

FILED FOR RECORD THIS 1st  
DAY OF August, 2005  
AT 4:05 O'CLOCK P. M.  
AS DOCUMENT NO. 0177896

SIGNATURE Virginia Mahoney  
VIRGINIA MAHONEY, COUNTY RECORDER  
BY \_\_\_\_\_ DEPUTY

*Riley Bros 28<sup>th</sup> NG # 14899*

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND  
EASEMENTS FOR BLOCK ONE, IOWA AVENUE TOWNHOMES**

This Declaration is made on this 16<sup>th</sup> day of June, 2005, by Riley Bros. Properties, LLC, a Minnesota limited liability company (the "Declarant").

**WHEREAS**, Declarant is the owner of certain real property located in Stevens County, Minnesota, which has or will be platted as Iowa Avenue Townhomes; and,

**WHEREAS**, Declarant desires to establish on Block One, Iowa Avenue Townhomes, according to the plat thereof, a plan for a permanent residential community; and

**THEREFORE**, Declarant hereby declares that said Block One 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 "Association" shall mean the Iowa Avenue Townhomes Owners Association, a nonprofit corporation which has been created pursuant to Chapter 317A, of the laws of the State of Minnesota, whose members consist of Owners as defined herein.

1.2 "Board" shall mean the Board of Directors of the Association as provided for in the By-Laws.

1.3 "By-Laws" shall mean the By-Laws governing the operation of the Association, as amended from time to time.

1.4 "Common Element" shall mean Lot 18, Block One, Iowa Avenue Townhomes.

1.5 "Common Expenses" shall mean and include all expenditures made or liabilities incurred by or on behalf of the Association and incident to its operation, including without limitation, those items specifically identified as Common Expenses in the Declaration or By-Laws.

1.6 "Dwelling" shall mean a building consisting of one or more floors, designed and intended for occupancy as a single family residence, including the garage attached thereto, and located within the boundaries of a Lot.

1.7 "Eligible Mortgagee" shall mean any Person owning a mortgage on any Lot, which mortgage is first in priority, upon foreclosure, to all other mortgages that encumber such Lot, 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.

1.8 "Governing Documents" shall mean this Declaration, the Articles of Incorporation and By-Laws of the Association, and any Rules and Regulations adopted by the Association, as amended from time to time, all of which shall govern the use and operation of the Property.

1.9 "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" are used interchangeably in the Governing Documents.

1.10 "Occupant" shall mean any person or persons, other than an Owner, in possession of, or residing in a Lot.

1.11 "Owner" shall mean a Person who owns a Lot, but excluding contract for deed sellers, mortgagees and other such secured parties. The term "Owner" includes, without limitation, contract for deed purchasers and holders of a life estate.

1.12 "Person" shall mean a natural individual, corporation, limited liability company, partnership, trustee, or other legal entity capable of holding title to real property.

1.13 "Plat" shall mean the recorded plat depicting Iowa Avenue Townhomes, and satisfying the requirements of Minnesota Statutes Chapter 505, as applicable, including any amended or supplemental Plat recorded from time to time.

1.14 "Private Yard Area" shall mean that portion of a Lot not including the Dwelling.

1.15 "Property" shall mean Lots 1 through 18, Block One, Iowa Avenue Townhomes, Stevens County, Minnesota, including all structures and improvements located thereon, now or in the future.

1.16 "Unit or Lot" shall mean any platted lot in the Property as shown on the Plat, including all improvements thereon, but excluding the Common Element. The Units are Lots 1 through 17, Block One, Iowa Avenue Townhomes.

## SECTION 2

### EXEMPTION FROM COMMON INTEREST OWNERSHIP ACT

2.1 Exemption. The Property is a planned community as that term is defined in the Minnesota Common Interest Ownership Act (Minn. Stat. Chpt. 515B) (the Act). However, because the Units consist solely of separate parcels of real estate designed or utilized for detached single family dwellings, and the Association has no obligation to maintain Dwellings or any other buildings located on the Units, the Property is exempt from the provisions of the Act, by virtue of Minn. Stat. § 515B.1-102(e)(2); and the Declarant is not electing to be subject to the Act.

2.2 Applicability of Local Ordinance. The Property is not subject to any ordinance as described in Section 515B.1-106 of the Act.

2.3 Incorporation of Provisions of the Act. Notwithstanding that the Property is exempt from the provisions of the Act, wherever this Declaration refers to the Act or to certain provisions thereof, the Act or such provisions are incorporated herein by such reference. Any term used in the Governing Documents shall have the meaning set forth in the Act unless otherwise specifically defined in this Declaration. Notwithstanding the incorporation, by reference, of certain provisions of the Act, Article 4 of the Act shall in no event be applicable to this planned community.

## SECTION 3

### DESCRIPTION OF UNITS AND EASEMENTS

3.1 Units. There are seventeen (17) Units, all of which are restricted exclusively to residential use. Each Unit constitutes a separate parcel of real estate. No additional Units may be created by the subdivision or conversion of Units. The Unit identifiers and locations

of the Units are as shown on the Plat, which is incorporated herein by reference. The Unit identifier for a Unit shall be its lot and block numbers and the subdivision name.

3.2 Unit Boundaries. The front, rear and side boundaries of each Unit shall be the boundary lines as shown on the Plat. The Units shall have no upper or lower boundaries.

3.3 Easements – Units. Each Unit shall be subject to and/or the beneficiary of the following easements:

- a. The beneficiary of an appurtenant non-exclusive easement for ingress, egress and/or access to a public street or highway, and for parking, over and across those portions of the Common Element designated for such purposes, subject to any restrictions set forth in this Declaration and/or any Rules or Regulations adopted by the Association.
- b. The beneficiary of a non-exclusive appurtenant easement for use and enjoyment on and across the Common Element, subject to any restrictions set forth in this Declaration, and/or any Rules and Regulations adopted by the Association.
- c. The beneficiary of a non-exclusive appurtenant easement for utilities, including sewer and water, servicing the Units, and located on the Common Element, and for maintenance, repair and replacement of same.
- d. Subject to an exclusive easement on and over the Units in favor of the Association, for any purposes necessary to fulfill the Association's obligations under the Governing Documents.
- e. Subject to an exclusive easement in favor of the Declarant for construction and sales activities as described in Section 14.

3.4 Easements – Common Element The Common Element shall be subject to the following easements:

- a. An easement for public utility, and storm water drainage and retention, purposes in favor of the City of Morris, which Declarant grants and conveys by this Declaration, and as is dedicated in the Plat.
- b. Existing easements of record.

- c. Easements benefitting the Units as set forth in Section 3.3 above.
- d. Exclusive easement in favor of the Declarant for construction and sales activities as described in Section 14.

## SECTION 4

### COMMON ELEMENT/IMPROVEMENTS

4.1 Common Element. The Common Element is or will be owned by the Association for the benefit of the Owners and Occupants. Subject to Sections 6, 7 and 10, all maintenance, repair, replacement, management and operation of the Common Element shall be the responsibility of the Association, and the Association shall have the right to establish reasonable Rules and Regulations governing the use of the Common Element.

## SECTION 5

### ASSOCIATION MEMBERSHIP; ALLOCATION OF VOTING RIGHTS AND COMMON EXPENSES

5.1 Membership. Each Owner shall be a member of the Association by virtue of Unit ownership. Such membership shall not be separated or conveyed separately from Unit ownership, but shall be transferred with the conveyance of the Owner's interest in the Unit. An Owner's membership shall terminate when the Owner's Unit 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 voting rights allocated to such Unit nor authorize the division of the voting rights.

5.2 Voting and Common Expenses Allocation: Voting rights and Common Expense obligations are allocated equally among the Units, provided that special allocations of Common Expenses shall be permitted as provided in Section 3-115 of the Act.

## SECTION 6

### ADMINISTRATION

6.1 General. The Association shall, subject to the rights of the Owners set forth in the Governing Documents and the Act, be responsible for the operation, management and control of the Property. The Association shall have all powers described in the Governing 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 Governing Documents or the Act. All references to the Association shall mean the Association acting through the Board unless specifically stated to the contrary.

6.2 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 other Governing Documents. New or amended Rules and Regulations shall be effective only after reasonable notice thereof has been given to the Owners.

## SECTION 7

### ASSESSMENTS FOR COMMON EXPENSES

7.1 General. Except as specifically set forth herein, 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 7.2 and 7.3, and the requirements of the Act and 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 5.2.

7.2 Annual Assessments. Annual assessments shall be established and levied by the Board, subject only to the limitations set forth in Section 7.2 and 7.3. Each annual assessment shall cover all of the anticipated Common Expenses of the Association for that year. Annual assessments may 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 Element and any portion of the Units for which the Association is responsible.

- 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 7.2.c.
- c. Until the termination of the period of Declarant control described in Section 14.6, 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 proxy, at a meeting called for that purpose. Written notice of the meeting shall be sent to all Owners not less than 21 days nor more than 30 days in advance of the meeting.

7.3 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 unforeseen or unbudgeted Common Expense, (ii) general or specific reserves for maintenance, repair or replacement, and (iii) the maintenance, repair or replacement of any part of the Property, and any fixtures or other property related thereto. Notwithstanding the foregoing, any special 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 21 days nor more than 30 days in advance of the meeting.

7.4 Liability of Owners for Assessments. The obligation of an Owner to pay levied assessments shall commence at the later of (i) the recording of the Declaration or amendment thereto which creates the Owner's Unit, or (ii) the time at which the Owner acquires title to the Unit, subject to the alternative assessment program described in Section 7.5. 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.

7.5 Declarant's Alternative Assessment Program. Because of exemption described in Section 2.1 above, Declarant is not subject to the alternative assessment requirements of the Act. Declarant's alternative assessment program is that if a Common Expense assessment has been levied, any Unit owned by Declarant for initial sale shall be assessed at the rate of 10% of the assessment levied on other Units until a Dwelling has been constructed thereon and a certificate of occupancy has been issued with respect to such Dwelling by the municipality in which the Dwelling is located. 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.

7.6 Assessment Lien. The Association has a lien on a Unit for any assessment levied against that Unit from the time the assessment 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.

7.7 Foreclosure of Lien; Remedies. A lien for Common Expenses may be foreclosed against a 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 Owner and any other Person claiming an 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.

7.8 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 on the Unit, and (iii) liens for real estate taxes and other governmental assessments or charges against the Unit. Notwithstanding the foregoing, if a first mortgage on a Unit is foreclosed, and 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 the lien for unpaid assessments for Common Expenses levied pursuant to Sections 515B.3-115(a), (e)(1) to (3), (f), and (h) 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.

7.9 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. Any seller or buyer shall be entitled to a statement, in recordable form, from the Association setting forth the amount of the unpaid assessments against the Unit, including all assessments payable in the Association's current fiscal year, which statement shall be binding on the Association, seller and buyer.

## SECTION 8

### RESTRICTIONS ON PROPERTY

8.1 Single Family Residential Use Requirement. The Lots shall be used by Owners and Occupants, and their guests, exclusively as private single family residential dwellings.



8.2 Restriction on Business Use. No business, trade, occupation or profession of any kind, whether carried on for profit or otherwise, shall be conducted, maintained or permitted in any Lot, except (i) an Owner or Occupant residing in a Dwelling may operate and maintain a home-based business in such Dwelling and handle matters relating to such business therein by telephone, e-mail, mail or other similar means, provided that such business use is in compliance with all laws, ordinances and regulations, is incidental to the residential use, does not involve physical alteration of the Dwelling, and does not involve observable business activity such as signs, advertising displays, bulk mailings, frequent deliveries, visitation or use of the Dwelling by customers or employees and (ii) the Association may maintain offices on the Property for management and related purposes.

8.3 Signs. No sign of any kind shall be displayed to the public view on any Lot except:

- a. Declarant may erect and display no more than two professional signs of not more than 8' x 16' advertising Lots in the Property.
- b. Permanent signs identifying the entrances to the Property may be erected by the Declarant.
- c. One sign of not more than 6 square feet in size advertising such Lot for sale may be placed upon such Lot.

8.4 Restrictions Relating to Dwellings – Construction, Size and Style.

- a. Approval by Declarant. So long as Declarant owns any Lot, no Dwelling shall be constructed upon a Lot until the plans and specifications for same shall have been approved in writing by the Declarant. The procedures for such approval shall be governed by the provisions of Section 9.1c and 9.2 except that wherever therein there is a reference to Board or Association, such reference shall be deemed to refer to Declarant for purposes of this section.
- b. Minimum Square Footage. Any Dwelling constructed on a Lot shall have not less than 1,300 square feet of enclosed living space.
- c. Completion of Construction. The exterior of a Dwelling erected upon a Lot must be completed within 12 months of the commencement of construction of said Dwelling.

- d. Sodding. All portions of the Private Yard Areas of a Lot lying between the public street abutting the Lot, and the Dwelling constructed thereon, shall be sodded or seeded within 60 days of substantial completion of the Dwelling unless substantial completion occurs between October 1 and May 1 in which case such sodding or seeding shall be completed by the following July 1.
- e. Garages. All Dwellings shall be constructed with an attached garage with a minimum of a double garage and a maximum of triple garage. No detached garages shall be allowed.
- f. Exterior Front of Dwelling. A portion of the front exterior of a Dwelling shall be covered with brick, natural stone, thin cut veneer, or other cultured stone product approved by Declarant.
- g. Driveways. All Lots shall contain driveways made of concrete which shall be installed within 15 months of the date of commencement of construction of the Dwelling on such Lot.
- h. Roof Pitch. All Dwellings must be constructed with a minimum of an 5/12th roof pitch.
- i. Building Materials. All Dwellings shall be covered with horizontal lapped siding, wood shingles, brick, cement, stone, or grooved v-jointed materials for walls. The roofs of Dwellings shall be asbestos, wood, asphalt, or fiberglass.

8.5 Outbuildings, Temporary Structures, Prefabricated and Used Dwellings. No outbuilding shall be constructed or installed on a Lot. No structure of any kind of a temporary nature shall be used upon any Lot at any time as a residence. No trailer, mobile home, manufactured home, prefabricated home, rebuilt or used Dwelling or garage shall be constructed, installed or located on any Lot.

8.6 Inoperable Motor Vehicle. No Owner or Occupant shall allow a motor vehicle to remain on such Lot for a period of more than 15 days if such motor vehicle lacks vital component parts or is in inoperable condition, unless the same is kept in an enclosed garage.

8.7 Subdivision. No subdivision shall be made of any Lot.

8.8 Nuisance. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become a nuisance or any annoyance to the neighborhood.

8.9 Pets. The following provisions, together with any Rules and Regulations adopted by the Association shall govern the keeping of pets or animals on or in the Units or the Common Element:

- a. Except as otherwise provided herein, or in the Rule and Regulations adopted by the Association, no pets or animals of any type shall be kept or allowed on or in any of the Units or Common Element, and in no event shall they be kept, bred, or maintained for any commercial purpose.
- b. Animals generally recognized as household pets may be kept in a Dwelling provided that no Owner shall allow any Dwelling to contain more than one dog and one cat at anytime.
- c. Permitted pets shall generally be kept inside the Dwelling on a Unit. No outdoor cages, kennels or houses shall be permitted. Tethering of a pet outside a Dwelling shall not be permitted.
- d. Pets shall be kept on a leash when outside of a Dwelling. No pet shall be allowed to make an unreasonable amount of noise or otherwise become a nuisance to others. Owners shall be responsible for immediately cleaning all waste materials left by their pet in the Common Element or Private Yard Areas.

8.10 Rubbish. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other wastes. Rubbish shall not be kept except in sanitary containers.

8.11 Personal Property/Storage. Subject to any rules and regulations adopted by the Association, the following shall govern the keeping or storage of personal property on the Property:

- a. Except as otherwise provided herein or as allowed by rule and regulation, no Owner or Occupant may store personal property of any nature upon any portion of the Common Element or upon any portion of a Private Yard Area of a Lot.

- b. Personal property used on a seasonal basis, such as grills, picnic tables, patio furnishings may be stored and kept outdoors on the Private Yard Area of the Lot, or on portions of the Common Element as authorized by the Association.
- c. Parking or storage of boats, trailers, motor homes, campers, snowmobiles, or other recreational vehicles shall be allowed only on designated parking or driveway areas and only on a temporary basis as shall be determined by rules and regulations adopted by the Association.

8.12 Time Share. 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.

8.13 Parking. Parking of vehicles shall be allowed only on those portions of the Property designated for such purposes. 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 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.

## SECTION 9

### ALTERATIONS/ARCHITECTURAL CONTROL

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

- a. Except for improvements made by the Declarant prior to or as part of its initial sale of the Unit, none of the foregoing shall be permitted unless same have been approved in writing by the Board or a committee appointed by the Board:
  - i. The alteration or addition to the exterior of any Dwelling or any part of the Dwelling which is visible from the exterior, including without limitation the change in the color of the exterior or the type of materials located on the exterior of the Dwelling.

- ii. The construction, placement or erection of a structure of any type or any deck, patio, fence, wall, gazebo, display or decoration.
- iii. The addition of trees, shrubbery or other landscaping, or a material change in existing trees, shrubbery and landscaping.
- iv. Any other improvement, alteration or addition to the private yard area or exterior of a Dwelling.

(Collectively all of the foregoing are referred to as Alterations)

- b. Notwithstanding the foregoing, Declarant's written consent shall also be required for Alterations until Declarant no longer owns the Unit.
- c. The criteria for approval of Alterations 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) that the alteration will not create dangerous conditions for any Owners or Occupants (iii) comparable or better quality of materials as used in existing improvements, (iv) ease of maintenance and repair, (v) adequate protection of the Property, the Association, Owners and Occupants from liability and liens arising out of the proposed alterations, (vi) restoration of any damage to the Common Element, and (vii) compliance with governmental laws, codes and regulations, and these covenants.

9.2 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 Board, shall be submitted to the Board at least sixty (60) days prior to the projected commencement of construction. No Alterations shall be commenced prior to approval.
- b. The Board shall give the Owner written notice of approval or disapproval. If the Board fails to approve or disapprove within sixty (60) days after receipt of said plans and specifications and all other information requested by the Board, 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. The Association may require that the Owners of the Units to be altered pay all costs of processing and documentation related to 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 therewith.

9.3 Prohibited Alterations. Notwithstanding any provision herein to the contrary, no Unit may be altered if, thereafter, the Dwelling located therein, would no longer be habitable or practicably usable for its intended purpose or would violate any law, code or ordinance of any governmental authority having jurisdiction over the Property.

9.4 Remedies for Violations. The Association or Declarant as the case may be 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 attorneys' fees and costs of enforcement, whether or not a legal action is started. Such attorneys' fees and costs shall be a lien against the Owner's Unit and a personal obligation of the Owner. In addition, the Association shall have the right to enter the Owner's Unit and to restore any part of the Dwelling or Unit to its prior condition if any alterations were made in violation of this Section, and the cost of such restoration shall be a personal obligation of the Owner and a lien against the Owner's Unit.

## SECTION 10

### MAINTENANCE

10.1 Maintenance by Association. The Association shall provide for the maintenance, repair, or replacement (collectively referred to as "maintenance") of the Common Element. In addition, the Association shall provide for lawn, shrub and tree maintenance (excluding watering) on the Private Yard Areas and snow removal on roads, driveways and sidewalks on the Property. The Association shall have easements as described in Section 3 to perform its obligations under this Section 10.

10.2 Optional Maintenance by Association. In addition to the maintenance described in this Section the Association may, with the approval of the Owners to which are allocated at least 75% of the votes in the Association, undertake to provide additional maintenance to the Units, except exterior or maintenance to a Dwelling.

10.3 Maintenance by Owner. Except for the maintenance to be provided by the Association under Section 10.1 or 10.2, all maintenance of the Dwellings and Units shall be the sole responsibility and expense of the Owners thereof. 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.

## SECTION 11

### INSURANCE

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

- a. Property insurance on the Common Element, as required by Section 3-113(a)(1) of the Act; that is property insurance for broad form covered causes of losses in a total amount not less than the full insurable replacement cost of the insured property, less deductibles, exclusive of items normally excluded from property policies.
- b. Commercial general liability insurance in accordance with 3.13-113(a)(2) of the Act, with minimum limits of one million dollars per occurrence.
- c. Fidelity bond or insurance coverage against dishonest acts on the part of directors, officers, managers, trustees, employees or persons responsible for handling funds belonging to or administered by the Association if deemed to be advisable by the Board.
- d. Workers' Compensation insurance as required by law.
- e. Directors and officers liability insurance with such reasonable limits and coverage as the Board shall determine from time to time.

- f. Such other insurance as the Board may determine from time to time to be in the best interests of the Association and the Owners.

#### 11.2 Owners' Insurance.

- a. Owners shall obtain and maintain, at their own expense, fire and casualty insurance for their Dwelling and other improvements on their Unit as they deem appropriate.
- b. Each Owner shall also be responsible for obtaining and maintaining additional personal insurance coverage for personal property or personal liability as they deem appropriate.
- c. All insurance policies obtained and maintained by an Owner shall provide that they are without contribution as against any insurance obtained by the Association.

11.3 Common Expense. All insurance premiums and deductibles paid by the Association shall be assessed and paid as a Common Expense.

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

### SECTION 12

#### RECONSTRUCTION, CONDEMNATION AND EMINENT DOMAIN

12.1 Obligation to Repair or Replace. Any portion of the Property which is damaged or destroyed as a result of a loss covered by insurance maintained by the Association, shall be promptly repaired or replaced (hereafter such repair or replacement is referred to as Reconstruction) unless one of the following has occurred:

- a. The Common Interest Community is terminated and the Association votes not to proceed with Reconstruction in whole or in part.
- b. Reconstruction would be illegal under any state or local health or safety statute or ordinance.
- c. Seventy-five percent (75%) of the Unit Owners vote not to Reconstruct.



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 16.10. Eligible Mortgagees shall be entitled to priority for condemnation awards in accordance with the priorities established by the Act and the Governing Documents, as their interests may appear.

## SECTION 13

### 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.

13.1 Entitlement to Relief. The Association may commence legal action (i) to recover sums due, (ii) for damages, (iii) for injunctive relief, (iv) to enforce compliance with the Governing Document, the Act or the decisions of the Association, (v) to foreclose a lien owned by it, or (vi) any combination thereof, or an action for any other relief authorized by the Governing Documents or available at law or in equity. However, no Owner may withhold any assessments payable to the Association, or take (or omit) other action in violation of the Governing Documents or the Act, as a measure to enforce such Owner's position, or for any other reason.

13.2 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 or the Act:

- a. Impose late charges of up to 15% of each late payment of an assessment or installment thereof.
- b. 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.

- c. Impose reasonable fines, penalties or charges for each violation of the Act or the Governing Documents.
- d. 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 easements for utilities and access to the Unit. Such suspensions shall be limited to periods of default by such Owners and Occupants in their obligations under the Governing Document, and for up to 30 days thereafter, for each violation.
- e. Restore any portions of the Common Element 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 Units.
- f. Enter any Unit as to which a violation or breach of the Governing 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 the safety and 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 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.

13.3 Rights to Hearing. In the case of imposition of any of the remedies authorized by Section 13.2.c., d., or e. 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 10 days within which to request a hearing. The hearing shall be scheduled by the Board and held within thirty 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 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 ten days following the hearing, if not delivered to the offender at the hearing.