



255707

Doc#. 255707

Fee: \$46.00

OFFICE OF COUNTY RECORDER
WADENA COUNTY, MINNESOTA

Certified, Filed, and/or Recorded on: August 10, 2020 10:08 AM

SOLEDAD HENRIKSEN, COUNTY RECORDER

Well Certificate [] Received

Received from: Received from name

Returned To: RENNEBERG HOLDINGS LLC
16340 590TH AVE
MENAHA, MN 56464

No Delinquent Taxes and Transfer entered; Certificate of
Real estate Value () filed (X) not required.

CRV No. _____ E-CRV No. _____

AUGUST 10, 2020

Date

Wadena County
Auditor/Treasurer

By: mal

T.B. _____ C _____ G.A. _____ Z _____ OK # _____

WARRANTY DEED

STATE DEED TAX DUE
HEREON: \$1.65

Date: Aug 7, 2020

DEED TAX HEREON OF \$ 1.65
PAID THIS 7th DAY OF Aug 2020
Tammy Cooper
WADENA COUNTY AUDITOR/TREASURER
RECEIPT # 3711

FOR VALUABLE CONSIDERATION, Renneberg Holdings, LLC, a Limited Liability Company under the laws of State of Minnesota and Blueberry Lands, LLC, a Limited Liability Company under the laws of the State of Minnesota, Grantor, hereby conveys and warrants to Blueberry Pines Estates Association, a non profit corporation under the laws of the State of Minnesota, Grantee, real property in Wadena County, Minnesota, described as follows:

The north 300.00 feet of the Northeast Quarter of the Southwest Quarter, Section 4, Township 138, Range 35, Wadena County, Minnesota

AND

The west 660.00 feet of the South Half of the Southeast Quarter of the Northwest Quarter, Section 4, Township 138, Range 35, Wadena County, Minnesota.

AND

The east 290.00 feet of the South Half of the Southwest Quarter of the Northwest Quarter, Section 4, Township 138, Range 35, Wadena County, Minnesota.

LESS AND EXCEPT

Pt 02.004.3010 Pt 02.004.3040 Pt 02.004.2035

Unit 1 through Unit 27, OF WADENA COUNTY COMMON INTEREST
COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified
Plat and Declaration on file and of record in the office of the County Recorder in and for
Wadena County, Minnesota. 02.535.0010 02.535.0015 02.535.0020 02.535.0025
02.535.0030 02.535.0035 02.535.0040 02.535.0045 02.535.0050 02.535.0055
02.535.0060 02.535.0065 02.535.0070 02.535.0075 02.535.0080 02.535.0085
02.535.0090 02.535.0095 02.535.0100 02.535.0110 02.535.0115 02.535.0120 02.535.0125
ALSO IDENTIFIED AS the Common Areas of WADENA COUNTY COMMON INTEREST
02.535.0130 02.535.0135 02.535.0140 02.535.0105

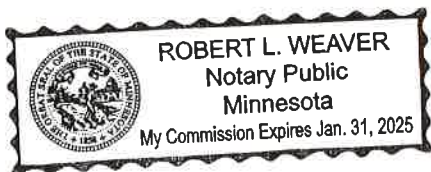
BLUEBERRY LANDS, LLC

By: Wesley Renneberg
Its: Chief Manager

STATE OF Minnesota)
) ss.
COUNTY OF Wadena)

The foregoing instrument was acknowledged before me this 7 day of August, 2020, by Wesley Renneberg, the Chief Manager of Blueberry Lands, LLC, Grantor.

NOTARIAL STAMP OR SEAL



Notary Public
My commission expires:

Tax Statements for the real property described in this instrument should be sent to: (Include name and address of Grantee)
Blueberry Pines Estates Association
39465 US Hwy 71
Menahga, MN 56464

THIS INSTRUMENT WAS DRAFTED BY:

RAMSTAD, SKOYLES & WINTERS, P.A.
Thomas P. Winters
114 Holmes Street West
Detroit Lakes, MN 56501
(218) 847-5653

COMMON INTEREST COMMUNITY NO. 2

Blueberry Pines

Planned Community

DECLARATION

This Declaration is made in the County of Wadena, State of Minnesota, on this 6 day of August, 2020, by Renneberg Holdings, LLC & Blueberry Lands, LLC, (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 Blueberry Pines, a planned community.

WHEREAS, Declarant is the owner of certain real property located in Wadena County, Minnesota, legally described in **Exhibit A** attached hereto and Declarant desires to submit said real property and all improvements existing and made thereon (collectively the "Property") to the Act, and,

WHEREAS, Declarant desires to establish on the Property, and any additional Real Estate added thereto, a plan for a permanent residential community to be owned, occupied and operated for the use, health, safety and welfare of its resident Owners and Occupants, and for the purpose of preserving the value, the structural quality, and the original architectural and aesthetic character, of the Property, and,

WHEREAS, the Property is not subject to an ordinance referred to in Section 515B.1-106 of the Act, governing conversions to common interest ownership, and is not subject to a master association as defined in the Act.

THEREFORE, Declarant makes the Declaration and submits the Property to the Act as planned community under the name Blueberry Pines, consisting of the Units referred to in **Section 2**, declaring that this Declaration shall constitute covenants to run with the Property, and that the Property shall be owned, used, occupied and conveyed subject to the covenants, restrictions, easements, charges and liens set forth herein, all of which shall be binding upon all Persons owning or acquiring any right, title or interest therein, and their heirs, personal representatives, successors and assigns.

**SECTION 1
DEFINITIONS**

The following words when used in the Governing Documents shall have the following meanings (unless the context indicates otherwise):

- 1.1 **"Act:"** is the Minnesota Uniform Common Interest Ownership Act, Minnesota Statutes Chapter 515B as it may be amended from time to time.
- 1.2 **"Additional Real Estate:"** shall mean the real property legally described in **Exhibit C**, including all improvements located thereon now or in the future, and all easements and rights appurtenant thereto, which property Declarant has the right to add to the Common Interest Community.
- 1.3 **"Allocated Interests:"** are undivided interests in the Association, Common Elements,

the Common Expense liability, and votes in the Association allocated to Units in the Common Interest Community. The Allocated Interests are described in Section 4 of this Declaration.

- 1.4 "Association:" shall mean the Blueberry Estates Association, a nonprofit corporation which has been created pursuant to Chapter 317A of the laws of the State of Minnesota and Minnesota Statutes Section 515B.3-101, whose members consist of all Owners as defined herein.
- 1.5 "Board:" shall mean the Board of Directors of the Association as provided for in the By-Laws.
- 1.6 "By-Laws:" shall mean the By-Laws governing the operation of the Association, as amended from time to time.
- 1.7 "Common Elements:" shall mean all parts of the Property except the Units, including all improvements thereon, owned by the Association for the common benefit of the Owners and Occupants.
- 1.8 "Common Expense:" shall mean the expenses or financial liabilities for the operation of the Common Interest Community and include all expenditures made or liabilities incurred by or on behalf of the Association and incident to its operation, including without limitation expenses of administration, maintenance, repair or replacement of the Common Elements, expenses declared to by Common Expenses by the Documents or by the Act, expenses identified as Common Expenses by the Board and such reasonable allocations to reserves for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association.
- 1.9 "Common Expense Assessment:" are the funds required to be paid by each unit owner in payment of the Owner's Common Expense liability.
- 1.10 "Common Interest Community:" is the real property described in Exhibit A which is subject to this Declaration.
- 1.11 "Declarant:" is Renneberg Holdings, LLC & Blueberry Lands, LLC or its successors or assigns as defined in the Act.
- 1.12 "Director:" is a member of the Board.
- 1.13 "Disclosure Statement:" is the most current document prepared pursuant to M.S. Sections 4-101 and 4-102 of the Act as it may be amended from time to time.
- 1.14 "Document:" is one or more of the following: this Declaration, recorded Plat, Articles of Incorporation and By-Laws and Rules of the Association as they may be amended from time to time. Any exhibit, schedule or certification accompanying a Document is part of that Document.
- 1.15 "Dwelling:" shall mean a part of a building consisting of one or more floors, designed and intended for occupancy as a single family residence, and located within the boundaries of a Unit. The Dwelling includes any garage attached thereto or otherwise included within the boundaries of the Unit in which the Dwelling is

located.

- 1.16 "Eligible Insurer:" is an insurer of guarantor or a first security interest in a Unit who has notified the Association in writing of its interest and requested the notices and other rights described in Section 18.
- 1.17 "Eligible Mortgagee:" shall mean any Person owning a mortgage on any Unit, which mortgage is first in priority upon foreclosure to all other mortgages that encumber such Unit, and which has requested the Association, in writing, to notify it regarding any proposed action which requires approval by a specified percentage of Eligible Mortgagees.
- 1.18 "Excavation:" shall mean any disturbance of the surface of the Property (except as reasonably necessary for planting vegetation) which destroys any vegetation or results in removal of earth, rock, sand or other substance.
- 1.19 "Improvement:" is any construction, Dwelling, structure, fixture or facility existing or to be constructed on the Property, including but not limited to buildings, trees, shrubbery, paving, roads, driveways, parking areas, retaining walls, stairs, decks, docks, signs, utilities, pipes, wires and light poles.
- 1.20 "Limited Common Element:" is the portion of the Common Elements shown on the Plat allocated and reserved for the exclusive use of the Owners and Occupants of one or more but fewer than all of the Units to which they are allocated or reserved by the Plat, this Declaration or by Section 2-102 of the Act, as described in Section 3 of this Declaration.
- 1.21 "Manager:" is a person, firm or corporation employed or engaged to perform management services for the Common Interest Community and the Association.
- 1.22 "Member:" shall mean all persons who are members of the Association by virtue of being Owners as defined in this Declaration. The words "Owner" and "Member" may be used interchangeably in the Governing Documents.
- 1.23 "Occupant:" shall mean any person or persons, other than an Owner, in possession of or residing in a Unit.
- 1.24 "Owner:" shall mean a Person who owns a Unit, but excluding contract for deed vendors, mortgagees and other secured parties within the meaning of Section 515B.1-103(29) of the Act. The term "Owner" includes, without limitation, contract for deed vendees and holders of a life estate.
- 1.25 "Party Wall:" shall mean the shared wall between two Dwellings.
- 1.26 "Person:" shall mean a natural individual, corporation, limited liability company, partnership, trust, trustee, estate, association, agency or other legal entity capable of holding title to real property.
- 1.27 "Plat:" shall mean the recorded plat depicting the 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.

- 1.28 "Property:" shall mean all of the real property, land, easements, rights and appurtenances submitted to this Declaration, including the Dwellings and all other structures and improvements located thereon now or in the future, the Units, the Limited Common Elements and the Common Elements. The Property as of the date of this Declaration is located in Wadena County, Minnesota and legally described in **Exhibit A** attached hereto.
- 1.29 "Rules:" shall mean the regulations of the Association as adopted and approved from time to time by the Board pursuant to Section 5.6.
- 1.30 "Unit" shall mean a physical portion of the Common Interest Community designated for separate ownership or occupancy, the boundaries of which are described in Section 2 of this Declaration and the Plat, upon which a Dwelling is located or intended to be located, including all improvements thereon, but excluding the Common Elements. All Units are limited to use as single family residences.

Any terms used in the Documents, and defined in the Act and not in this Section, shall have the meaning set forth in the Act.

SECTION 2

DESCRIPTION OF UNITS AND APPURTENANCES

2.1 Units. There are a maximum of up to 32 Units, all of which are restricted exclusively to single family residential use. Each Unit constitutes a separate parcel of real estate. No additional Units may be created by the subdivision or conversion of Units pursuant to Section 515B.2-112 of the Act. The Unit identifiers and location of the Units are as shown on the Plat, which is incorporated herein by reference, and a schedule of Units is set forth on **Exhibit B**. The Unit identifier for a Unit shall be its Unit Number and the Common Interest Community name, described as:

Unit ____, County Common Interest Community Number 2, a Planned Community Blueberry Pines, according to the certified Plat thereof on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

2.2 Garage Units. Units identified as "Garage Units" on the Plat are not separate units but are a Limited Common Element associated solely with the Unit of the number. A Garage Unit may not be conveyed separately from the Unit Number of which it is a Limited Common Element.

2.3 Unit Boundaries. The front, rear and side boundaries of each Unit shall be the walls of the Dwelling placed upon each Unit. The Units shall have no upper or lower boundaries. Subject to this Section 2 and Section 3.2, all spaces, walls, and other improvements within the boundaries of a Unit are a part of the Unit.

2.4 Access Easements. Each Unit shall be the beneficiary of an appurtenant easement for access to a public street or highway on or across the Common Elements as shown on the Plat, subject to any restriction and the right of the Board to relocate any driveway as set forth in the Documents.

2.5 Use and Enjoyment Easements. Each Unit shall be the beneficiary of appurtenant easements for use and enjoyment on and across the Common Elements, and for use and enjoyment

of any Limited Common Element allocated to the Unit, subject to any restrictions authorized by the Documents.

2.6 Utility and Maintenance Easements. Each Unit shall be subject to and shall be the beneficiary of appurtenant easements for all services and utilities servicing the Units and the Common Elements, and for maintenance, repair and replacement as described in the Declaration.

2.7 Encroachment Easements. Each Unit shall be subject to and shall be the beneficiary of the appurtenant easements for encroachments as described in this Declaration.

2.8 Declarant's Easements. Declarant shall have and be the beneficiary of easements for construction and sales activities as described in Section 15.6.

2.9 Recorded Easements. The Property shall be subject to such other easements as may be recorded against it or otherwise shown on the Plat.

2.10 Easements are Appurtenant. All easements and similar rights burdening or benefiting a Unit or any other part of the Property shall be appurtenant thereto, and shall be permanent, subject only to termination in accordance with the act or the terms of the easement. Any recorded easement benefiting or burdening the Property shall be construed in a manner consistent with, and not in conflict with, the easements created by this Declaration.

2.11 Impairment Prohibited. No person shall materially restrict or impair any easement benefiting or burdening the Property; subject to the Declaration and the right of the Association to establish and enforce reasonable Rules and Regulations governing the use of the Property.

SECTION 3

COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

3.1 Common Elements. The Common Elements and their characteristics are as follows:

a. All of the Property not included within the Units constitutes Common Elements. The Common Elements include those parts of the Property not identified or designated as a Unit on the Plat or by the Act. The Common Elements are owned by the Association for the benefit of the Owners and Occupants. Common Elements include but are not limited to driveways or roadways serving one or more Units and any beach, picnic, courtyard and boat dock areas shown on the Plat.

b. The Common Elements shall be subject to certain easements as described in Section 2, and to the rights of Owners and Occupants in Limited Common Elements appurtenant to their Units.

c. Subject to Section 5, 6 and 9, all maintenance, repair, replacement, management and operation of the Common Elements shall be the responsibility of the Association.

d. Common Expenses for the maintenance, repair, replacement, management and operation of the Common elements shall be assessed and collected from the Owners in accordance with Section 6.

3.2 Limited Common Elements. The Limited Common Elements are those parts of the

Common Elements reserved for the exclusive use of the Owners and Occupants of the Units to which they are reserved or allocated, and the rights to the use and enjoyment thereof are automatically conveyed with the conveyance of such Units. The Limited Common Elements are described and allocated to the Units as follows:

- a. Chutes, flues, ducts, pipes, wires, conduit or other utility installations, bearing walls, bearing columns, or any other components or fixtures lying partially within and partially outside the boundaries of a Unit, and serving only that Unit, are allocated to the Unit they serve. Any portion of such installations serving or affecting the function of more than one Unit or any portion of the Common Elements is a part of the Common Elements, but is not a Limited Common Element reserved or allocated to the Units served or affected.
- b. Improvements such as decks, patios, balconies, shutters, awnings, window boxes, doorsteps, stoops, perimeter doors and windows, constructed as part of the original construction to serve a single Unit, and authorized replacements and modifications thereof, if located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

SECTION 4

ASSOCIATION MEMBERSHIP: RIGHTS AND OBLIGATIONS

Membership in the Association, and the Allocated Interest of each Unit shall be governed by the following provisions:

4.1 Membership. Each Owner shall be a Member of the Association by virtue of Unit ownership, and the membership shall be transferred with the conveyance of the Owner's interest in the Unit. An Owner's membership shall terminate when the Owner's ownership terminates. When more than one Person is an Owner of a Unit, all such Persons shall be Members of the Association, but multiple ownership of a Unit shall not increase the Allocated Interest of such Unit nor authorize the division of the voting rights.

4.2 Allocated Interests. Title to the Common Elements shall be held by the Association. Each Unit Owner has an equal interest in the Association. Common Expense liability and Voting rights are allocated equally among the Units; except that special allocations of Common Expense liability shall be permitted as provided in **Section 6.1**.

4.3 Appurtenant Rights and Obligations. The ownership of a Unit shall include the voting rights and liability for Common Expense obligations described in **Section 4.2**. Said rights, obligations and interests, and the title to the Units, shall not be separated or conveyed separately. The allocation of the rights, obligations and interests described in this Section may not be changed except in accordance with the Documents and the Act.

4.4 Authority to Vote. The Owner, or some natural person designated to act as proxy on behalf of the Owner, and who need not be an Owner, may cast the vote allocated to such Unit at meetings of the Association; provided, that if there are multiple Owners of a Unit, only the Owner or other Person designated pursuant to the provisions of the By-Laws may cast such vote. The voting rights of Owners are more fully described in **Section 3 of the By-Laws**.

SECTION 5

ADMINISTRATION

The administration and operation of the Association and the Property, including but not limited to the acts required of the Association, shall be governed by the following provisions:

5.1 General. The operation and administration of the Association and the Property shall be governed by the Documents, the Rules and the Act. The Association shall, subject to the rights of the Owners set forth in the Documents and the Act, be responsible for the operation, management and control of the Property. The Association shall have all powers described in the Documents, the Act and the statute under which it is incorporated. All power and authority of the Association shall be vested in the Board, unless action or approval by the individual Owners is specifically required by the Documents or the Act. All references to the Association shall mean the Association acting through the Board unless specifically stated to the contrary.

5.2 Operational Purposes. The Association shall operate and manage the Property for the purposes of (i) administering and enforcing the covenants, restrictions, easements, charges and liens set forth in the Documents and the Rules (ii) maintaining, repairing and replacing those portions of the Property for which it is responsible and (iii) preserving the value and architectural uniformity and character of the Property.

5.3 Binding Effect of Action. All agreements and determinations made by the Association in accordance with the powers and voting rights established by the Documents or the Act shall be binding upon all Owners and Occupants, and their lessees, guests, heirs, personal representatives, successors and assigns, and all secured parties as defined in the Act.

5.4 By-Laws. The Association shall have By-Laws. The By-Laws and any amendments thereto shall govern the operation and administration of the Association.

5.5 Management. The Board may delegate to a manager or managing agent the management duties imposed upon the Association's officers and directors by the Documents and the Act; provided, however, that such delegation shall not relieve the officers and directors of the ultimate responsibility for the performance of their duties as prescribed by the Documents and by law.

5.6 Rules. The Board shall have exclusive authority to approve and implement such reasonable Rules and regulations as it deems necessary from time to time for the purpose of operating and administering the affairs of the Association and regulating the use of the Property; provided that the Rules and regulations shall not be inconsistent with the Documents or the Act. The inclusion in other parts of the Documents of authority to approve Rules shall be deemed to be in furtherance, and not in limitation, of the authority granted by this Section. New or amended Rules shall be effective only after reasonable notice thereof has been given to the Owners.

5.7 Association Assets; Surplus Funds. All funds and real or personal property acquired by the Association shall be held and used for the benefit of the Owners for the purposes stated in the Documents. Surplus funds remaining after payment of or provision for Common Expenses and reserves shall be credited against future assessments or added to reserves, as determined by the Board.

SECTION 6

ASSESSMENTS AND COLLECTION OF COMMON EXPENSES

6.1 General. Assessments for Common Expenses shall be determined and assessed against

the Units by the Board, in its discretion; subject to the limitations set forth in Sections 6.2 and 6.3, and the requirements of the By-Laws. Assessments for Common Expenses shall include annual assessments and may include special assessments. Assessments shall be allocated among the Units according to the Common Expense allocations set forth in Section 4.2, subject to the following qualifications:

- a. Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element undertaken by the Association may be assessed exclusively against the Unit or Units to which the Limited Common Element is assigned, on the basis of (i) equality, (ii) square footage of the area being maintained, repaired or replaced, or (iii) the actual cost incurred with respect to each Unit.
- b. Any Common Expense or portion thereof benefiting fewer than all of the Units may be assessed exclusively against the Units benefited, on the basis of (i) equality, (ii) square footage of the area being maintained, repaired or replaced, or (iii) the actual cost incurred with respect to each Unit.
- c. The costs of insurance may be assessed in proportion to value, risk or coverage, and the costs of utilities may be assessed in proportion to usage.
- d. Reasonable attorneys fees and other costs of incurred by the Association in connection with (i) the collection of assessments and (ii) the enforcement of the Documents, the Act, or the Rules, against an Owner or Occupant or their guests, may be assessed against the Owner's Unit.
- e. Fees, charges, taxes, impositions, late charges, fines, collection costs and interest may be assessed and collected against a Unit Owner as a Common Expense Assessment as provided in **Section 14**.
- f. Assessments levied under Section 515B.3-116 of the Act to pay a judgment against the Association may be levied only against the Units existing at the time the judgment was entered, in proportion to their Common Expense liabilities.
- g. If any damage to the Common elements or another Unit or any Common Expense liability is caused by the act, omission or misconduct of any Owner or Occupant, or their guests, the Association may assess that expense or the costs of repairing the damage exclusively against the Owner's Unit.
- h. If any installment of an assessment becomes more than 30 days past due, then the Association may, upon 10 days written notice of the Owner, declare the entire amount of the assessment immediately and payable in full.
- i. If Common Expense liabilities are reallocated for any purpose authorized by the act, Common Expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.
- j. Assessments under Subsections 6.1.a-h shall not be considered special assessments as described in Section 6.3.

6.2 Annual Assessments. Annual assessments shall be established and levied by the Board, subject only to the limitations set forth in Section 6.2 and 6.3. each annual assessment shall cover all of the anticipated Common Expenses of the Association for that year as described in a budget

adopted annually by the Board. Annual assessments shall provide, among other things, for contributions to a separate reserve fund sufficient to cover the periodic cost of maintenance, repair and replacement of the Common Elements and those parts of the Units for which the Association is responsible. The Board may also levy a special assessment against fewer than all units pursuant to Section 6.1 (a) and 6.1(b). Within thirty (30) days after adoption of a proposed budget the Board shall provide a summary of the budget to each Unit Owner and shall set a date for a meeting of the Unit Owners to consider ratification of the budget. The meeting shall be held not less than 14 days or more than 30 days after mailing of the summary and written meeting notice to each Unit Owner. Unless rejected by a majority of the Unit Owners, the budget is ratified whether or not a quorum of Unit Owners is present. If the proposed budget is rejected, the last adopted budget shall continue until a new budget is ratified.

a. Until a Common Expense assessment is levied, Declarant shall pay all accrued expenses of the common interest community.

b. After a Common Expense assessment is levied, the annual assessment may be subsequently increased by the Board, subject to Section 6.2.c.

c. Until the termination of the period of Declarant control described in Section 15.7, the increase in the annual assessment for any year shall not exceed the greater of (i) the increase in the U.S. Department of Labor Revised Consumer Price Index for Urban Wage Earners and Clerical Workers for All Items for the prior year; or (ii) 5% of the total annual assessment for the Association's previous fiscal year, unless such increase is approved by the vote of a majority of those Owners voting, in person or by proxy, at a meeting called for that purpose. Written notice of the meeting shall be sent to all Owners not less than 14 days nor more than 30 days in advance of the meeting.

6.3 Special Assessments. In addition to annual assessments, and subject to the limitations set forth hereafter, the Board may levy in any assessment year a special assessment against all Units for the purpose of defraying in whole or in part (i) the cost of any foreseen or unbudgeted Common Expense, (ii) general or specific reserves for maintenance, repair or replacement of any part of the Property, and any fixtures or other property related hereto. The Board may also levy a special assessment against fewer than all units pursuant to Section 6.1 (a) and 6.1(b). Notwithstanding the foregoing, any special assessment in an amount greater than 15 percent of the current annual assessment shall be subject to approval by the vote of a majority of those Owners voting, in person or by proxy, at a meeting called for that purpose. Written notice of the meeting shall be sent to all Owners not less than 14 days nor more than 30 days in advance of the meeting.

6.4 Liability of Owners for Assessments. The obligation of an Owner to pay assessments shall commence at the later of (i) the time at which the Owner acquires title to the Unit, or (ii) the due date of the first assessment levied by the Board, subject to the alternative assessment program described in Section 6.6. The Owner at the time an assessment is payable with respect to the Unit shall be personally liable for the share of the Common Expenses assessed against such Unit. Such liability shall be joint and several where there are multiple Owners of the Unit. The liability is absolute and unconditional. No Owner is exempt from liability for payment of his or her share of Common Expenses by right of set-off, by waiver of use or enjoyment of any part of the Property, by absence from or abandonment of the Unit, by the waiver of any other rights, or by reason of any claim against the Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents or the Act. The Association may invoke the charges, sanctions and remedies set forth in Section 14, in addition to any remedies provided elsewhere in the Governing Documents, the Rules and Regulations, or by law, for the purpose of enforcing its rights

hereunder.

6.5 Declarant's Alternative Assessment Program. The following alternative assessment program is established pursuant to Section 515B.3-115(a)(2) and Section 515B.3-115 (b) of the Act. Notwithstanding anything to the contrary in this Section 6, if a Common Expense assessment has been levied, any Unit owned by Declarant for initial sale shall be assessed at the rate of 25% of the assessment levied on other Units of the same type until the Unit or any building located in it is substantially completed. There are 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.

6.6 Assessment Lien. The Association has a lien against a Unit for any assessment levied against that Unit or fine imposed against the Unit Owner from the time the assessment or fine becomes due. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. Fees, charges, late charges, fines and interest charges imposed by the Association pursuant to Section 515B.3-102(a)(10),(11) and (12) of the Act are liens, and are enforceable as assessments, under this Section. Recording of the Declaration constitutes record notice and perfection of any lien under this Section, and no further recordation of any notice of or claim for the lien is required.

6.7 Foreclosure of Lien: Remedies. A lien for Common Expenses may be foreclosed against Unit under the laws of the State of Minnesota (i) by action, or (ii) by advertisement as a lien under a mortgage containing a power of sale. The Association, or its authorized representative, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey any Unit so acquired. The Owner and any other Person claiming an interest in the Unit, by the acceptance or assertion of any interest in the Unit, grants to the Association a **power of sale** and full authority to accomplish the foreclosure. The Association shall, in addition, have the right to pursue any other remedy at law or in equity against the Owner who fails to pay any assessment or charge against the Unit. A lien for an unpaid Common Expense Assessment is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the last installment of the assessment becomes due and payable, except that if an Owner of a Unit subject to a lien files a petition for relief under the United States Bankruptcy Code, the time period of enforcement is tolled until thirty (30) days after the automatic stay is lifted.

6.8 Lien Priority: Foreclosure. A lien under this Section is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before the Declaration, (ii) any first mortgage encumbering the fee simple interest in the Unit recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent, and (iii) liens for real estate taxes and other governmental assessments or charges against the Unit. Notwithstanding the foregoing, if (i) a first mortgage on a Unit is foreclosed, (ii) the first mortgage was recorded on or after June 1, 1994, and (iii) no Owner redeems during the Owner's period of redemption provided by 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 a lien in favor of the association for unpaid assessments for Common Expenses levied pursuant to Section 515B.3-115 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.

6.9 Voluntary Conveyances: Statement of Assessments. In a voluntary conveyance of a Unit the buyer shall not be personally liable for any unpaid assessments and other charges made by the Association against the seller or the seller's Unit prior to the time of conveyance to the buyer, unless expressly assumed by the buyer. However, the lien of such assessments shall remain against the Unit until satisfied.

6.10 Statement of Unpaid Assessments. The Association shall furnish to a Unit Owner or the Unit Owners' authorized agent upon written request a statement, in recordable form, setting forth the amount of the unpaid assessments currently levied against the Unit, including all assessments payable in the Association's current fiscal year, which statement shall be furnished within ten (10) business days after receipt of the written request and is binding on the Association and every Unit Owner.

SECTION 7

RESTRICTIONS ON USE OF PROPERTY

All Owners and Occupants, and all secured parties, by their acceptance or assertion of an interest in the Property, or by their occupancy of a Unit, covenant and agree that, in addition to any other rules, regulations or restrictions which may be imposed by the Act, the Documents or the Rules adopted by the Association through its Board of Directors, the occupancy, use, operation, alienation and conveyance of the Property or of any Unit shall be subject to the following restrictions:

7.1 General. The Property shall be owned, conveyed, encumbered, leased, used and occupied subject to the Documents and the Act, as amended from time to time. All covenants, restrictions and obligations set forth in the Documents are in furtherance of a plan for the Property, and shall run with the Property and be a burden and benefit to all Owners and Occupants and to any other Person acquiring or owning an interest in the Property, their heirs, personal representatives, successors and assigns.

7.2 Subdivision Prohibited. Except as permitted by the Act, no Unit nor any part of the Common elements may be subdivided or partitioned without the prior written approval of all Owners and all secured parties holding first mortgages on the Units.

7.3 Residential Use. The Units shall be used by Owners and Occupants and their guests exclusively as private, single family residential dwellings, and not for transient, hotel, commercial, business or other non-residential purposes, except as provided in Section 7.4. Any lease of a Unit (except for occupancy by guests with the consent of the Owner) for a period of less than 30 days, or any occupancy which includes any services customarily furnished to hotel guests, shall be presumed to be for transient purposes.

7.4 Commercial Use Restricted. Except for those activities conducted as a part of the marketing and development program of Declarant and subject to the Special Declarant Rights reserved under **Section 15**, no business, trade, occupation, profession or commercial activity of any kind, whether carried on for profit or otherwise, shall be conducted, maintained or permitted in any Unit or the Common Elements; except (i) an Owner or Occupant residing in a Unit may keep and maintain his or her business or professional records in such Unit and handle matter relating to such business by telephone or correspondence therefrom, provided that such uses are incidental to the residential use, do not involve physical alteration of the Unit and do not involve any observable business activity such as signs, advertising displays, bulk mailings, deliveries, or visitation or use of the Unit by customers or employees and (ii) the Association may maintain offices on the Property for management and related purposes. There shall be no commercial structures allowed.

7.5 Leasing. Leasing of Units is not allowed without the prior written approval of the Association, which may be granted or withheld in the discretion of the Association. The Association may impose reasonable rules and regulations under which leases may be allowed and all leases shall be subject to the following conditions: (i) that no Unit shall be leased for transient or hotel purposes, (ii) that no Unit may be subleased, (iii) that all leases shall be in writing, and (iv) that

all leases shall provide that they are subordinate and subject to the provisions of the Documents, the Rules and Regulation and the Act, and (v) that any failure of the Lessor or Lessee to comply with the terms of such documents shall be default under the lease. No leasing of a Unit shall be permitted without the prior written consent of the Declarant for so long as the Declarant owns a Unit on the property.

7.6 Parking. Garages and parking areas on the 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 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.

7.7 Animals. No animal may be bred, or kept or maintained for business or commercial purposes, anywhere on the Property. Pets may be allowed, provided they are leashed and under the pet owner's control while outside the dwelling. No dangerous animal or dog bred to be aggressive, such as pit bulls, guard or attack dogs are permitted. The Board shall have the exclusive authority to prohibit any animal, and to allow and regulate, by Rules and Regulations, the keeping of any animal on the Property. The word "animal" shall be construed in its broadest sense and shall include all living creatures except humans.

7.8 Quiet enjoyment: Interference Prohibited. All Owners and Occupants and their guests shall have a right to quiet enjoyment in their respective Units, and shall use the Property in such a manner as will not cause a nuisance, nor unduly restrict, interfere with or impede the use of the Property by other Owners and Occupants and their guests.

7.9 Compliance with Law. No use shall be made of the Property which would violate any then existing municipal code or ordinance, or State or Federal law, nor shall any act or use be permitted which is immoral, improper, offensive or which could cause waste to the Property, cause a material increase in insurance rates on the Property, or otherwise cause any unusual liability, health or safety risk, or expense, for the Association or any Owner or Occupant. Any violating Unit Owner shall hold the Association and other Unit Owners harmless from all fines, penalties, costs or other consequence of violation or noncompliance.

7.10 Alterations. Except for those made by Declarant in consideration of its initial sale of a Unit, no alterations, changes, improvements, repairs or replacements of any type, temporary or permanent, structural, aesthetic or otherwise (collectively referred to as "alterations") shall be made, or caused or allowed to be made, by any Owner or Occupant, or their guests, in any part of the Common Elements, or in any part of the Unit which affects the Common Elements or another Unit or which is visible from the exterior of the Unit, without the prior written authorization of the Board, or a committee appointed by it, as provided in Section 8. This is to include the installation of satellite dishes. The Board, or the appointed committee if so authorized by the Board, shall have authority to establish reasonable criteria and requirement for alterations, and shall be the sole judge of whether the criteria are satisfied.

7.11 Time Shares Prohibited. The time share 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 except as set forth in Section 7.5 above.

7.12 Access to Units. In case of emergency, all Units and Limited Common Elements are subject to entry, without notice and at any time, by an officer or member of the Board of the Association, by the Association's management agents or by any public safety personnel. Entry is also

authorized for maintenance purposes under Section 9 and for enforcement purposes under Section 14.

7.13 Vegetative and Topographic Alterations. Except as set forth in the Plat and as initially established by the Declarant, vegetative and topographic alterations, except for routine maintenance, are prohibited. Vegetation within a Unit or in the Common Element or Limited Common Elements shall be planted and maintained in such a manner to minimize shifting or erosion and to encourage the growth of indigenous ground cover.

7.14 Preservation of open space. Except as set forth in the Plat and as initially constructed by Declarant, no shed, garage, deck, porch, fence, patio, playground equipment, flag pole or flags, accessory structure or addition to any dwelling may be erected, located, relocated, constructed or placed anywhere within the Plat or on the property by the Association or any Unit Owner without first obtaining the approval of all relevant governmental authorities and the permission from the Association and the Declarant, if the Declarant owns any Unit on the property.

7.15 Watercraft, snowmobiles and all terrain vehicles No watercraft, snowmobile or all terrain vehicle may be parked, beached or located by the Association, any Unit Owner or Occupant, or any other person on any of the land areas of the Common Elements, Limited Common Elements or on any Unit, except if located within the confines of an established garage, or unless for a reasonable period of time while the unit is considered "in season". Watercraft may be seasonally parked or moored in slips or spaces located as part of a boat dock or marina established by the Association, subject to reasonable regulation and rental fees imposed by the Association. The number of spaces or slips provided for mooring or docking of watercraft shall no exceed one space or slip for each Unit. The Association may further provide a watercraft launching ramp facility, including a small dock for loading and unloading equipment.

7.16 Storage of personal property. No mobile home, travel trailer, fifth wheel, recreational vehicle, house trailer or similar property shall be placed or parked anywhere on the property. No storage of boats, watercraft, lifts, trailers, docks or similar property is permitted on the property outside of an enclosed garage, except as may be expressly permitted by the Association. No inoperable motor vehicle shall be kept, parked, stored or maintained on any part of the property. No commercial vehicle bearing any commercial insignia or name shall be parked on any part of the property, except as may be necessary for temporary service to a Unit. No commercial signs are allowed.

7.17 Camping prohibited. Camping is not allowed within a Unit, on the Common Elements, on a Limited Common Element or anywhere on the property.

7.18 Golf Carts. Any privately owned golf carts must be approved by the Association to be allowed on the roadways or parked in the yards. Any golf carts leased from the Blueberry Pines golf course will automatically be approved.

SECTION 8

ARCHITECTURAL CONTROL

8.1 Architectural Committee. An Architectural Committee may be created (the "Committee"). During the period of Declarant Control the Declarant shall be the Architectural Committee. Following the period of Declarant Control the Board of Directors may serve as the Architectural Committee, or may appoint an Architectural Committee made up of Unit Owners.

The Board of Directors retains the power to establish rules to govern the conduct of the Committee and the power to discharge or disband the Committee at any time. The Committee shall act by majority vote, minutes and records of its actions shall be maintained and the Committee shall receive no compensation, but the Board of Directors may authorize reimbursement of reasonable expenses.

8.2 Restrictions on Alterations. The following restrictions and requirements shall apply to alterations on the Property:

a. Except as expressly provided in this Section 8, and except for alterations made by Declarant in consideration of its initial sale of a Unit, no structure, building, addition, deck, patio, fence, wall, enclosure, window, exterior door, sign, display, decoration, color change, shrubbery, satellite dish, material topographical or landscaping change, nor any other exterior improvements to or alteration of any Dwelling or any other part of a Unit which is visible from the exterior of the Unit (collectively referred to as "alterations"), shall be commenced, erected or maintained in a Unit, unless and until the plans and specifications showing the nature, kind, shape, height, color, materials and locations of the alterations shall have been approved in writing by the Architectural Committee. Notwithstanding the foregoing, Declarant's written consent shall also be required for alterations until Declarant no longer owns any unsold Unit and has no further rights to add Additional Real Estate to the Property.

b. 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, (ii) comparable or better quality of materials as used in existing improvements, (iii) ease of maintenance and repair, (iv) adequate protection of the Property, the Association, Owners and Occupants from liability and liens arising out of the proposed alterations, and (v) compliance with governmental laws, codes and regulation. The Committee may grant reasonable variances to these provisions in order to prevent unnecessary hardship.

c. Approval of alterations which encroach upon another Unit or the Common Elements shall create an appurtenant easement for such encroachment in favor of the Unit with respect to which the alterations are approved; provided, that any easement for a deck or patio other than as originally constructed shall be approved by resolution of the Committee and a file of such resolutions shall be maintained permanently as a part of the Association's records.

d. Alterations described in Section 16 shall be governed by that Section.

8.3 Review Procedures. 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 Committee, shall be submitted to the Committee at least sixty (60) days prior to the projected commencement of construction. No alterations shall be commenced prior to approval.

b. The Committee shall give the Owner written notice of approval or disapproval. If the Committee fails to approve or disapprove within sixty (60) days after receipt of said plans and specifications and all other information requested by the 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.

8.4 Remedies for Violations. The Association may undertake any measures, legal or administrative, to enforce compliance with this Section and shall be entitled to recover from the Owner causing or permitting the violation all attorney's 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 Section, and the cost of such restoration shall be a personal obligation of the Owner and a lien against the Owner's Unit.

8.5 Liability. Neither the Committee, the Association, the Declarant or the Board of Directors, nor any member thereof, shall be liable to any Unit Owner or third party for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or rejection of, or the failure to approve or reject, any plans, drawings, specification or request; (b) the construction or performance of any work; (c) the manner of development the property.

SECTION 9

MAINTENANCE

9.1 Maintenance by Association. The Association shall provide for all maintenance, repair or replacement (collectively referred to as "maintenance") of the Common Elements. In addition, for the purpose of preserving the architectural character, quality, and uniform and high standards for appearance of the Property, the Association shall (i) provide for exterior maintenance upon the Dwelling in each Unit that is subject to assessment as follows: paint and replace roofs, gutters, downspouts, decks, garage doors (except hardware), and exterior siding and other building surfaces, and (ii) provide for lawn, shrub and tree maintenance on all Units, except for watering. The Association's obligations shall exclude patios, entry doors, door hardware, air conditioning equipment, glass and window frames, foundations and foundation walls, structural members and any other items not specifically referred to in this Section, unless otherwise approved under Section 9.2. The Association shall have easements as described in Section 13 to perform its obligations under this Section 9.

9.2 Optional Maintenance by Association. In addition to the maintenance described in this Section the Association may, with the approval of a majority of votes cast in person or by proxy at a meeting called for such purposes, undertake to provide additional exterior maintenance to the Units or Dwellings, or maintenance of water and sewer systems within the Units.

9.3 Maintenance by Owner. Except for the exterior maintenance required to be provided by the Association under Section 9.1 or 9.2, all maintenance of the Dwellings and Units shall be the sole responsibility and expense of the Owners thereof. However, the Owners and Occupants shall have a duty to promptly notify the Association of defects in or damage to those parts of the Property which the Association is obligated to maintain. The Association may require that any exterior maintenance to be performed by the Owner be accomplished pursuant to specific uniform criteria established by the Association. The Association may also undertake any exterior maintenance which the responsible Owner fails to or improperly performs and assess the Unit and the Owner for the cost thereof.

9.4 Damage 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 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 cost thereof may be assessed against the Unit of the Owner responsible for the damage. In the case of party walls between Dwellings, the Owner of the affected Dwellings shall be liable as provided in Section 10.

SECTION 10

PARTY WALLS

10.1 General Rules of Law to Apply. Each Dwelling wall built as part of the original construction of the Dwelling and located on the boundary line between Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Section, shall be considered Limited Common Elements and maintained by the association. The general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto.

10.2 Repair and Maintenance. The Association shall be responsible for the maintenance repair and replacement of party wall, and may assess the cost of all such maintenance and repair to the benefitted Units; provided 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.

10.3 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty the Association shall restore it and assess the cost to the Owners of the affected Units who shall promptly reimburse the Association for his or her share of the cost of restoration thereof; provided, however, that the cost of restoration resulting from destruction or other casualty resulting from the acts or omissions of certain Owners shall be the financial responsibility of such Owners, and the Association may assess the responsible Owners for their share of their costs . Insurance claims shall be made promptly following any casualty.

10.4 Weatherproofing. Notwithstanding any other provision of this Section, any Owner who, by his negligent or willful act, causes a party wall to be exposed to the elements shall bear the whole cost of the repairs necessary for protection against such elements.

10.5 Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the Unit and shall pass to such Owner's assigns and successors in title.

10.6 Arbitration. In the event of any dispute arising concerning a party wall, and if the same is not resolved within thirty (30) days of the event causing the dispute, the matter shall be submitted to binding arbitration under the rules of the American Arbitration Association, upon the written demand of the Association or any Owner whose Dwelling shares the party wall. Each party agrees that the decision of the arbitrators shall be final and conclusive of the questions involved. The fees of the arbitrators shall be shared equally by the parties, but each party shall pay its own attorney fees or other costs to prove its case.

SECTION 11

INSURANCE

11.1 Required Coverage. To the extent reasonably available, 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. If such insurance is not reasonably available and the Board determines that such insurance will not be maintained, the Board shall cause notice of that fact to be mailed by U.S. Mail to all Owners of Units and to Eligible Mortgagees at their respective last known addresses.

11.2 Property Insurance Coverage. The Association property insurance will cover the Common Elements, Limited Common Elements and personal property owned by the Association for broad form coverage of "all risks" of physical loss in an amount equal to one hundred percent (100%) of the insurable "replacement cost" of the insured property, less deductibles at the time the insurance is purchased and at each renewal date. The Board is authorized to obtain appraisals periodically for the purpose of establishing replacement cost and the cost of such appraisals shall be a Common Expense. The maximum deductible shall be established by Board resolution.

Each such policy shall provide that:

- a) The name of the insured shall be Blueberry Pines Estates Association .
- b) 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 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.
- c) Exclusions: The Association is not required to carry and will not carry any property damage or casualty loss coverage for any Unit or the dwelling or other structure located within the Unit. The risk of loss of any damage to any improvement within a Unit shall be the responsibility of the Unit Owner.

11.3 Liability Insurance Coverage. The Association will maintain Comprehensive public liability insurance covering the use, operation and maintenance of the Common Elements and Limited Common Elements, with minimum limits of \$1,000,000 per occurrence, against claims for death, bodily injury and property damage, and such other risks arising out of or in connection with the use, ownership or maintenance of the Common Elements, Limited Common Elements or membership in the Association. The policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or Occupant because of negligent acts of the Association or other Owners or Occupants. 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.

Each such policy shall provide that:

- a) Each Owner is an insured person under the policy with respect to liability arising out of the Owner's membership in the Association.

b) Exclusions: The Association is not required to carry and will not carry any liability insurance coverage for any Unit or the dwelling or other structure located within the Unit. The risk of loss within a Unit shall be the responsibility of the Unit Owner.

11.3 Fidelity Bonds. Fidelity bond or insurance coverage against dishonest acts on the part of directors, officers, manager, 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 the purchase or financing or 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 of 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.

11.4 Worker's Compensation Insurance. The Board shall obtain and maintain Workers Compensation insurance as required by law.

11.5 Directors' and Officers' Liability Insurance. The Board may, in its discretion, obtain and maintain Directors and officers liability insurance with such reasonable limits and coverages as the Board shall determine from time to time.

11.6 Other insurance. The Association may carry such other insurance as the Board may determine from time to time to be in the best interests of the Association and the Owners.

11.7 Premiums: Improvements: Deductibles. All Association insurance premiums shall be assessed and paid as a Common Expense. The Association shall, in case of a claim for damage, (i) pay the deductible amount as a Common Expense, or (ii) in the case of damage to a Limited Common Element, assess the deductible amount against the Units affected in any reasonable manner, or (iii) in the case of damage to a Limited Common Element, require the Owners of the Units affected to pay the deductible amount directly.

11.8 Loss Payee: Insurance Trustee. All insurance coverage maintained by the Association shall be written in the name of, and the proceeds thereof shall be payable to, the Association (or a qualified insurance trustee selected by it) as trustee for the benefit of the Owners and secured parties, including Eligible Mortgagees, which suffer loss. The Association, or any insurance trustee selected by it, shall have exclusive authority to negotiate, settle and collect upon any claims or losses under any insurance policy maintained by the Association.

11.9 Waivers of Subrogation. All policies of insurance shall contain waivers of subrogation by the insurer against the Association, or an Owner, members of the Owner's household, officers or directors, as applicable, and, if available, waivers of any defense based on co-insurance or of invalidity from any acts of the insured.

11.10 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, to the FHA or FNMA (if applicable), all of Owners and all Eligible Mortgagees.

11.11 Restoration of Lieu of Cash Settlement. All policies of property insurance maintained by the Association shall provide that, despite any provisions giving the insurer the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable (i) without the prior written approval of the Association (or any Insurance Trustee) or (ii) when in conflict with provisions of any insurance trust agreement to which the Association may be a party, or any requirement of law.

11.12 No Contribution. All policies of insurance maintained by the Association shall be the primary insurance where there is other insurance in the name of the Owner covering the same property, and may not be brought into contribution with any insurance purchased by Owners or their Eligible Mortgagees.

11.13 Effect of Acts Not Within Association's Control. All policies of insurance maintained by the Association shall provide that the coverage shall not be voided by or conditioned upon (i) any act or omission of an Owner or Eligible Mortgagee, unless acting within the scope of authority on behalf of the Association, or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

11.14 Owner's Personal Insurance. Each Owner **must** obtain personal insurance coverage at the Owner's own expense covering fire, hazard and other casualty to the Unit, personal property and personal liability.

1) Property Damage Insurance. The Unit Owner shall keep all buildings, improvements and fixtures now or later located on or a part of a Unit insured against loss by fire, lightening and such other perils as are included in a standard "all risk" endorsement, and against loss or damage by all other risks and hazards covered by a standard extended coverage insurance policy, including, without limitation, vandalism, malicious mischief, burglary and theft. Such insurance shall be in an amount equal to the then full replacement cost of the buildings, improvements and fixtures, without deduction for physical depreciation. The insurance policy shall contain a loss payable clause in favor of the Association which provides that Association's right to recover under the insurance shall not be impaired by any acts or omissions of the Unit Owner or the Association, and that the Association shall otherwise be afforded all rights and privileges customarily provided a mortgagee under the so-called standard mortgage clause.

Loss. In the event of damage to the Unit or any structure within a Unit by fire or other casualty, the Owner shall promptly repair, replace or restore all structures previously located within the Unit. The Owner shall give notice of such damage to the Association and the insurance company. The insurance proceeds necessary to repair, replace or restore the damaged Unit (the "Repairs") shall be deposited in escrow with a bank or title insurance company qualified to do business in the State of Minnesota, or such other party as may be mutually agreeable to the Association and the Owner. The plans and specifications and contracts for the Repairs must be approved by the Association, which approval the Association shall not unreasonably withhold or delay. If the insurance proceeds are insufficient for the Repairs, the Owner shall, before the commencement of the Repairs, deposit into such escrow sufficient additional money to insure the full payment for the repairs. Even if the insurance proceeds are unavailable or are insufficient to pay the cost of the Repairs, the Owner shall at all times be responsible to pay the full cost of the repairs and the

Association may assess such cost to the Unit Owner. All escrowed funds shall be disbursed by the escrowee in accordance with generally accepted sound construction disbursement procedures. The costs incurred or to be incurred on account of such escrow shall be deposited by the Owner into such escrow before the commencement of the Repairs. The Owner shall complete the Repairs as soon as reasonably possible and in a good and workmanlike manner, and in any event the Repairs shall be completed by the Owner within one year after the damage occurs. If, following the completion of and payment for the Repairs, there remain any undisbursed escrow funds, such funds shall be the property of the Owner or Eligible Mortgagee as their interests may appear.

2) Liability Insurance. The Unit Owner shall, at the Owner's own expense, procure and maintain liability insurance against claims for bodily injury, death and property damage occurring on or about the Unit in amounts reasonably satisfactory to the Association and naming Association as an additional insured, with minimum limits of \$1,000,000 per occurrence, against claims for death, bodily injury and property damage, and such other risks arising out of or in connection with the use, ownership or maintenance of the Unit.

All insurance policies maintained by Owners shall provide that they are without contribution as against the insurance purchased by the Association.

SECTION 12

RECONSTRUCTION, CONDEMNATION AND EMINENT DOMAIN

12.1 Reconstruction.

1) Common Elements or Limited Common Elements. The Association must repair or reconstruct the Common Elements and Limited Common Elements following damage or destruction thereof as governed by the Act, unless (a) the Common Interest Community is terminated; or (b) repair or replacement would be illegal; or (c) eighty (80%) percent of the Unit Owners vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserved is a Common Expense.

2) Units. Following damage to or destruction of a Unit or any structure within a Unit the Owner shall promptly repair, replace or restore all structures previously located within the Unit. If a Unit Owner fails to repair, replace or restore such structures the Association may do so and assess the cost of such repair, replacement or restoration to the Unit Owner.

Any repair or reconstruction shall be substantially in accordance with the plans and specifications of the Property as initially constructed and subsequently improved, or in accordance with plans and specifications which have been approved by the Board. The Association shall have all authority necessary to cause the Property, including the individual structures located within a Unit, to be reconstructed, including without limitation the authority (i) to require the Owners to enter into reconstruction contracts on their respective Units, or (ii) to contract for the reconstruction of the Units on behalf of the Owners. Notice of substantial damage or destruction shall be given pursuant to Section 18.10.

12.2 Condemnation and Eminent Domain. In the event of a taking of any part of the

Property by condemnation or eminent domain, the provisions of the Act shall govern; provided, that notice shall be given pursuant to Section 18.10. Eligible Mortgagees shall be entitled to priority for condemnation awards in accordance with the priorities established by the Act and the Documents, as their interests may appear.

12.3 Notice. All Eligible Mortgagees shall be entitled to receive notice of any condemnation proceedings or substantial destruction of the Property, and the Association shall give written notice thereof to a Eligible Mortgagee pursuant to Section 18.10.

SECTION 13

EASEMENTS

13.1 Easement for Encroachments. Each Unit and the Common Elements, and the rights of the Owners and Occupants therein, shall be subject to an exclusive easement for encroachments in favor of the adjoining Units for fireplaces, walls, roof overhangs, air conditioning systems, decks, balconies, porches, patios, utility installations and other appurtenances (i) which are part of the original construction of the adjoining Unit or the Property or (ii) which are added pursuant to Section 8. If there is an encroachment by a Dwelling, or other building or improvement located in a Unit, upon another Unit or Dwelling as a result of the construction, reconstruction, repair, shifting, settlement or movement of any part of the Property, an appurtenant easement for the encroachments, for the use, enjoyment and habitation of any encroaching Dwelling, building or improvement, and for the maintenance thereof, shall exist; provided that with respect to improvement or alterations added pursuant to Section 8, no easement shall exist unless the same have been approved, and the proposed improvements constructed, as required by this Declaration. Such easements shall continue for as long as the encroachment exists and shall not affect the marketability of title.

13.2 Easement for Maintenance, Repair, Replacement and Reconstruction. Each Unit, and the rights of the Owners and Occupants thereof, shall be subject to the rights of the Association to an exclusive, appurtenant easement on and over the Units for the purposes of maintenance, repair, replacement and reconstruction of the Units, and utilities serving the Units, to the extent necessary to fulfill the Association's obligations under the Documents.

13.3 Utility Easements. The Property and its Unit Owners shall be subject to and have the benefit of non-exclusive, appurtenant easements for all utilities, including but not limited to telephone, cable drainage, gas, electric, water and sewer, and similar services, which exist from time to time, as constructed or referred to in the Plat, or as otherwise described in this Declaration or any other duly recorded instrument or as may be installed in the future. Each Unit, and the rights of the Owners and Occupants thereof, shall be subject to a non-exclusive easement in favor of the other Units for all 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 utilities companies provided service to the Units for the installation and maintenance of utilities metering devices. All utility services described herein shall be a Limited Common Element and the cost of maintenance shall be the financial responsibility of the Owner of each Unit benefitted by the service.

13.4 Roadway Easements. The Property and its Unit Owners shall be subject to and have the benefit of non-exclusive, appurtenant easements for all road easements as noted on the Plat, subject to the right of the Declarant or Association to relocate the Roads at any time. In no event shall a Unit Owner be denied roadway access to the Owner's Unit. All roadways located on the Property shall be a Limited Common Element and the cost of maintenance shall be the financial

responsibility of the Owner of each Unit benefitted by the roadway.

13.5 Continuation and Scope of Easements. Notwithstanding anything in this Declaration to the contrary, in no event shall an Owner or Occupant be denied reasonable access to his or her Unit or the right to utility services thereto. The easements 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 Elements for purposes of maintenance, repair, replacement and reconstruction.

SECTION 14

COMPLIANCE AND REMEDIES

Each Owner and Occupant, and any other Person owning or acquiring any interest in the Property, shall be governed by and comply with the provisions of the Act, the Documents, the Rules and regulations, the decisions of the Association, and such amendments thereto as may be made from time to time. A failure to comply shall entitle the Association to the relief set forth in this Section, in addition to the rights and remedies authorized elsewhere by the Documents and the Act.

14.1 Entitled to Relief. The Association may commence legal action to recover sums due, for damages, for injunctive relief or to foreclose a lien owned by it, or any combination thereof, or an action for any other relief authorized by the Documents or available at law or in equity. Legal relief may be sought by the Association against any Owner, or by an Owner against the Association or another Owner, to enforce compliance with the Documents, the Rules and Regulations, the Act or the decisions of the Association. However, no Owner may withhold any assessments payable to the Association, or take (or omit) other action in violation of the Documents, the Rules and regulations or the Act, as a measure to enforce such Owner's position, or for any other reason.

14.2 Sanctions and Remedies. In addition to any other remedies or sanctions, expressed or implied, administrative or legal, the Association shall have the right, but not the obligation, to implement any one or more of the following actions against Owners and Occupants and/or their guests, who violate the provisions of the Documents, the Rules and regulations or the Act:

- a. Commence legal action for damages or equitable relief in any court of competent jurisdiction.
- b. Impose late charges of up to the greater of \$20, or 15% of the amount due, for each past due assessment or installment thereof, and interest at up to the highest rate permitted by law.
- c. In the event of default of more than 30 days in the payment of any assessment or installment thereof, all remaining installments of assessments assessed against the Unit owned by the defaulting Owner may be accelerated and shall then be payable in full if all delinquent assessments, together with all costs of collection and late charges, are not paid in full prior to the effective date of the acceleration. Reasonable advance written notice of the effective date of the acceleration shall be given to the defaulting Owner.
- d. Impose reasonable fines, penalties or charges for each violation of the Act, the Documents or the Rules and regulations of the Association.
- e. Suspend the rights of any Owner or Occupant and their guests to use any

Common Element amenities; provided, that this limitation shall not apply to Limited Common Elements or deck, balcony, porch or patio easements, appurtenant to the Unit, and those portions of the Common Elements providing utilities service and access to the Unit. Such suspensions shall be limited to periods of default by such Owners and Occupants in their obligations under the Documents, and for up to 30 days thereafter, for each violation.

f. Restore any portions of the Common Elements or Limited Common Elements damaged or altered, or allowed to be damaged or altered, by any Owner or Occupant or their guests in violation of the Documents, and to assess the cost of such restoration against the responsible Owners and their Units.

g. Enter any Unit or Limited Common Element in which, or as to which, a violation or breach of the Documents exists which materially affects, or is likely to materially affect in the near future, the health or safety of the other Owners or Occupants, or their guests, or the safety or soundness of any Dwelling or other part of the Property or the property of the Owners or Occupants, and to summarily abate and remove, at the expense of the offending Owner or Occupant, any structure, thing or condition in the Unit or Limited Common Elements which is causing the violation; provided that any improvements which are a part of a Unit may be altered or demolished only pursuant to a court order or with the agreement of the Owner.

h. Foreclose any lien arising under the provisions of the Documents or under law, in the manner provided for the foreclosure of mortgages by action or under a power of sale in the state where the Property is located.

14.3 Hearing. In the case of imposition of any of the remedies authorized by Section 14.2.d., e., f. or g. of this Section, the Board shall, upon written request of the offender, grant to the offender a fair and equitable hearing as contemplated by the Act. The offender shall be given notice of the nature of the violation and the right to a hearing, and at least ten (10) days within which to request a hearing. The hearing shall be scheduled by the Board and held within thirty (30) days of receipt of the hearing request by the Board, and with at least ten (10) days prior written notice to the offender. If the offending Owner fails to appear at the hearing then the right to a hearing shall be waived and the Board may take such action as it deems appropriate. The decision of the Board and the rules for the conduct of hearings established by the Board shall be final and binding on all parties. The Board's decision shall be in writing and mailed by U.S. Mail to the last known address of the offender within ten (10) days following the hearing, if not delivered to the offender at the hearing.

14.4 Lien for charges, Penalties, Etc. Any assessments, charges, fines, penalties or interest imposed under this Section shall be a lien against the Unit of the Owner or Occupant against whom the same are imposed and the personal obligation of such Owner in the same manner and with the same priority and effect as assessments under Section 6. The lien shall attached as of the date of imposition of the remedy, but shall not be final as to violations for which a hearing is held until the Board gives written notice following the hearing. All remedies shall be cumulative, and the exercise of, or failure to exercise, any remedy shall not be deemed a waiver of the right to pursue any others.

14.5 Costs of Proceeding and Attorneys Fees. With respect to any collection measures, or any measures or action, legal, administrative, or otherwise, which the Association takes to enforce the provisions of the Act, Documents or Rules and regulations, whether or not finally determined by a court or arbitrator, the Association may assess the violator and his or her Unit with any expenses incurred in connection with such enforcement, including without limitation fines or charges

previously imposed by the Association, reasonable attorneys, fees and interest (at the highest rate allowed by law) on the delinquent amounts owned to the Association.

14.6 Liability for Owner's and Occupants' Act. An Owner shall be liable for the expense of any maintenance, repair or replacement of the Property rendered necessary by such Owner's acts or omissions, or by that of Occupants or guests in the Owner's Unit, to the extent that such expense is not covered by the proceeds of insurance carried by the Association or such Owner or Occupant. However, any insurance deductible amount and/or increase in insurance rates, resulting from the Owner's acts or omissions may be assessed against the Owner responsible for the condition and against his or her Unit.

14.7 Enforcement by Owners. The provisions of this Section shall not limit or impair the independent rights of other Owners to enforce the provisions of the Documents, the Rules and Regulations, and the Act as provided therein.

SECTION 15

SPECIAL DECLARANT RIGHTS

Declarant hereby reserves exclusive and unconditional authority to exercise the following special declarant rights to the maximum extent permitted within the meaning of Section 515B.1-103 (32) of the Act for as long as it owns a Unit, or for such shorter period as may be specifically indicated:

15.1 Complete Improvements. To complete all of the Common Element improvements, Units and other improvements indicated on the Plat, or otherwise included in Declarant's development plans or allowed by the Declaration, and to make alterations in the Units and Common Elements to accommodate its sales facilities. To construct underground utility lines and facilities across the property. Improvements to the Common Elements and Units shall be completed at a time and in a manner in Declarant's discretion.

15.2 Add Additional Real Estate. To add Additional Real Estate to the Property as described in Section 16.

15.3 Relocate Boundaries, Utilities, Roads and Alter Units. To relocate boundaries between Units and to otherwise alter utilities, roads and Units owned by it, to the extent permitted by Section 16.

15.4 Sales Facilities. To construct, operate and maintain a sales office, management office, model Units and other development, sales and rental facilities within the Common Elements and any Units owned by Declarant from time to time, located anywhere on the Property, for as long as the Declarant owns any Unit.

15.5 Signs. 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 Elements.

15.6 Easements. To have and use easements, for itself, its employees, contractors, representatives, agents and prospective purchasers through and over the Common Elements for the purpose of exercising its special declarant rights.

15.7 Control of Association. To control the operation and administration of the Association, including without limitation to power to appoint and remove the members of the

Board pursuant to Section 515B.3-103 of the Act, until the earliest of: (i) voluntary surrender of control by Declarant, (ii) an Association meeting which shall be held within 60 days after conveyance to Owners other than a Declarant of 75% of the total number of Units authorized to be included in the Property or (iii) the date three (3) years following the date of the first conveyance of a Unit to an Owner other than a Declarant. Notwithstanding the foregoing, the Owners other than a Declarant shall have the right to nominate and elect not less than 33 1/3% of the directors at a meeting of the Owners which shall be held within 60 days following the conveyance by Declarant or 50% of the total number of Units authorized to be included in the Property.

15.8 Consent to Certain Amendments. As long as Declarant owns any unsold Unit for sale or is obligated under any warranty, Declarant's written consent shall be required for any amendment to the Documents or Rules and regulations which directly or indirectly affect or may affect Declarant's rights under the Documents or the Act.

SECTION 16

RIGHTS TO ADD ADDITIONAL REAL ESTATE, RELOCATE UNIT BOUNDARIES AND ALTER UNITS

16.1 Declarant's Rights to Add Additional Real Estate. Declarant hereby expressly reserves the right to add the Additional Real Estate to the Property, by unilateral action under Section 515B.2-111 of the Act, subject to the following conditions:

- a. The right of Declarant to add the Additional Real Estate to the common interest community shall terminate ten (10) years after the date of recording of this Declaration or upon earlier express written withdrawal of such right by Declarant or a successor Declarant, unless extended by a vote of the Owners pursuant to Section 515B.2-106(2) of the Act. There are no other limitations on Declarant's rights hereunder, except as may be imposed by law.
- b. The Additional Real Estate is described in Exhibit C. The Additional Real Estate may be added to the Property in parcels consisting of one or more platted lots, or portions thereof.
- c. There are no assurances as to the times at which all or any part of the Additional Real Estate will be added to the Property, the order in which it will be added, the number of parcels per phase not the size of the parcels. Declarant is under no obligation to add the Additional Real Estate to the Property, and the Additional Real Estate may be developed by Declarant or its successor in interest for other purposes, subject only to approval by the appropriate governmental authorities.
- d. The maximum number of Units that may be created within the Additional Real Estate described as such on the date of this Declaration is undetermined. All Units created on the Additional Real Estate shall be restricted exclusively to residential use.
- e. Any Units, including Dwellings and other structures, created upon the Additional Real Estate, when and if added, shall be compatible with the other Dwellings, Structures and Units which are part of the Property in terms of architectural style, quality of construction, principal materials employed in construction and size; subject (i) to any changes required by governmental authorities

or lenders and (ii) to any interior and minor exterior changes made by Declarant to meet changes in the market.

f. All covenants and restrictions contained in this Declaration affecting the use, occupancy and alienation of Units shall apply to all Units created on the Additional Real Estate.

g. The statements made in Subsections c through f above shall not apply to any Additional Real Estate which is not added to the Property.

16.2 Rights to Relocate Boundaries and Alter Units. Existing or future Units may be relocated only in accordance with the following conditions:

a. Combining Units. An Owner may make improvements or alterations to such Unit or, may, after acquiring an adjoining Unit, remove or alter any intervening partition or create apertures therein in accordance with Section 515B.2-113 of the Act and Subsection d of this Section.

b. Relocation of Boundaries. The boundaries between adjoining Units may be relocated in accordance with Section 515B.2-114 of the Act and Subsection d of this Section.

c. Subdivision or Conversion. No additional Units may be created by the subdivision or conversions of a Unit (within the meaning of the Act) into two or more Units, nor into other Units, Common Elements or Limited Common Elements.

d. Requirements. The alteration, relocation of boundaries or other modification of Units or the Dwellings or other structures located therein (collectively referred to herein as "alteration" or "alterations") pursuant to this Section, Section 8, and the Act may be accomplished only in accordance with the following conditions:

(1) No Unit may be altered if, thereafter, the Dwelling located therein, or any other Dwelling affected by the alteration, would no longer be habitable or practically usable for its intended purpose or would violate any law, code or ordinance of any governmental authority having jurisdiction over the Property.

(2) No alteration may be made which adversely affects the structural or functional integrity of any building system or the structural support or weathertight integrity of any portion of any building or other structure.

(3) The prior written consent of the Association shall be required for any alteration, except alterations by Declarant. Where required, such consent shall be requested in writing by each Owner whose Unit is proposed to be altered, accompanied by such explanation, drawings and specifications relating to the proposed alterations as may be reasonably required by the Association or the first mortgagee of the Unit. The Association shall give such Owner(s) notice in an expeditious manner, granting, denying or qualifying its consent.

(4) As a precondition to consenting to alterations the Association may require, among other things, the following: (i) that all alterations will be done in a workmanlike manner and without impairing the structural, mechanical or weather-

tight integrity of the Building; (ii) that the Common Elements and altered Units will be repaired and/or restored in the future as required by the Association; (iii) that the construction of the alterations will not create dangerous conditions for any Owners or Occupants; (iv) that the Property, the first mortgages and the Owners and Occupants will be protected from liens and other liability arising from the alterations; and (v) that the alterations will be done in compliance with the applicable laws, regulations and ordinances of the governmental authorities having jurisdiction over the Property.

(5) The Association may require that the Owners of the Units to be altered pay all costs of processing and documentation for the request and the preparation and recording of any necessary amendment to the Governing Documents, including without limitation such costs as filing, architects and attorneys fees, incurred by the Association in connection with the alterations.

SECTION 17

AMENDMENTS

This Declaration may be amended only as provided by Section 515B.2-118 of the Act. Unless authorized by the Act, this Declaration may be amended only by the consent of (i) Owners of Units to which are allocated at least sixty seven percent (67%) of the votes in the Association; (ii) the percentage of Eligible Mortgages (based upon one vote per first mortgage owned) required by Section 18 as to matters prescribed by said Section; and (iii) the consent of Declarant to certain amendments as provided in Section 15.8. Consent of the Owners may be obtained in writing or at a meeting of the Association duly held in accordance with the By-Laws. Consents of Eligible Mortgagees and the Declarant shall be in writing. Any amendment shall be subject to any greater requirement imposed by the Act. The Amendment shall be effective when recorded as provided in the Act. An affidavit by the Secretary of the Association as to the outcome of the vote, or the execution of the foregoing agreements or consents, shall be adequate evidence thereof for all purposes, including without limitation, the recording of the amendment.

SECTION 18

RIGHTS OF ELIGIBLE MORTGAGEES

Notwithstanding anything to the contrary in the Governing Documents, and subject to any greater requirements of the Act or other laws, Eligible Mortgagees shall have the following rights and protections:

18.1 Consent to Certain Amendments. The written consent of Eligible Mortgagees representing at least fifty-one percent (51%) of the Units that are subject to first mortgages held by Eligible Mortgagees (based upon one vote per first mortgage owned) shall be required for any amendment to the Documents which causes any change in the following: (i) voting rights; (ii) increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or priority of assessment liens, (iii) reductions in reserves for maintenance, repair and replacement of Common Elements; (iv) responsibility for maintenance and repairs; (v) reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use; (vi) redefinition of Unit boundaries; (vii) convertibility of Units into Common Elements or vice versa; (viii) expansion or contraction of the Property or the addition, annexation or withdrawal of property to or from the Property; (ix) hazard or fidelity insurance requirements; (x) leasing of Units; (xi) imposition of additional restrictions on the leasing of Units; (xii) if the common interest community

consists of 50 or more Units, a decision by the Association to establish self management when professional management is in effect as required previously by the Documents or by an Eligible Mortgagee; (xiii) restoration or repair of the Property (after a hazard damage or partial condemnation) in a matter other than that specified in the Documents; (xiv) any action to terminate the legal status of the common interest community after substantial destruction or condemnation occurs; or (xv) any provisions that expressly benefit mortgage holders, or insurers or guarantors of mortgages. Notwithstanding the foregoing, implied approval of a proposed amendment shall be assumed when an Eligible Mortgagee fails to submit a response to any written proposal for an amendment within 30 days after it receives proper notice of the proposal, provided that the notice was either personally delivered or properly mailed by U.S. Mail.

18.2 Consent to Certain Actions. The written consent of Eligible Mortgagees representing at least sixty seven percent (67%) of the Units that are subject to first mortgages (based upon one vote per first mortgage owned) shall be required to abandon or terminate the common interest community, subject to any greater requirements contained in the Act.

18.3 Consent to Subdivision. No Unit may be partitioned or subdivided without the prior written approval of the Owner and Eligible Mortgagee thereof, and the Association.

18.4 No Right of First Refusal. The right of an Owner to sell, transfer or otherwise convey his or her Unit shall not be subject to any right of first refusal or similar restrictions.

18.5 Priority of Lien. Any holder of a first mortgage on a Unit or any purchaser of a first mortgage at a foreclosure sale, that comes into possession of a Unit by foreclosure of the first mortgage or by deed or assignment in lieu of foreclosure, takes the Unit free of any claims for unpaid assessments or any other charges or liens imposed against the Unit by the Association which have accrued against such Unit prior to the acquisition of possession of the Unit by said first mortgage holder or purchaser; (i) except as provided in **Section 6.8** and the Act and (ii) except that any unpaid assessments or charges with respect to the Unit may be reallocated among all Units in accordance with their interests in the Common Elements.

18.6 Priority of Taxes and Other Charges. All taxes, assessments and charges which may become liens prior to the first mortgage under state law shall relate only to the individual Units and not to the Property as a whole.

18.7 Priority for Condemnation Awards. No provision of the Documents shall give an Owner, or any other party, priority over any rights of the Eligible Mortgagee of the Unit pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Unit and/or the Common Elements. The Association shall give written notice to all Eligible Mortgagees of any condemnation or eminent domain proceeding affecting the Property promptly upon receipt of notice from the condemning authority.

18.8 Requirements Management Agreements. The term of any agreement for professional management of the Property may not exceed two (2) years. Any such agreement must provide at a minimum for termination without penalty or termination fee by either party, (i) with cause upon thirty (30) days prior written notice, and (ii) without cause upon ninety (90) days prior written notice.

18.9 Access to Books and Record/Audit. Eligible Mortgagees shall have the right to examine the books and records of the Association upon reasonable notice during normal business hours, and to receive free of charge, upon written request, copies of the Association's annual reports and other financial statements. Financial statements, including those which are audited, shall be available within one hundred twenty (120) days of the end of the Association's fiscal year. If a

request is made by FNMA or any institutional guarantor or insurer of a mortgage loan against a Unit, for an audit of the Association's financial statements for the preceding year, the Association shall cause an audit to be made and deliver a copy to the requesting party upon confirmation that such requesting party will reimburse the Association for the cost of the requested audit.

18.10 Notice Requirements. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor of a mortgage on a Unit, and the Unit number or address, the holder, insurer or guarantor shall be entitled to timely written notice of:

- a. a condemnation loss or any casualty loss which affects a material portion of the Property or the Unit securing the mortgage;
- b. a 60 day delinquency in the payment of assessments or charges owed by the Owner of a Unit on which it holds a mortgage;
- c. a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- d. a proposed action which requires the consent of a specified percentage of Eligible Mortgagees.
- e. any judgment rendered against the Association.

SECTION 19

TERMINATION

Termination of the Common Interest Community may be accomplished only in accord with Section 515B.2-119 of the Act.

SECTION 20

MISCELLANEOUS

20.1 Severability. If any term, covenant, or provision of this instrument or any exhibit attached hereto is held to be invalid or unenforceable for any reason whatsoever, such determination shall not be deemed to alter, affect or impair in any manner whatsoever any other portion of this instrument or exhibits.

20.2 Construction. Where applicable the masculine gender of any word used herein shall mean the feminine or neutral gender, or vice versa, and the singular of any word used herein shall mean the plural, or vice versa. References to the Act, or any section thereof, shall be deemed to include any statutes amending or replacing the Act, and the comparable sections thereof.

20.3 Tender of Claims. In the event that any incident occurs which could reasonably give rise to a demand by the Association against Declarant for indemnification pursuant to the Act, the Association shall promptly tender the defense of the action to its insurance carrier, and give Declarant written notice of such tender, the specific nature of the action and an opportunity to defend against the action.

20.4 Notices. Unless specifically provided otherwise in the Documents or the Act, all notices required to be given by or to the Association, the Board of Directors, the Association

Detroit Lakes, MN 56501
218-847-5653

COMMON INTEREST COMMUNITY NO. 2

**EXHIBIT A TO DECLARATION
LEGAL DESCRIPTION OF PROPERTY**

Real property in Wadena County, Minnesota, described as follows:

The north 300.00 feet of the Northeast Quarter of the Southwest Quarter, Section 4, Township 138, Range 35, Wadena County, Minnesota

AND

The west 660.00 feet of the South Half of the Southeast Quarter of the Northwest Quarter, Section 4, Township 138, Range 35, Wadena County, Minnesota.

AND

The east 290.00 feet of the South Half of the Southwest Quarter of the Northwest Quarter, Section 4, Township 138, Range 35, Wadena County, Minnesota.

COMMON INTEREST COMMUNITY NO. 2

EXHIBIT B TO DECLARATION

SCHEDULE OF UNITS

NOTE: Each Unit's unit identifier is its Unit Number and the Common Interest Community name.

Unit 1, OF WADENA COUNTY COMMON INTEREST COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified Plat and Declaration on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

Unit 2, OF WADENA COUNTY COMMON INTEREST COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified Plat and Declaration on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

Unit 3, OF WADENA COUNTY COMMON INTEREST COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified Plat and Declaration on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

Unit 4, OF WADENA COUNTY COMMON INTEREST COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified Plat and Declaration on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

Unit 5, OF WADENA COUNTY COMMON INTEREST COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified Plat and Declaration on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

Unit 6, OF WADENA COUNTY COMMON INTEREST COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified Plat and Declaration on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

Unit 7, OF WADENA COUNTY COMMON INTEREST COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified Plat and Declaration on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

Unit 8, OF WADENA COUNTY COMMON INTEREST COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified Plat and Declaration on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

Unit 9, OF WADENA COUNTY COMMON INTEREST COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified Plat and Declaration on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

Unit 10, OF WADENA COUNTY COMMON INTEREST COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified Plat and Declaration on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

Unit 24, OF WADENA COUNTY COMMON INTEREST COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified Plat and Declaration on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

Unit 25, OF WADENA COUNTY COMMON INTEREST COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified Plat and Declaration on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

Unit 26, OF WADENA COUNTY COMMON INTEREST COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified Plat and Declaration on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

Unit 27, OF WADENA COUNTY COMMON INTEREST COMMUNITY NO. 2, a Planned Community Blueberry Pines, according to the certified Plat and Declaration on file and of record in the office of the County Recorder in and for Wadena County, Minnesota.

** See attached plat map

COMMON INTEREST COMMUNITY NO. 2

**EXHIBIT C TO DECLARATION
DESCRIPTION OF ADDITIONAL REAL ESTATE**

Wadena County

R020092012
R020051010
R020092010
R020054010
R020081015
R020053012
R020042035