

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, EASEMENTS AND LIENS**

This Declaration is made in the County of Hennepin, State of Minnesota, on this 21st day of November, 2003 by Premier Development of MN, Inc., a Minnesota corporation, hereinafter referred to as "Declarant".

WHEREAS, the Declarant is the Owner of real property in the County of Hennepin, State of Minnesota, legally described as:

Lots 1 through 9 Block 1; Lots 1 through 16 Block 2; Lots 1 through 10, Block 3; Lots 1 through 4, Block 4; Lots 1 through 12; Block 5; Lots 1 through 28 Block 6; and Lots 1 through 15, Block 7, SHADOWBROOK

WHEREAS, The real property described above, located in the County of Hennepin is herein collectively referred to as the "Property";

WHEREAS, the Declarant desires to establish on the property 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, structural quality, and the original architectural aesthetic character of the property, and

WHEREAS, it is the intention of the Declarant to construct 94 detached single-family homes.

NOW, THEREFORE, the Declarant hereby declares that all of the property described above shall be subject to this Declaration set forth below and the terms and conditions of said Declaration shall run with the real property and be binding on all parties having a right, title or interest in the above described properties or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of each Owner thereof.

Title Recording Services, Inc. 401941
1043 Grand Avenue #259
St. Paul, MN 55105 Shadowbrook
HENNEPIN U UNITED WALK



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ARTICLE I
DEFINITIONS

Section 1 **"Association"** shall mean and refer to Shadowbrook Homeowners Association. Said Association has been incorporated under Chapter 317A of Minnesota Statutes.

Section 2 **"Property"** shall mean and refer to all the real property submitted to this Declaration, including the Buildings and all other structures and improvements located thereon now or in the future. The Property as of the date of this Declaration is legally described as follows:

Lots 1 through 9 Block 1; Lots 1 through 16 Block 2; Lots 1 through 10, Block 3; Lots 1 through 4, Block 4; Lots 1 through 12; Block 5; Lots 1 through 28 Block 6; and Lots 1 through 15, Block 7, SHADOWBROOK

Section 3 **"Board"** shall mean the Board of Directors of the Association as provided in the By-Laws.

Section 4 **"By-Laws"** shall mean the By-Laws governing the operation of the Association as amended from time to time.

Section 5 **"Common Improvements"** The community shall have Common Improvements.

Section 7 **"Owner"** shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to any Lot, but excluding those having such interest merely as security for the performance of an obligation. In the event there is an outstanding contract for deed for the purchase of a Lot "Owner" shall refer to the person, whether one or more, or entities who are the contract purchasers in said contract for deed and not the holder of fee simple title. If there exists more than one outstanding contract for deed for the purchase of a Lot, "Owner" shall mean and refer to that person or entity who appears as purchaser in the last contract for deed entered into. "Owner" shall also include any person holding a life estate in any Lot.

Section 8 **"Declarant"** shall mean and refer to Premier Development of MN, Inc., a Minnesota corporation, and its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 9 **"Declaration"** shall mean and refer to this Declaration applicable to the properties recorded in the office of the County Recorder, Hennepin County, Minnesota.

Section 10 **"Member"** shall mean and refer to those persons entitled to membership as provided in this Declaration and the Articles.

Section 11 "Building" shall mean and refer to a part of a structure consisting of one or more floors designed and intended for occupancy as a single family residence and located within the boundaries of a Lot. If the building is a rambler style home, it shall have a minimum of 1,800 sq. ft. of living area on the main floor. If the building is a two-story home, it must have a minimum of 2,250 sq. ft. of living area. If the building is a split-entry or multi-level home, it must have a minimum of 1,900 sq. ft. of living area and must meet architectural approval.

No building shall be erected, altered, placed or permitted to remain on any building lot except for one detached dwelling with attached private garage of at least three (3) cars (required at a minimum).

In addition to the building constructed as a single-family residence, the owner may construct one (1) additional detached building which shall not exceed 1,000 sq. ft. in area and must be at least six (6) feet from the dwelling. The detached building may not be constructed of steel or aluminum building materials. A building permit must be obtained from Brooklyn Park. Said detached building may not be used as a garage.

Detached garages are not permitted.

Section 12 "Eligible Mortgagee" shall mean and refer to any person owning a mortgage on any Lot 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 actions which requires approval by a specified percentage of the Eligible Mortgagees.

Section 13 "Occupants" shall mean and refer to any person or persons other than an Owner in possession of or residing on a Lot.

Section 14 "Plat" shall mean and refer to the recorded plat known as SHADOWBROOK.

Section 15 "Rules and Regulations" shall mean and refer to the Rules and Regulations of the Association as approved from time to time pursuant to Article XII hereof.

Any terms used in the governing documents, and defined in the Act and not in this Article shall have the meaning set forth in the Act.

ARTICLE II **MEMBERSHIP AND VOTING RIGHTS** **IN THE ASSOCIATION**

Section 1 Membership. Each Owner of a Lot which is subject to assessment by the Association shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of such Lot, and shall be transferred with the conveyance of the Owners interest in the Lot.

Section 2 Voting Rights. Each Owner shall have one vote for each Lot owned. When more than one person owns any Lot, all such persons shall be members. If more than one person owns a Lot, the vote for such Lot shall be exercised pursuant to a written proxy signed by all persons owning an interest in said Lot assigning the vote for said Lot to one person, which proxy shall be effective until it is revoked by a writing filed with the Secretary of the Association. In no event shall more than one vote be cast with respect to any Lot.

Section 3 Classes. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) on December 31, 2004.

ARTICLE III **THE COMMON IMPROVEMENTS**

Section 1 Common Improvements The common improvements consist of a monument described in Section 3 of Article V of this Declaration.

Section 2 Association Rights and Duties. The Association, subject to the rights of the owners set forth in this Declaration, shall be responsible for the exclusive management, control, repair and maintenance of the common improvements. For the purpose of preserving the architectural character, quality and uniform high standards for appearance of the property, the Association shall (i) provide for maintenance of all personal property located on the common elements, and (ii) create a committee for the purpose of approving all exterior modifications and additions to a building pursuant to the terms more fully set out in Article VII of this Declaration, and (iii) provide for the maintenance, repair and replacement of all entrance monuments.

Section 3 Services The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for proper

operation whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the properties or the enforcement of this Declaration. The Association may arrange trash collection, and other common services to Owners.

Section 4 Personal Property for Common Use. The Association may acquire and hold for the beneficial use and enjoyment of all of the Owners, tangible and intangible personal property, and may dispose of the same by sale or otherwise.

ARTICLE IV **COVENANTS FOR ANNUAL ASSESSMENTS** **AND SPECIAL ASSESSMENTS**

Section 1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it within the properties, hereby covenants, and each Owner of any Lot subject to this Declaration by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be and hereby is deemed to covenant and agrees to pay the Association: (a) annual assessments or charges; (b) special assessments, and (c) insurance assessments to be fixed, levied, established and collected from time to time as hereinafter provided. The annual, special, and insurance assessments, together with fees, charges, late charges, fines, interest imposed by the Association, costs of collection thereof and reasonable attorney's fees, shall be a charge on each such Lot and shall be a continuing lien on each such Lot against which such assessment is made. Each such assessment, together with interest thereon, costs of collection thereof and reasonable attorney's fees, shall be a personal obligation of the person or legal entity who was the Owner of each such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Owner's successor in title to the Lot against which such assessment was made unless expressly assumed by such successor. Filing of this Declaration constitutes record notice and perfection of any lien under this Article, and no further filing of any notice of or claim for the lien is required.

Section 2 Purpose of Assessments. The assessments for Common Expenses levied by the Association shall be used exclusively for the purposes of promoting the pleasure, health, safety and welfare of the residents of the properties and, in particular, for the maintenance of the property, services and facilities devoted to this purpose and related to the use and enjoyment of the improvements erected upon each Lot. An adequate reserve fund shall be maintained for maintenance, repairs and replacement of the Elements of the properties which must be maintained, repaired or replaced by the Association on a periodic basis, including, without limitation, roofs, exterior wall surfaces and driveways.

Section 3 Basis of Annual Assessments Annual assessments shall be levied on the basis of number of Lots assuming one building per Lot.

Section 4 Maximum Annual Assessments. Until December 31, 2004, the maximum annual assessment shall be \$15.00 Dollars per Lot. From and after December 31, 2003, the maximum annual assessment may be increased each year by the greater of six percent (6%) or the percentage increase during the previous 12 month period (as measured from the date on which the Board of Directors fixes such annual assessment pursuant to Section 7 hereof) in the Consumer Price Index. "All Urban Consumers", published for the Minneapolis/St. Paul metropolitan area by the U.S. Department of Commerce, Bureau of Labor Statistics ("CPI") or such other index as may be published in the future by the Federal Government as replacement for the CPI, provided, however, that such maximum annual assessment may be increased above the amount of any such increase on the CPI by a vote of members holding two-thirds (2/3) of the votes in each class of voting membership who are voting in person, by proxy, or by mail at a meeting duly called for that purpose. The Board of Directors may fix the annual assessment at any amount not in excess of the maximum. No Lot shall be assessed until an occupancy permit has been issued on said Lot. Said reduction shall not apply to any assessment or portion of assessment allocated for replacement reserves for maintenance, repair, or replacement of Common Improvements which the Association is obligated to maintain. This reduced assessment shall apply to each Lot owned by Declarant at the time that the Lot is created, and shall continue until the issuance of the certificate of occupancy as previously described. 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.

Section 5 Special Assessments In addition to the annual assessment authorized above and insurance authorized below, the Association may levy, in any assessment year, special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of maintaining the properties which are to be maintained by the Association; provided, however, that any such assessment shall have the assent by a vote of members holding two-thirds (2/3) of the voting membership who are voting in person, by proxy or by mail at a meeting duly called for this purpose.

Section 6 Notice and Quorum Requirements for Any Action Authorized Under Section 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 of this Article IV shall be sent to all members not less than fifteen (15) days nor more than thirty (30) days in advance of the meeting, excluding the day of the meeting. At any such meeting called, the presence of members, of proxies, and of mailed ballots of members entitled to cast sixty percent (60%) of all of the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting.

Section 7 Uniform Rate. As applied to each Lot, annual assessments, insurance assessments, and special assessments must be fixed at a uniform rate for all Lots. Any assessment or portion thereof benefitting fewer than all of the Lots may be assessed exclusively against the Lots benefitted, on the basis of (i) equality, or (ii) the actual cost incurred with respect to each Lot. 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.

Section 8 Commencement of Assessments. The assessments provided for herein shall commence upon the execution and filing of this Declaration.

Section 9 Duties of Board of Directors At least thirty (30) days in advance of each annual assessment period, the Association's Board of Directors shall fix the amount of the annual assessment against each Lot, establish due dates for such assessment, and send written notice of such annual assessments and due dates thereof to every Owner subject thereto. At this time, the Board of Directors shall also prepare a roster of the Lots and all assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by all Owners. The annual assessment period shall commence on January 1st and run to December 31st of the next succeeding year.

The Board of Directors shall also fix the due date of any special assessment to be levied against each Lot in any assessment year. The Board shall send written notice of such special assessments and the due dates thereof to every Owner subject thereto within thirty (30) days after the Owners have approved such special assessment pursuant to Section 5 of this Article IV.

The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of issuance.

Section 10 Effect of Non-Payment of Assessment. If the assessments are not paid on the date when due, then such assessments shall become delinquent and shall, together with interest thereon, all reasonable attorney's fees incurred, and costs of collection hereinafter provided, become a continuing lien on the Lot. Said lien on the Lot may be enforced and foreclosed by action at law in the same manner as a mortgage. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest at the highest rate permitted by the Minnesota Law for mortgages on a single family Residential property in force on the due date of the assessment from the due date, and the Association may bring an action at law or a suit in equity against the Owner personally obligated to pay the same, or may foreclose the lien against the Lot pursuant to Minnesota Statutes Chapter 580 and 581. There shall also be added to the amount of such assessment the cost of preparing and filing the Complaint in such action, and in the event that judgment is obtained, such judgment shall include interest on the assessment as above provided, and reasonable attorney's fees to be fixed by the Court, together with other costs of the action. Fees, charges, late charges, fines and interest may be assessed as provided for in this Declaration.

No Owner may waive or otherwise avoid liability for the assessments provided for herein by abandonment of his or her Lot.

Section 11 Subordination of Lien to First Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien held by any First Mortgagee now or hereafter placed upon a Lot subject to assessments; provided, however, that such subordination shall apply

only to the assessments which have become due and payable prior to the sale or transfer of a Lot and the expiration of the period of redemption from a mortgage foreclosure sale or conveyance by deed in lieu of foreclosure. The purchaser at a foreclosure sale of a first mortgage shall, upon expiration of the period of redemption, hold title to the Lot free and clear of any existing lien for such assessments unless such purchaser specifically assumes such assessments. Such sale or transfer shall not release a Lot from the lien of any assessments which thereafter become due.

Section 12 Judgment. Assessments levied under this Article to pay a judgment against the Association may be levied only against the Lots existing at the time the judgment was entered, in proportion to their common expense liabilities.

ARTICLE V **EASEMENTS**

Section 1 General. In addition to the easements, covenants, restrictions and conditions of Article VI concerning exterior controls, all Lots shall be subject to easements and covenants hereinafter specifically described for the benefit of all other Lots, all as more fully set forth hereinafter in this Article. The easements set forth in this Article 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 Lots in the Common Improvements for purpose of maintenance, repair, replacement and reconstructions.

Section 2 Monument Easements The declarant intends to construct a monument over and across that part of the property described in Exhibit A attached hereto. Said monument is to be considered a common improvement and shall be subject to all the terms and conditions contained in this Declaration. Initial construction of the monument shall be the responsibility of the Declarant, after which repair, maintenance and replacement of the monument shall be the responsibility of the Association. (Monument sign to be placed on Outlot A, Exhibit A to be defined)

Section 3 Maintenance and Repairs. In order to carry out its obligations to maintain, repair or replace the monument, the Association shall have the right to draw from exterior house taps and buildings for the purpose of maintaining, repairing or replacing said monument, provided, however, that reasonable reimbursement to owners shall be made pursuant to those regulations adopted by the Association.

ARTICLE VI **ARCHITECTURAL AND EXTERIOR CONTROLS**

Section 1 There is hereby created an Architectural Control Committee, hereinafter called "Committee", which shall be composed of three (3) persons appointed by the Declarant, its successors and assigns.

Section 2 The purpose of the Committee is to maintain the value and the harmony of external design among structures to be constructed and those structures constructed.

Section 3 The Committee may act by a majority of its members and any approval,

authorization or other action made by the Committee must be written and signed by at least one of the members thereof.

Section 4 Upon death or resignation of a member of the Committee, the Declarant, its successors or assigns, shall have the right to appoint a new member until December 31, 2007. Commencing January 1, 2008, the Board of Directors of the Association shall appoint members of the Committee. Any time after the Declarant conveys legal title to the last parcel of land subject to this Declaration, the Declarant shall have the right to terminate its obligations hereunder. The Declarant's obligations shall terminate thirty (30) days after written notice has been delivered to the Board.

Section 5 Any Committee member appointed by the Declarant may, from time to time, designate or authorize a representative to act in his/her behalf with the same authority and power to act as a Committee member except that he serves at the pleasure of the Committee member who appointed him and he cannot appoint another person to represent him on the Committee.

Section 6 Committee members shall serve without compensation.

Section 7 Plans, specifications and proposals required to be submitted to the Committee shall be delivered to the registered office of PREMIER DEVELOPMENT OF MN, INC. until such time as Declarant's obligations and duties terminate pursuant to Section 2 of this Article.

Section 8 No dwelling, garage or other structure, nor any external addition, alteration or remodeling thereof, shall be made, erected, altered, placed or permitted to remain on any portion of the premises subject to the terms of this Declaration, unless and until detailed plans and specifications or proposals have been filed in writing with and have been approved by the Committee. Said plans, specifications and proposals shall contain details of external design, external colors, and color schemes, landscaping, fencing and placement of walks and driveways, the construction and the materials to be used in construction and the dimensions and locations thereof. Said filing in writing shall utilize a form or forms acceptable to the Committee. If the plans, specifications or proposals which satisfy the above stated requirements have been submitted to the Committee and the Committee has failed to approve or disapprove such plans, specifications and proposals within twenty (20) days after such plans have been submitted; then approval of such plans, specifications or proposals will be conclusively presumed provided plans and specifications meet all requirements in Article I, Section 11 and the codes of Brooklyn Park and/or State of Minnesota. Any plans, specifications and proposals approved, either expressly in writing, or by the expiration of the said 20 day period, shall permit the property owner to construct in accordance with said plans, specifications and proposals and in conformity with applicable codes of Brooklyn Park, but any deviation from said plans, specifications and proposals which, in the judgment of the Committee, is of substantial detriment to the appearance of the structure or of the surrounding area, shall be corrected to conform to the plans, specifications and proposals as submitted at the expense of the party who submitted said plans and specifications. Declarant, its successors, assigns, agents or employees shall not be liable for damage to anyone who has submitted plans for approval, or to any owner by reason of mistake in

judgment, negligence or nonfeasance of itself, its agent or employees arising out of or in connection with the approval or disapproval of any such plans.

Section 9 All structures, buildings, improvements and landscaping, including a fully sodded yard or a fully seeded yard with satisfactory growth, must be completed within thirty (30) days after move in under acceptable weather conditions. If work upon any structure, building, improvement or landscaping is commenced but not completed within said one (1) month period and is, in the judgment of the Committee, offensive or unsightly in appearance, the Committee may take such action as it, in its discretion, deems necessary to eliminate the offensive or unsightly appearance, such action to include, but not be limited to, completion of the exterior or the screening or the covering of the structure, building or completing landscaping improvements, and the amount of any expenditure made in so doing shall be a direct obligation of the property owner, payable on demand, and shall constitute a lien on the building lot which shall be enforceable by the Committee in an action at law or equity.

Section 10 If any structure, building, or improvement shall be fully erected and completed without the submission of plans, specifications or proposals as required herein, and shall remain in existence for one year after completion without a legal or acquirable action having been commenced by a member of the Committee or any person who has standing to bring such an action, the structure, building, or improvement shall be permitted to remain as though the Committee had initially approved of its construction. If such property is sold after the structure, building, or improvement is completed, but prior to expiration of one year, and no legal or equitable action has been commenced by service of process prior to the recording of the conveyance transferring ownership of the property, then such structure, building, or improvement shall be permitted to remain as though the Committee had initially approved of its construction.

Section 12 Nothing contained in this Declaration shall be construed or require the members of the Committee to bring an action at law or equity to enforce the provisions contained in this Declaration.

Section 13 Maintenance and Repairs. All maintenance and repair of individual buildings constructed on a Lot shall be the sole obligation, responsibility and expense of the individual Owners thereof, except to the extent that repair or maintenance of monuments are the responsibility of the Association. In the event that any maintenance or repair of any part of the common improvements is necessitated by the willful or negligent acts of any owner or his or her family, guests or invitees, the cost of all such maintenance, repairs, attorneys fees and costs for enforcement shall be added to become part of the assessments to which the Lot of such owner is subject. If, in the course of the Association carrying out any maintenance or repairs for which it is responsible pursuant to this Declaration, damage is done to a Lot or the improvements thereon, then, and in that event, the Association shall be responsible for all damage done to the Lot and the improvements thereof and shall perform or pay for the restoration of, and repairs to such improvements. In addition, the Association shall have the right to enter the owners' Lot and to restore any part of the building or Lot to its prior condition. If the alterations were made in violation of this Article, the costs of said restoration shall be the personal obligation of the owner and a lien against the owner's Lot.

Section 14 Exterior Materials At least 50% of the front exterior shall incorporate materials such as brick, shakes, stone, or stucco. If side and rear exteriors are not brick, shakes, stone, or stucco, then it must be high-grade, maintenance free, siding material. No hardboard siding. In addition, those homes with sides facing the street will be reviewed in greater detail, and the aforementioned requirements for front exterior may also be required on the sides directly facing the street, final determination will be made by the Architectural Control Committee.

Section 15 No more than two dwelling units with the same exterior configuration shall be erected within any of five abutting, contiguous, successive or adjoining lots.

Section 16 Roofing Requirements The roof lines for all homes must have a minimum 8/12 pitch (excluding porch areas) or be approved by the Architectural Control Committee. Shingles must be timberline or equal.

Section 17 Solar Heating No solar heating panels shall be constructed or maintained without the prior written approval of the Architectural Control Committee which committee shall have the authority to disapprove the construction and/or maintenance of solar heating panels or to give approval conditions upon such restrictions and conditions as the Architectural Control Committee deems appropriate.

Section 18 Garages & Driveways No building shall be constructed unless it has a driveway from the existing street to the garage with a minimum width of 12 feet and a maximum width of 30 feet. The roadway shall be surfaced with bituminous or concrete surfacing and shall run from the back of the curb to the front of garage. Garage doors shall have raised panels or other architectural treatments, plain flat garage doors are unacceptable.

Section 19 Landscaping Unless the lot already has five (5) trees on it, the owner shall plant sufficient trees so that there are at least five (5) trees on the lot. Suitable deciduous trees include: Maples, Linden (Basswood), Green Ash, Honey Locust, Ash, Kentucky Coffee, Birch, Ginkgo (male only), Hackberry and Oak. Suitable coniferous trees include fir, Colorado Blue and Green Spruce, European Larch, Cedar, Black Hills Spruce, Canadian Hemlock, Austrian Pine and White Pine.

Trees that can cause a public nuisance, such as cotton producing trees, or can be a public hazard, such as bug infestation or weak bark, are prohibited. The minimum tree size shall be 2" caliper, either bare root in season, or ball and burlap. The trees may not be planted in the boulevard. Before a building permit is issued for construction on a lot, a cash escrow of \$1,000.00 per lot shall be furnished to Brooklyn Park to guarantee compliance with the landscaping requirements. If the final grading and landscaping is not timely completed, Brooklyn Park may enter the lot, perform the work and apply the cash escrow toward the cost. Upon satisfactory completion of the landscaping, the escrow funds, without interest, less any draw made by the Township, shall be returned to the party that deposited the funds with the Township. All trees shall be warranted to be alive, of good quality and disease free for 12 months after planting. Any replacements shall be warranted for 12 months from the time of planting. Weather permitting, the trees, sod and seed shall be planted within 90 days after a

building is constructed on a lot.

Section 20 Retaining Walls Retaining walls that require a building permit shall be constructed in accordance with plans and specifications prepared by a structural or geotechnical engineer licensed by the State of Minnesota. Following construction, a certification signed by the design engineer shall be filed with the Township engineer evidencing that the retaining wall was constructed in accordance with the approved plans and specifications. All retaining walls, the development plans or special conditions required to be constructed shall be constructed before any other building permit is issued for a lot on which a retaining wall is required to be built.

ARTICLE VII **INSURANCE**

Section 1 Required Coverage The Association shall obtain and maintain, at a minimum, a master policy or policies of insurance in accordance with the insurance requirements set forth in the Act and the additional requirements set forth herein, issued by a reputable insurance company or companies authorized to do business in the State of Minnesota, as follows:

- a. Comprehensive public liability insurance covering the use, operation and maintenance of the Common Elements, with minimum limits of \$1,000,000.00 per occurrence, against claims for death, bodily injury and property damage, and such other risks as are customarily covered by such policies for projects similar in construction, location and use to the property. 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, coverage 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 Lot.
- b. Fidelity bond or insurance coverage against dishonest acts on the part of directors, officers, managers, trustees, employees or persons responsible for handling funds belonging to or administered by the Association if deemed to be advisable by the Board or required by the regulations of the FHA or FNMA as a precondition to the purchase or financing of a mortgage on a Lot. 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 Lot, 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 Lots 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.

- c. Workers' compensation insurance as required by law.
- d. Directors and officers liability insurance with such reasonable limits and coverage as the Board shall determine from time to time.
- e. Such other insurance as the Board may determine from time to time to be in the best interests of the Association and the Owners.

Section 2 Premiums; Improvements; Deductibles. All insurance premiums shall be paid from the annual assessment proceeds.

Section 3 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.

Section 4 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.

Section 5 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 canceled or substantially modified, for any reason, without at least 90 days prior written notice to the Association, to the FHA or FNMA (if applicable), all of the insureds and all eligible mortgagees.

Section 6 Restoration in 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 the provisions of any insurance trust agreement to which the Association may be a party, or any requirement of law.

Section 7 No Contribution All policies of insurance maintained by the Association shall be the primary insurance where there is no other insurance in the name of the Owner covering the same property, and may not be brought into contribution with any insurance

purchased by the Owners of the eligible mortgagees.

Section 8 **Effect of Acts Not Within the 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 of omission of an Owner, 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.

Section 9 **Owner's Personal Insurance** Each Owner shall be responsible to obtain insurance coverage at his or her own expense covering fire and other casualty to the Lot and the improvements located thereon. All insurance policies maintained by the Owners shall provide that they are without contribution as against the insurance purchased by the Association.

ARTICLE VIII **USE RESTRICTIONS**

Section 1 **Waste** No damage to, or waste of, the properties or the buildings situated thereon, shall be committed by any Owner or any invitees of any Owner, and each Owner agrees to indemnify and hold harmless the Association and other Owners from and against all loss resulting from any such damage or waste caused by him or her or his or her invitee. No noxious, destructive or offensive activity shall be allowed on any Lot, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to any other Owner or person at any time lawfully residing in the properties.

Section 2 **Restriction** 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 Lot, covenants and agree that, in addition to any other restriction which may be imposed by the Act or the governing documents, the occupancy, use, operation, alienation and conveyance of the property shall be subject to the following restrictions contained in this Article. The property shall be owned, conveyed, encumbered, leased, used and occupied subject to the governing documents and the Act, as amended from time to time. All covenants, restrictions and obligations set forth in the governing documents are in furtherance of a plan for the property, and shall run with the property and be a burden and benefit to all the Owners and Occupants and to any other person acquiring or owning an interest in the property, their heirs, personal representatives, successors and assigns.

Section 3 **Animals** Owners shall be permitted to keep dogs, cats or other household pets subject to the conditions and restrictions contained in the By-Laws as well as any written rules or regulations established by the Association. However, no such pet shall be kept, bred or maintained for any commercial purposes. No animals other than those described in this Section are allowed under the written rules and regulations of the Association shall be raised, bred or kept in or upon any Lot or on any part thereof. The word "animal" shall be construed in its broadest sense and shall include all living creatures except humans.

Section 4 Signs No signs of any kind shall be displayed to the public on any residential Lot except one sign advertising the property for sale, the design, size and placement of which shall be governed by rules promulgated by the Board of Directors of the Association; in no event shall the size of the sign exceed five (5) square feet. "For Sale" signs shall not be displayed for a period exceeding ninety (90) days, unless the Association rules allow for a longer period.

Section 5 Storage. The Association shall have the right to adopt rules and regulations regarding long-term outside storage of any vehicle on any of the properties.

Section 6 Parking Garages and parking areas on the property shall be used 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 type of vehicles and personal property permitted thereon, shall be subject to a regulation by the Association, including without limitation the right of the Association to tow illegally parked vehicles or to remove unauthorized personal property.

No motor home, camper, boat, motorcycle, snowmobile, all terrain vehicle, racing car, or any form of recreational vehicle or unlicensed vehicles such as tractors, cement mixers, contractor's supplies, etc., whether motorized or not, shall be stored on any lot subject to these covenants unless stored or parked so as to be unable to be seen from the public street adjoining such lot, except construction equipment for a reasonable time during construction of homes.

No motor vehicles shall be parked on a street anywhere within the subdivision subject to these covenants overnight for a period exceeding five (5) consecutive days or such lesser period as is prescribed by law or ordinance.

Section 7 Residential Only The Lots shall be used by Owners and Occupants and their guests exclusively as private, single family residential dwellings, not for transient, hotel, commercial, business, or other non-residential purposes except as provided herein. Any lease of a Lot (except for occupancy by guest with the consent of the Owner) for a period of less than six months or any occupancy which includes services, customarily furnished to hotel guests, shall be presumed to be for transient purposes. No business, trade, occupation or profession of any kind, will be carried on for profit or otherwise, shall be conducted, maintained or permitted in any Lot or the Common Improvements; except (i) an Owner or Occupant residing on a Lot may keep and maintain his or her business or professional records on such Lot and handle matters 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 Lot and do not involve any observable business activity such as signs, advertising displays, bulk mailings, deliveries, or visitation or use of the Lot by customers or employees and (ii) Association may maintain offices on the property for management and related purposes.

Section 8 Subdivision Except as permitted by the Act, no part of the Common Improvements may be subdivided or partitioned without the prior written approval of all Owners and all secured parties holding first mortgages on the Lots.

Section 9 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 Lot into separate time periods, is prohibited.

Section 10 Quiet Enjoyment; Interference Prohibited All Owners and Occupants and their guests shall have a right of quiet enjoyment in their respective Lots, 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.

Section 11 Compliance with Law No use shall be made of the property which would violate any then existing municipal codes or ordinances, or state or federal laws, nor shall any act or use be permitted 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 the Owner or Occupant.

Section 12 No lot shall be used or maintained as a dumping ground for any materials including, but not limited to, refuse, trash, garbage, junk motor vehicles or other waste. Said items shall be kept in sanitary garbage or trash containers concealed so as not to be visible from the street.

Section 13 No play equipment in front yard (swing sets, trampolines, sand boxes, etc.)

ARTICLE IX NON-DISCRIMINATION

Each Owner agrees that neither he nor she nor anyone authorized to act for him or her will refuse to sell or rent, after the making of a bona fide offer, or refuse to negotiate for the sale of or rental of, or otherwise make available or deny, any of the property owned by him or her in the properties to any person because of race, color, religion, sex or national origin. Any restrictive covenant affecting the property covered by this Declaration relating to race, color, religion, sex or national origin which is inconsistent with this Article is recognized as being illegal and void and is specifically disclaimed.

ARTICLE X GENERAL PROVISIONS

Section 1 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 Governing 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 Governing Documents and the Act.

1.1 Entitlement 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 Governing 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 Governing 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 Governing Documents, the Rules and Regulations or the Act, as a measure to enforce such Owner's position, or for any other reason.

1.2 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 Governing 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 15% of each late payment of an assessment or installment thereof;
- c. In the event of default of more than thirty (30) days in the payment of any assessment or installment thereof, all remaining installments of assessments assessed against the Lot 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 Governing 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 Improvements amenities; provided, that this limitation shall not apply to any deck, balcony, or patio easements, appurtenant to the Lot, and those portions of the Common Improvements providing utilities services and access to the Lot. Such suspensions shall be limited to periods of default by such Owners and Occupants in their obligations under the governing documents, and for up to 30 days thereafter, for each violation.
- f. Restore any portion of the Common Improvements or limited Common Improvements damaged or altered, or allowed to be damaged or altered, by any Owner or Occupant or their guests in violation of the Governing Documents and to assess the cost of

such restoration against the responsible Owners and their Lots.

- g. Restore any portion of the Common Improvements damaged or altered or allowed to be damaged or altered by any Owner or Occupant or their guests in violation of the Governing Documents and to assess the cost of such restoration against the responsible Owners and their Lots.

1.3 Rights to Hearing In the case of imposition of any of the remedies authorized by this Article and Article IV and VI of this Declaration, 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 10 days within which to request a hearing. The hearing shall be scheduled by the Board and held within 30 days of receipt of the hearing request by the Board, and with at least 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 the hearings established by the Board shall be final and binding on all parties. The Board's decision shall be delivered in writing to the offender within 10 days following the hearing, if not delivered to the offender at the hearing.

1.4 Lien for Charges, Penalties, Etc. Any assessments, charges, fines, penalties or interest imposed under this Section shall be a lien against the Lot 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 Article IV. The lien shall attach 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.

1.5 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, Governing 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 Lot with any expenses incurred in connection with such enforcement, including without limitation fines or charges previously imposed by the Association, reasonable attorney's fees, and interest (at the highest rate allowed by law) on the delinquent amounts owed to the Association.

1.6 Liability for Owners' and Occupants' Acts. Any Owner shall be liable for the expense of any maintenance, repair or replacement of the property rendered necessary by such Owners' acts or omissions, or by that of Occupants or guests in the Owners' Lot, 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 Owners' acts or omissions may be

assessed against the Owner responsible for the condition and against his or her Lot.

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

Section 2 Access Solely for the purpose of performing the maintenance authorized by this Declaration, the Association, or its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot and into any building located on a Lot for the purpose of performing the maintenance required or permitted by this Declaration.

Section 3 Severability The invalidation of any one of these covenants or restrictions by legislation, judgment or Court Order shall in no way affect any other provision which shall remain in full force and effect.

Section 4 Amendments This Declaration may be amended by the consent of (i) Owners of Lots to which are allocated at least 67% of the votes in the Association, (ii) the percentage of eligible mortgagees (based upon one vote per first mortgage owned) required by Article XIII as to the matters prescribed by said Article; and (iii) consent of the Declarant to certain Amendments as provided in Article XII. 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 Declarants shall be in writing. The Amendment shall be effective when recorded. 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 filing of the Amendment.

Section 5 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.

Section 6 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. 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.

Section 7 Notices Unless specifically provided otherwise in the Governing Documents or the Act, all notices required to be given by or to the Association, the Board of Directors, the Association officers or the Owners or Occupants shall be in writing and shall be effective upon hand delivery, or mailing if properly addressed with postage prepaid and deposited in the United States mail; except that registrations pursuant to Section 2.2 of the By-Laws shall be effective upon receipt by the Association.

Section 8 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 Governing Documents and the Rules and Regulations (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.

Section 9 Binding Effect of Actions All agreements and determinations made by the Association in accordance with the powers and voting rights established by the Governing 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 by the Act.

Section 10 By-Laws The Association shall have By-Laws. The By-Laws and any amendments thereto shall govern the operation and administration of the Association.

Section 11 Management The Board may delegate to the manager or managing agent the management duties imposed upon the Association's officers and directors by the Governing 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 Governing Documents and by law.

Section 12 Rules and Regulations 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 Governing Document or the Act. The inclusion in other parts of the Governing Documents of authority to approve Rules and Regulations shall be deemed to be in furtherance, and not in limitation, of the authority granted by this Section. New or amended Rules and Regulations shall be effective only after reasonable notice thereof has been given to the Owners.

Section 13 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 Governing 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. If the Board determines that sufficient reserve exists to maintain, repair and replace all common elements, then the Board shall have the right to approve a Resolution suspending an owner's duty to pay the annual assessments set out in Article V, Section 4 for the next succeeding calendar year. Unless the Board passes a new Resolution, collection of the annual assessment shall resume with the next succeeding calendar year.

Section 14 Conflicts Among Documents In the event of any conflict among the provisions of this Declaration, the By-Laws or any Rules or Regulations approved by the Association, the Declaration shall control. As between the By-Laws and the Rules and Regulations, the By-Laws shall control.

ARTICLE XI
CONDEMNATION, LOSS OR DESTRUCTION OF PROPERTY

Section 1 Procedure If all or any portion of the common improvements are damaged or destroyed or taken by the power of eminent domain, or by deed in lieu thereof, the following applies:

- A. The Association, acting through the Board of Directors, shall determine if the common improvements are to be restored, prepare plans, and execute contracts to complete the restoration.

Section 2 Restoration or Reconstruction Assessment If the insurance proceeds, damages or settlement proceeds are not enough to defray the estimated or actual cost of restoration or reconstruction, a special assessment shall be made against all Lots in sufficient amounts to pay the estimated actual cost of such restoration and reconstruction. Sections 5 and 7 of Article IV shall not apply to any special assessment levied under this Article XI. Any special assessment shall be apportioned equally among all Lots.

Section 3 Association Powers The Association shall represent to Owners in any proceeding involving the properties, other than a Lot, and shall have the power to negotiate any settlement or agreement involving insurance or condemnation proceeds. The Association shall hold any and all proceeds as trustee for the use and benefit of the Owners and their mortgagees as their interest may appear. The Association may, if the Board of Directors feels it is necessary, hire a trustee to hold any proceeds it may receive and in the event of any restoration or reconstruction, hire an escrow agent to handle the construction disbursements. The Association shall enter into a firm contract with a qualified contractor for the restoration and reconstruction of all properties, except Lots, to substantially the same condition as existed immediately prior to the insured loss or taking; provided, however, that the contract amount shall not exceed the insurance or condemnation proceeds plus additional funds deposited pursuant to the special assessment set out in Section 2 of this Article.

ARTICLE XII
SPECIAL DECLARANT RIGHTS

Section 1 Declarant Rights Declarant hereby reserves exclusive and unconditional authority to exercise the following special declarant rights for as long as it owns a Lot, or for such shorter period as may be specifically indicated.

Section 2 Complete Improvements To complete all the Lots and other improvements indicated on the Plat, or otherwise included in Declarant's development plans or allowed by this Declaration, and to make alterations in the Lots and Common Improvements to accommodate its sales facilities.

Section 3 Relocate Boundaries and Alter Lots To relocate boundaries between Lots and to otherwise alter Lots owned by it, to the extent permitted by Article XI I

Section 4 Sales Facilities To construct, operate and maintain a sales office, management office, model Lots and other development, sales and rental facilities within the Common Improvements and any Lots owned by Declarant from time to time, located anywhere on the property.

Section 5 Signs To erect and maintain signs and other sales displays offering the Lots for sale or lease, in or on any Lot owned by Declarant and on the Common Improvements.

Section 6 Easements To have and use easements, for itself, its employees, contractors, representatives, agents and prospective purchasers through and over the Common Improvements for the purpose of exercising its special declarant rights.

Section 7 Control of Association To control the operation and administration of the Association, including without limitation, the power to appoint and remove the members of the Board until the earliest of (i) voluntary surrender of control by Declarant; (ii) an Association meeting which shall be held within sixty (60) days after conveyance to Owners other than a Declarant of Seventy-five percent (75%) of the total number of Lots authorized to be included in the property or (iii) the date five (5) years following the date of the first conveyance of a Lot to an Owner other than Declarant. Notwithstanding the foregoing, the Owners, other than a Declarant, shall have the right to nominate and elect not less than thirty-three and one-third percent (33 1/3%) of the directors at a meeting of the Owners which shall be held within sixty (60) days following the conveyance by Declarant of fifty percent (50%) of the total number of Lots authorized to be included in the property.

Section 8 Consent to Certain Amendments As long as Declarant owns any unsold Lot, Declarant's written consent shall be required for any amendment to the Governing Documents or Rules and Regulations which directly or indirectly affect or may affect Declarant's rights under the Governing Documents.

ARTICLE XIII **RIGHTS OF ELIGIBLE MORTGAGEES**

Section 1 Priority of Lien Any holder of a first mortgage on a Lot or any purchaser of a first mortgage at a foreclosure sale, that comes into possession of a Lot by foreclosure of the first mortgage or by deed or assignment in lieu of foreclosure, takes the Lot free of any claims for unpaid assessments or any other charges or liens imposed against the Lot by the Association which have accrued against such Lot prior to the acquisition of possession of the Lot by said first mortgage holder or purchaser; (i) except as provided in Article IV, Section 11 of this Declaration and the Act and (ii) except that any unreimbursed assessments or charges may be reallocated among all Lots in accordance with their interests in the Common Elements.

Section 2 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 Lots and not to the property as a whole.

Section 3 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.

Section 4 Access to Books and Records/Audits 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 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 Lot, 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.

Section 5 Notice Requirements Upon written request to the Association identifying the name and address of the holder, insurer or guarantor of a mortgage on a Lot, and the Lot 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 Lot securing the mortgage;
- b. a 60 day delinquency in the payment of assessments or charges owed by the Owner of a Lot on which it holds a mortgage;
- c. a lapse, cancellation or material modification of any insurance policy maintained by the Association.
- d. a proposed action which requires the consent of a specified percentage of eligible mortgagees.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 21 day of month, 2003.

PREMIER DEVELOPMENT OF MN, INC.

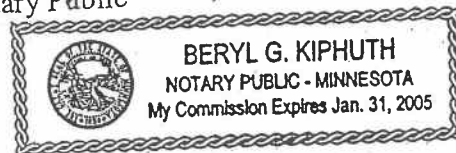
By Nathan Fair

Its: V.P.

STATE OF MINNESOTA)
)ss
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 21 day of month, 2003
by NATHAN FAIR, the VP of Premier Development of
MN, Inc., Minnesota limited liability company, on behalf of the corporation.

Beryl G Kiphuth
Notary Public



This instrument drafted by:
KELLY & FAWCETT, P.A.
Chad D. Lemmons
2350 Piper Jaffray Plaza
444 Cedar Street
St. Paul, MN 55101
(651) 224-3781
I.D. No: 135039