at any time by the Association or any Owner, in which suit the Association or any Owner shall have the right to collect reasonable attorneys' fees, costs and expenses. None of the members of the architectural committee shall be entitled to any compensation for their services performed pursuant to this paragraph, but compensation may be allowed to independent professional advisors retained by such committee. During the time in which the Association has a Class B membership, all decisions of the architectural committee may be vetoed by the Declarant.

Section 2. The Association may undertake any measures, legal or administrative, to enforce compliance with this Article and shall be entitled to recover from the Owner causing or permitting the violation, all attorneys' fees and costs of enforcement, whether or not a legal action is started. Such attorneys' fees and costs shall be a lien against the Owner's Unit and a personal obligation of the Owner. In addition, the Association shall have the right to enter the Owner's Unit and to restore any part of the Dwelling or Unit to its prior condition if any alterations were made in violation of this Article and the costs of such restoration shall be a personal obligation of the Owner and a lien against the Owner's Unit.

Section 3. The criteria for approval shall include and require, at a minimum (i) substantial uniformity of color, size, location, type and design in relation to existing improvements and topography with respect to the Twinhomes; (ii) comparable or better quality of materials as used in existing improvements; (iii) ease of maintenance and repair with respect to the Twinhomes; (iv) adequate protection of the Subject Property, the Association, Owners and occupants from liability and liens arising out of the proposed alterations; (v) compliance with governmental laws, codes and regulations.

Section 4. All plans for construction to the Single Family Units must be approved in advance by the Architectural Control Committee. Any alterations to the Single Family Units after the initial construction shall be subject to the review of the Architectural Control Committee, and any alterations or additional improvements shall be of such quality and character as to benefit the whole community.

Section 5. The following procedures shall govern requests for alterations under this Section:

- a. Detailed plans, specifications and related information regarding any proposed alteration, in form and content acceptable to the Board of Directors or Architectural Control Committee, shall be submitted to the Board of Directors or Architectural

Control Committee at least 90 days prior to the projected commencement of construction. No alteration shall be commenced prior to approval.

- b. The Board of Directors or Architectural Control Committee shall give the Owner written notice of approval or disapproval. If the Board of Directors or Architectural Control Committee fails to approve or disapprove within 90 days after receipt of said plans and specifications and all other information requested by the Board of Directors or Architectural Control Committee, then approval will not be required, and this Section shall be deemed to have been fully complied with so long as the alterations are done in accordance with the plans, specifications and related information which were submitted.
- c. If no request for approval is submitted, approval is denied, unless (i) the alterations are reasonably visible; and (ii) no written notice of the violation has been given to the Owner in whose Unit the alterations are made, by the Association or another Owner, within six (6) months following the date of completion of the alterations. The Owner of the Unit in which the alterations are made shall have the burden of proof, by clear and convincing evidence that the alterations were completed and reasonably visible for at least six (6) months following completion and that the notice was not given.

Section 6. A Unit Owner of a Unit in residential use may at the Unit Owner's expense make improvements or alterations to the Unit as necessary for the full enjoyment of the Unit by any person residing in the Unit who has a handicap or disability as defined under Section 515B.2-113 of the Act. Notwithstanding the right to make alterations, the Unit Owner must still comply with the Governing Documents as outlined in Section 515B.2-113 of the Act.

## ARTICLE IX BUILDING AND USE RESTRICTIONS

### Section 1. LAND USE.

No Unit shall be used except for residential purposes.

### Section 2. NUISANCES.

No noxious or offensive activities shall be carried on upon any Unit, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

### Section 3. PETS.

No animals, reptiles, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Dwelling or in the Common Area, except that dogs, cats or other household pets may be kept in the Dwellings subject to rules and regulations adopted by the Board, provided that they are not kept, bred or maintained for any commercial purpose, and provided further, that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the

Subject Property upon 30 days written notice from the Board of Directors. Pets may be kept outside a Dwelling only when personally attended on a leash by a Member (or a member of a Member's family) who shall immediately pick up and properly dispose of any pet wastes. No kennels of any sort shall be allowed. No invisible fencing may be used for pets except by Owners of Single Family Units.

Section 4.     GARBAGE AND REFUSE DISPOSAL.

No Unit shall be use or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers and no exterior burning of household refuse shall be done.

Section 5.     PROHIBITED STRUCTURES, WINDOW TREATMENTS AND LAWN ORNAMENTS.

No structure of a temporary character, basketball hoop, play ground equipment, trailer, tent, shack, storage shed, boat house, barn or other out-building shall be constructed on any Unit. No garage shall be used at any time as a residence either temporarily or permanently. Window treatments must be in harmony with the design of the Dwelling and the surrounding area and must be properly installed. No blankets, sheets, loose fabric or excessively-brightly colored window treatments shall be permitted. No lawn ornaments or sculptures shall be permitted on any Unit unless inside a Dwelling and not visible from the exterior of the Dwelling. The Architectural Control Committee shall be the final arbiter of any disputes under this Section.

Section 6.     STORAGE.

No boats, snowmobiles, trailers, camping vehicles, recreational vehicles, unlicensed or inoperable automobiles or trucks or other vehicles (except automobiles belonging to the Owner or an Owner's guest) shall at any time be stored or parked on any Unit outside of a house or garage. No such boats, snowmobiles, trailers, camping vehicles, unlicensed or inoperable automobiles or trucks or other vehicles shall be stored or parked on any part of the Common Area without the express written approval of the Board of Directors.

Section 7.     SEWER FACILITIES.

The sewer disposal facilities in the Subject Property shall be limited to the municipal sanitary sewer system.

Section 8.     TIME SHARES.

The timeshare form of ownership, or any comparable form of lease, occupancy rights or ownership which has the effect of dividing the ownership or occupancy of a Unit into separate time periods is prohibited.

Section 9.     PARKING.

Garages and parking areas on the Subject Property shall be used only for parking of vehicles



owned or leased by Owners and Occupants and their guests, and such other incidental uses as may be authorized in writing by the Association. The use of garages, driveways, and other parking areas on the Subject Property, and the types of vehicles and personal property permitted thereon, shall be subject to regulation by the Association, including without limitation the right of the Association to tow illegally parked vehicles or to remove unauthorized personal property.

Section 10. ACCESS TO UNITS.

In case of emergency, all Units are subject to entry, without notice and at any time, by an officer or a member of the Board of the Association, by the Association's management's agents or by any public safety personnel. Entry is also authorized for maintenance purposes and for enforcement purposes of the Rules and Regulations hereunder.

**ARTICLE X**  
**EASEMENTS**

Section 1. UTILITIES AND DRAINAGE EASEMENTS.

Easements for installation and maintenance of utilities and drainage facilities are hereby created and dedicated in, over and upon the Common Area and the Subject Property as constructed or referred to in the plat, or otherwise described in this Declaration or any other duly recorded instrument. Each Unit, and the rights of the Owners thereof, shall be subject to a non-exclusive easement in favor of the other Units for such services, including without limitation, any sewer or water lines servicing other Units. Each Unit shall also be subject to an exclusive easement in favor of the Association and all utility companies providing service to the Units for the installation and maintenance of utilities metering devices. Within these easements, no structure, fence, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements, or which may interfere with snow plowing or snow storage within these easements.

Section 2. WATER AND ELECTRICITY EASEMENTS.

The rights and easements of enjoyment by the Owner of each Unit and the title of such Owner in said Unit shall be subject to the rights of the Association to an exclusive easement on and over said Unit for the purpose of installing and maintaining a source of water and electricity from Dwellings to serve the Common Area.

If water or electricity taken from such Unit is used to serve the Common Area and such water and electricity is not separately metered, the Association and the Owner of the affected Unit shall agree on a reasonable method and amount of compensation payable therefore by the Association to the Owner. In the event that the parties cannot agree on a reasonable method and amount of



compensation, each party shall choose one arbitrator and the two (2) arbitrators shall choose a third arbitrator and the decision of the majority of all arbitrators shall be final and conclusive of the method and amount of compensation to be paid.

Section 3. CONTINUATION IN SCOPE OF EASEMENTS.

Notwithstanding anything in this Declaration to the contrary, in no event shall an owner be denied reasonable access to his or her Unit or the right to utility services thereto. The easement set forth in this Section shall supplement and not limit any easements described elsewhere in this Declaration or recorded, and shall include reasonable access to the easement areas through the Units and the Common Areas for purposes of maintenance, repair, replacement and reconstruction.

ARTICLE XI  
INSURANCE

Section 1. REQUIRED COVERAGE.

The Association shall obtain and maintain, at a minimum, a master policy or policies of insurance in accordance with the insurance requirements set forth in the Act and the additional requirements set forth herein, issued by a reputable insurance company or companies authorized to do business in the State of Minnesota, as follows:

- (a) Property insurance in broad form covering all risks of physical loss for the full insurable replacement costs of the improvements on the Twinhome Units and Common Areas, less deductibles, exclusive of land, footings, excavation and other items normally excluded from coverage (but including all building service equipment and machinery). Furthermore, the insurance will not cover ceiling or wall finishing materials, floor coverings, cabinetry, finished millwork, electrical or plumbing fixtures (serving a Single Townhome Unit), built-in appliances, or other improvements or betterments, regardless of when installed. The policy or policies shall cover personal property owned by the Association and shall name the Association as the named insured. The policy or policies shall also contain "Inflation Guard" and "Agreed Amount" endorsements, if reasonably available. Such policy or policies shall include such additional endorsements, coverages, deductibles and limits with respect to the foregoing and other hazards as may be required from time to time by the regulations of the FHA or Federal National Mortgage Association ("FNMA") as a precondition to their insuring, purchasing or financing a mortgage on a Unit. The Board may also, on behalf of the Association enter into binding written agreements with a mortgagee, insurer or servicer, including without limitation the FHA or FNMA, obligating the Association to keep certain specified coverages or endorsements in effect. The Owners of the Single Family Units shall maintain their own insurance equivalent to the insurance required herein. In addition, the Owners of Single Family Units shall supply upon request proof of the necessary insurance.
- (b) Comprehensive public liability insurance covering the ownership, existence, use,

operation or management of the Subject Property, with minimum limits of \$1,000,000 per occurrence, against claims for death, bodily injury and property damage, and such other risks as are customarily covered by such policies for projects similar in construction, location, and use to the Subject Property. Unit owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, operation or management of the Common Area. The policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an owner or occupant of a Unit because of the negligent acts of the Association or other owners or occupants and shall cover claims of one or more insured parties against other insured parties. The policy shall include such additional endorsements, coverages and limits with respect to such hazards as may be required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit.

- (c) Fidelity bond or insurance coverage against dishonest acts on the part of directors, officers, managers, trustees, employees or persons responsible for handling funds belonging to or administered by the Association if deemed to be advisable by the board or required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit. The fidelity bond or insurance shall name the Association as the named insured and shall, if required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit, be written in an amount equal to the greater of (i) the estimated maximum of Association funds, including reserves, in the custody of the Association or management agent at any given time while the bond is in force, or (ii) a sum equal to three months aggregate assessments on all Units plus reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers, or a waiver of defense based upon the exclusion of persons serving without compensation shall be added.
- (d) Worker's compensation insurance, as required by law.
- (e) Such other insurance as the Board of Directors may determine from time to time to be in the best interests of the Association and the Members.

Policies carried pursuant to subsections (a) and (b) shall provide that:

1. each Member and any secured party of the Member's Unit is an insured person under the policy with respect to liability arising out of the Member's interest in the Common Area or the Member's membership in the Association;
2. the insurer waives its rights to subrogation under the policy against any Member (or members of Member's household) and against the Association and Directors;
3. no act or omission by any Member or secured party, unless acting within the scope

of authority on behalf of the Association, shall void the policy or be a condition to recovery under the policy; and

4. the Association's policy shall be the primary insurance if at the time of a loss under the policy, there is other insurance in the name of a Member covering the same property covered by the Association's policy.

Section 2. PREMIUMS; DEDUCTIBLES.

All insurance premiums shall be assessed and paid as a common expense (except that as previously stated said expense shall not be allocated to the assessments of the Owners of the Single Family Units as those insurance premiums relate to the coverage relating to physical loss of any Twinhome Unit). The insurance may not cover improvements and betterments to the Twinhome Units installed by Owners, but if improvements and betterments are covered, any increased costs may be assessed against the Units affected. The Association may, in the case of a claim for damage to a Twinhome Unit, (i) pay the deductible amount as a Common Expense; (ii) assess the deductible amount against the Units affected in any reasonable manner; or (iii) require the Owners of the Units affected to pay the deductible amount directly.

Section 3. REPLACEMENT OR REPAIR OF PROPERTY.

Any portion of the Subject Property that has been damaged or destroyed by a loss covered by the Association's insurance shall be promptly repaired or replaced by the Association unless (i) the Community is terminated; (ii) such repair or replacement would be illegal; or (iii) Members holding at least 80% of the voting power of the Association (including every Member and first mortgagee on a Unit which shall not be rebuilt) vote not to rebuild. If less than the entire Subject Property is repaired or replaced, the insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition compatible with the remainder of the Community, the proceeds attributable to Units which are not rebuilt shall be distributed to the owners of those Units and the secured parties of those Units, as their interests may appear, and the remainder of the proceeds shall be distributed to all Unit Owners and secured parties as their interests may appear, in proportion to their common expense liability. The cost of repair or replacement of Common Area in excess of insurance proceeds and reserves shall be paid as a common expense, and the cost of repair of a Unit in excess of insurance proceeds shall be paid by the respective Unit Owner.

Section 4. CANCELLATION; NOTICE OF LOSS.

All policies of property insurance and comprehensive liability insurance maintained by the Association shall provide that the policies shall not be cancelled or substantially modified, for any reason, without at least 30 days prior written notice to the Association, all of the insureds, and all mortgagees of Units (including, if applicable, the FHA or FNMA).

Section 5. REVIEW OF POLICIES.

All insurance policies shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed.

Section 6. BLANKET CASUALTY INSURANCE BY OWNER.

Every Owner of a Unit shall carry, maintain, and timely pay the premium or premiums on a policy of fire, extended coverage, vandalism, and malicious mischief, with all risk endorsement insurance. Said insurance shall cover a minimum of the entire replacement cost of the improvements on such Unit and shall provide for at least ten days' notice to the Board of Directors of the Association before cancellation or material change in such insurance.

Section 7. REALLOCATION OF INTERESTS FOR DESTROYED UNITS.

If, pursuant to Section 3, a Unit is not rebuilt after a casualty, that Unit's entire interest in the Common Area, votes in the Association and common expense liability are automatically reallocated upon the vote as if the Unit had been condemned, and the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocations.

ARTICLE XII  
SPECIAL PROVISIONS

Section 1. OVERRIDING PROVISIONS.

The provisions of this Article take precedence over any other conflicting provisions of this Declaration.

Section 2. NOTICE OF DEFAULT.

A first mortgagee of a Unit, upon request, is entitled to written notification from the Association of any default in the performance by the Owner of any obligation under the Governing Documents known to the Association which is not cured within sixty (60) days.

Section 3. EXEMPTION FROM RIGHT OF FIRST REFUSAL.

Any first mortgagee of a Unit who obtains title to a Unit pursuant to the remedies provided in its mortgage, or by foreclosure of its mortgage, or by deed or assignment in lieu of foreclosure, will be exempt from any right of first refusal contained in the Declaration or By-Laws.

Section 4. LIABILITY FOR UNPAID ASSESSMENTS.

Any first mortgagee of a Unit who obtains title to a Unit pursuant to the remedies provided in its mortgage or by foreclosure of its mortgage shall not be liable for the unpaid assessments of the Unit which accrue prior to the acquisition of title to such Unit by the mortgagee.



Section 5.     RESTRICTED ACTIVITIES.

Until the Association has received written approval from all of the first mortgagees of Units, all Owners other than the Declarant and the Class B Member for so long as a Class B membership exists. The Association shall not be entitled to:

- (a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned, directly or indirectly, by the Association for the benefit of the Units. The granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area shall not be deemed a transfer within the meaning of this subsection;
- (b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;
- (c) By act or omission change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Dwellings, the maintenance of the Common Area, party walls or common fences and driveways, or the upkeep of lawns and plantings;
- (d) Fail to maintain first and extended coverage on insurable Common Areas on a current replacement cost basis in an amount not less than 100% of the insurable value, based on current replacement costs; or
- (e) Use hazard insurance proceeds received for losses to any Common Areas other than for the repair, replacement or reconstruction of such Common Areas.

Section 6.     EXAMINATION OF BOOKS AND RECORDS.

First mortgagees shall have the right to examine the books and records of the Association.

Section 7.     RIGHT TO CURE DEFAULT.

First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums in hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Area, and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 8.     PRIORITY OF FIRST MORTGAGEES.

No provision of the Declaration or By-laws shall be construed as giving to the Owner or to any other party priority over any rights of first mortgagees of Units pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or



a taking of Common Area.

#### Section 9. FORECLOSURE OF FIRST MORTGAGES AND CONTRACTS.

The sale or transfer of any Unit pursuant to the foreclosure of a first Mortgage, or pursuant to any other proceeding or arrangement in lieu of such foreclosure or cancellation, shall extinguish the lien of all other assessments as to the installments which became due prior to the effective date of such sale, transfer or acquisition by the Mortgagee to the end that no assessment liability shall accrue to an acquiring Mortgagee except with respect to installments of assessments becoming due after possession has passed to such acquiring Mortgagee, whether such possession has passed at the termination of any period of redemption or otherwise; provided, however, that if a first mortgage on a Unit is foreclosed, the first mortgage was recorded after June 1, 1994, and no Owner redeems during the Owner's period of redemption provided by Minnesota Statutes Chapters 580, 581 or 582, then the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the Unit subject to unpaid assessments for Common Expenses levied pursuant to Sections 515B.3-115 (a), (h)(1) to (3), (i), and (l) of the Act, which became due, without acceleration, during the six months immediately preceding the first day following the end of the Owner's period of redemption. In the event of the extinguishment of such assessment lien as aforesaid, the entire amount of such unpaid assessment shall be reallocated and assessed against, and payable by the Owners of, all other Units in the Association, exclusive of such encumbered Unit. No such sale, transfer or acquisition of possession shall relieve an Owner of a Unit from liability for any assessments thereafter becoming due or from the lien thereof, nor shall it relieve the person personally obligated to pay the assessments which were levied prior to the transfer of such Unit from the personal obligation to pay the same.

### ARTICLE XIII MAINTENANCE

#### Section 1. MANDATORY MAINTENANCE

The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for, and be vested with, the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair (consistent with its natural character). In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance for each Twinhome Unit which is subject to assessment hereunder, as follows: painting, repair, replacement, cleaning and care of roofs, soffits, fascia, gutters, downspouts and exterior building surfaces, care and replacement of trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include window's, doors, screens and garage doors (except painting, which shall be a responsibility of the Association), exterior air conditioning units, gardens, shrubs and other plantings established by Owners and not by the Association and private decks or patios except that if an Owner after notice neglects to replace broken glass in exterior surfaces, or fails to maintain the appearance of its air conditioning unit, or private deck or patio, the Association may do so, charging the cost thereof to such Owner. At the option of the Board, the Association may undertake to clean exterior glass surfaces. All such painting, repair and

maintenance shall be done as and when, and to the extent that, the Board deems it necessary or desirable. The Association shall remove snow from the driveway's, parking areas and sidewalks of all Units, but shall not be required to remove snow from decks or patios. The Owners of the Single Family Units shall be responsible for all maintenance associated with their property and Units and shall maintain their Units in accordance with the standards established and maintained by the Association. If after notice, an Owner of a Single Family Unit does not maintain the Unit in accordance with the standards of the Association, then the Association may cause said maintenance and improvements to be done and directly assess the Owner for said work as provided herein.

Section 2.     ACCESS AT REASONABLE HOURS.

For the purpose solely of performing the maintenance and repairs authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter any Dwelling and upon any Unit with such persons and material as the Association deems necessary at reasonable times during the day.

Section 3.     EMERGENCY ACCESS.

For the purpose of performing emergency action to seal a Dwelling from weather or otherwise to prevent damage or destruction to any Dwelling, the Association through its duly authorized agents or employees, shall have the right to enter any Dwelling, and upon any Unit at any time, without notice, with such persons and material as the Association deems necessary to accomplish such emergency repairs or to take such emergency action.

Section 4.     LAWN AND PLANTING MAINTENANCE.

The Association shall mow, water, rake and maintain, all to the extent the Board deems necessary or desirable, the irrigation system, all lawns and exterior plantings except that the Association may, but shall not be required to, water gardens and plantings established by Owners, and to the extent the Association undertakes to do so, it will not be responsible for any damage to such gardens and plantings due to overwatering, underwatering or improper watering. The Association will not be responsible for lawn and planting maintenance of the Single Family Units but may intercede and maintain the lawns and plantings of said Units if the Owners thereof fail to maintain the property in accordance with the standards of care as established by the Association.

Section 5.     DAMAGED CAUSED BY OWNER.

Notwithstanding any provision to the contrary in this Section, if, in the judgment of the Association, the need for maintenance of any part of the Subject Property is caused by the willful or negligent act or omission of an Owner or Occupant, or their guests, or by a condition in a Unit which the Owner or Occupant has willfully or negligently allowed to exist, the Association may cause such damage or condition to be repaired or corrected (and enter upon any Unit to do so) and the costs thereof may be assessed against the Unit of the Owner responsible for the damage. In the case of party walls between dwellings, the Owners of the effected dwelling shall be liable.

ARTICLE XIV  
EMINENT DOMAIN

Section 1.     TOTAL TAKING OF UNIT AND DWELLING.

If a Unit and Dwelling is acquired by eminent domain, or if so much of a Unit and Dwelling is acquired by eminent domain as to effectively leave the Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award, including severance damages, shall compensate the Owner of the Unit and Dwelling and holder of a first mortgage or other security interest of record as their interests may appear. Any such remnant of a Unit and Dwelling remaining after part of a Unit and Dwelling is taken shall be conveyed to the Association and shall thereafter be Common Area. The voting rights and liability for expenses attributable to the Unit and Dwelling acquired by eminent domain shall be reapportioned among the remaining Units.

Section 2.     PARTIAL TAKING OF UNIT AND DWELLING.

Unless treated as a total taking under Section 1, if part of a Unit and Dwelling is acquired by eminent domain, the award shall compensate the Owner and first mortgagee of the Unit and Dwelling as their interests may appear for the reduction in value of the Unit and Dwelling. A partial taking of a Unit or Dwelling shall not affect the voting rights or liability of that Unit or Dwelling, for common expenses.

Section 3.     TAKING OF COMMON AREA.

If part of the Common Area is acquired by eminent domain, the award shall be paid to the Association. The Association shall divide any portion of the award not used for any restoration or repair of the remaining Common Area among the Owners and first mortgagees as their interests may appear in proportion to their Class A votes in the Association before the taking.

ARTICLE XV  
GENERAL PROVISIONS

Section 1.     ENFORCEMENT.

The Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2.     RULES AND REGULATIONS.

The Association may make reasonable rules and regulations governing the use of the Units and of the Common Areas, which rules shall be consistent with the rights and duties established in

this Declaration. The Declaration shall supersede any conflicting rules by the Association.

Section 3. SEVERABILITY.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way effect any other provisions which shall remain in full force and effect.

Section 4. DURATION AND AMENDMENT.

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by, the Association or the Owner of any Unit subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time the covenants and restrictions shall be automatically renewed for successive periods often (10) years.

Except as provided in the Act or as hereinafter provided, the covenants and restrictions of this Declaration may be amended only by the assent of Members holding at least seventy-five percent (75%) of the voting power of each class of Members. Any amendment must be properly recorded and a recorded certificate of the Secretary of the Association certifying that the amendment was approved by Members holding at least 75% of the voting power of each class of Members shall be sufficient evidence of such fact. The prior written approval of all the first mortgagees of Dwellings or Owners other the Declarant shall be required for any amendment of this Declaration which would affect the right of the Association to do any of the acts specified in Article XII, Section 5(a), (b), (c), (d) and (e).

Section 5. NOTICES.

Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed postage-paid to the last known address of the person who appears as Member or Owner on the records of the Association at the time of mailing.

Section 6. MERGERS.

Upon a merger or consolidation of the Association with another corporation as provided in its Articles and By-Laws, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or corporation, or, alternatively, the properties, rights and obligations of another corporation may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or additions to the covenants established by this Declaration within the Subject Property except as hereinabove provided.



Section 7. CONFLICTS AMONG DOCUMENTS

In the event of any conflict among the provisions of the Act, the Declaration, the By-Laws or any Rules or Regulations approved by the Association, the Act shall control. As among the Declaration, By-Laws and Rules and Regulations, the Declaration shall control and as between the By-Laws and the Rules and Regulations, the By-Laws shall control.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto caused these presents to be executed this 29th day of March, 2000.

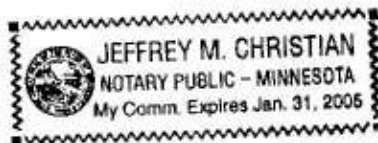
Marsh Ridge Partners, LLC, a Minnesota  
limited liability company

By: [Signature]

Its: Chief Manager

STATE OF MINNESOTA    )  
                                      ) ss.  
COUNTY OF HENNEPIN    )

On this 29 day of March, 2000, before me, a Notary Public, personally appeared Jeffrey L. Martin to me personally known, who, after being first duly sworn, did state that he/she is a Chief Manager of Marsh Ridge Partners, LLC, a Minnesota limited liability company, and that he/she signed the same on behalf of said company.



[Signature]  
Notary Public

**CONSENT OF MORTGAGEE**

Beacon Bank being the Mortgagee under that certain Mortgage dated March 29, 2000, by and between Beacon Bank and Marsh Ridge Partners, LLC, and filed for record as document number \_\_\_\_\_ with the Wright County Recorder on \_\_\_\_\_, 2000, does hereby consent to this Declaration of Covenants, Conditions and Restrictions and to the filing of the same.

Beacon Bank

By: Ted C. Vukobratovic

Its: Vice President



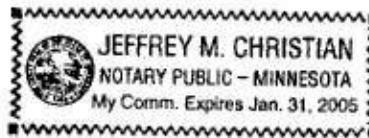
STATE OF MINNESOTA )

) ss.

COUNTY OF HENNEPIN )

On this 29 day of March, 2000, before me, a Notary Public, personally appeared Ted Victor, to me personally known, who, after being first duly sworn, did state that he/she is the Vice President of Beacon Bank, and that he/she signed the same on behalf of the Bank.

Notary Public



This instrument was drafted by:

C. Scott Massie  
Attorney at Law  
1055 East Wayzata Blvd  
Suite 300  
Wayzata, MN 55391  
C:\CSM\ANDRADE\Declaration.doc

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTIRCTIONS  
MARSH RIDGE TOWNHOMES

EXHIBIT A

Subject Property

Lots 1 – 6, Block 1, Lots 1 – 8, Block 2, Lots 1 – 42, Block 3, and Lots 1 – 9, Block 4, all  
in Marsh Ridge, Wright County, Minnesota.

EXHIBIT B

Common Area

Outlots B and C, Marsh Ridge, Wright County, MN.

# EXHIBIT C

## Voting and Common Expense Liability Percentages

UNIT	PERCENTAGE		UNIT	PERCENTAGE	
	Voting	Expense		Voting	Expense
Lot 1, Block 1	1/65 <sup>th</sup>	To be determined as provided in the Declaration and Bylaws	Lot 23, Block 3	1/65 <sup>th</sup>	To be determined as provided in the Declaration and Bylaws
Lot 2, Block 1	1/65 <sup>th</sup>		Lot 24, Block 3	1/65 <sup>th</sup>	
Lot 3, Block 1	1/65 <sup>th</sup>		Lot 25, Block 3	1/65 <sup>th</sup>	
Lot 4, Block 1	1/65 <sup>th</sup>		Lot 26, Block 3	1/65 <sup>th</sup>	
Lot 5, Block 1	1/65 <sup>th</sup>		Lot 27, Block 3	1/65 <sup>th</sup>	
Lot 6, Block 1	1/65 <sup>th</sup>		Lot 28, Block 3	1/65 <sup>th</sup>	
Lot 1, Block 2	1/65 <sup>th</sup>		Lot 29, Block 3	1/65 <sup>th</sup>	
Lot 2, Block 2	1/65 <sup>th</sup>		Lot 30, Block 3	1/65 <sup>th</sup>	
Lot 3, Block 2	1/65 <sup>th</sup>		Lot 31, Block 3	1/65 <sup>th</sup>	
Lot 4, Block 2	1/65 <sup>th</sup>		Lot 32, Block 3	1/65 <sup>th</sup>	
Lot 5, Block 2	1/65 <sup>th</sup>		Lot 33, Block 3	1/65 <sup>th</sup>	
Lot 6, Block 2	1/65 <sup>th</sup>		Lot 34, Block 3	1/65 <sup>th</sup>	
Lot 7, Block 2	1/65 <sup>th</sup>		Lot 35, Block 3	1/65 <sup>th</sup>	
Lot 8, Block 2	1/65 <sup>th</sup>		Lot 36, Block 3	1/65 <sup>th</sup>	
Lot 1, Block 3	1/65 <sup>th</sup>		Lot 37, Block 3	1/65 <sup>th</sup>	
Lot 2, Block 3	1/65 <sup>th</sup>		Lot 38, Block 3	1/65 <sup>th</sup>	
Lot 3, Block 3	1/65 <sup>th</sup>		Lot 39, Block 3	1/65 <sup>th</sup>	
Lot 4, Block 3	1/65 <sup>th</sup>		Lot 40, Block 3	1/65 <sup>th</sup>	
Lot 5, Block 3	1/65 <sup>th</sup>		Lot 41, Block 3	1/65 <sup>th</sup>	
Lot 6, Block 3	1/65 <sup>th</sup>		Lot 42, Block 3	1/65 <sup>th</sup>	
Lot 7, Block 3	1/65 <sup>th</sup>		Lot 43, Block 3	1/65 <sup>th</sup>	
Lot 8, Block 3	1/65 <sup>th</sup>		Lot 44, Block 3	1/65 <sup>th</sup>	
Lot 9, Block 3	1/65 <sup>th</sup>		Lot 45, Block 3	1/65 <sup>th</sup>	
Lot 11, Block 3	1/65 <sup>th</sup>		Lot 46, Block 3	1/65 <sup>th</sup>	
Lot 12, Block 3	1/65 <sup>th</sup>		Lot 1, Block 4	1/65 <sup>th</sup>	
Lot 13, Block 3	1/65 <sup>th</sup>		Lot 2, Block 4	1/65 <sup>th</sup>	
Lot 14, Block 3	1/65 <sup>th</sup>		Lot 3, Block 4	1/65 <sup>th</sup>	
Lot 15, Block 3	1/65 <sup>th</sup>		Lot 4, Block 4	1/65 <sup>th</sup>	
Lot 16, Block 3	1/65 <sup>th</sup>		Lot 5, Block 4	1/65 <sup>th</sup>	
Lot 17, Block 3	1/65 <sup>th</sup>		Lot 6, Block 4	1/65 <sup>th</sup>	
Lot 18, Block 3	1/65 <sup>th</sup>		Lot 7, Block 4	1/65 <sup>th</sup>	
Lot 19, Block 3	1/65 <sup>th</sup>		Lot 8, Block 4	1/65 <sup>th</sup>	
Lot 20, Block 3	1/65 <sup>th</sup>		Lot 9, Block 4	1/65 <sup>th</sup>	
Lot 21, Block 3	1/65 <sup>th</sup>				
Lot 22, Block 3	1/65 <sup>th</sup>				