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**Return to:**  
ERECORDING PARTNERS  
400 SECOND AVENUE  
SOUTH

MINNEAPOLIS MN 55401

**4301489**



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**4301489**

**Office of the County Recorder**  
**Washington County, Minnesota**  
*Debra Ledvina, County Recorder*

**AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
CARVER LAKE MEADOWS HOME OWNERS ASSOCIATION**

This Instrument was Drafted By:  
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11660 Theatre Drive, Suite 280  
Champlin, MN 55316  
Telephone (763) 401-4120

**AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
CARVER LAKE MEADOWS HOME OWNERS ASSOCIATION**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Carver Lake Meadows Home Owners Association (the "Declaration") is made, effective on the date of recording hereof, by the Carver Lake Meadows Home Owners Association (the "Association"), with the consent of the required number of Owners of the Lots described in Exhibit A attached hereto, for the purpose of subjecting the real property to this Amended and Restated Declaration.

WITNESSETH:

WHEREAS, there is that certain Declaration of Covenants, Conditions and Restrictions for Carver Lake Meadows Home Owners Association dated December 1, 1990, filed December 19, 1990 in the office of the Washington County Recorder, as Document No. 649081 (the "Original Declaration"), subjecting the real property thereunder to the terms and conditions of such Original Declaration; and

WHEREAS, a First Amendment to the Original Declaration dated March 21, 1991, filed April 25, 1991 in the office of the Washington County Recorder, as Document No. 658500, subjecting the real property thereunder to the terms and conditions of such amendment; and

WHEREAS, a Second Amendment to the Original Declaration dated August 16, 1991, filed November 26, 1991 in the office of the Washington County Recorder, as Document No. 677642, subjecting the real property thereunder to the terms and conditions of such amendment; and

WHEREAS, a Third Amendment to the Original Declaration dated June 25, 1992, filed July 2, 1992 in the office of the Washington County Recorder, as Document No. 701040, subjecting the real property thereunder to the terms and conditions of such amendment; and

WHEREAS, a Fourth Amendment to the Original Declaration dated June 25, 1992, filed July 2, 1992 in the office of the Washington County Recorder, as Document No. 701041, subjecting the real property thereunder to the terms and conditions of such amendment; and

WHEREAS, a Fifth Amendment to the Original Declaration dated March 19, 1993, filed April 1, 1993 in the office of the Washington County Recorder, as Document No. 735199, subjecting the real property thereunder to the terms and conditions of such amendment; and

WHEREAS, a Sixth Amendment to the Original Declaration dated January 24, 1994, filed February 16, 1994 in the office of the Washington County Recorder, as Document No. 786708, subjecting the real property thereunder to the terms and conditions of such amendment; and

WHEREAS, a Seventh Amendment to the Original Declaration dated October 12, 1996, and filed October 30, 1996 in the office of the Washington County Recorder, as Document No. 908861, subjecting the real property thereunder to the terms and conditions of such amendment; and

WHEREAS, an Eighth Amendment to the Original Declaration dated October 31, 1996, and filed December 3, 1996 in the office of the Washington County Recorder, as Document No. 912513, subjecting the real property thereunder to the terms and conditions of such amendment; and

WHEREAS, the Original Declaration and the above identified Amendments to the Original Declaration established a plan for the use, operation, maintenance, and preservation of the real estate described in Exhibit A attached hereto (the "Property"); and

WHEREAS, the Association and the Owners desire to provide for the preservation of the residential character, value, architectural character, architectural uniformity and amenities which are a part of the Property, and for the maintenance of open spaces and other common facilities; and

WHEREAS, in accordance with the provisions of the Original Declaration as amended by the amendments thereto set forth above, the Association now seeks to amend and restate the Original Declaration and all amendments recorded before the date of this Declaration in their entirety and intends that this Declaration replace and supersede the Original Declaration, and all previous amendments or supplements to the Original Declaration whether or not referenced above.

NOW THEREFORE, the Association, with the written consent of those Owners constituting not less than seventy-five percent (75%) of the Owners within the Association, hereby declares that the Property and any additions thereto shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth herein; that all persons or entities having or acquiring any interest in the Property shall be bound hereby; and that the Original Declaration and any and all amendments thereto shall be revoked and superseded in their entirety by this Declaration upon its recording.

## **SECTION 1 DEFINITIONS**

The recitals above are adopted herein. 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 Carver Lake Meadows Home 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 all Owners as defined herein.

- 1.2 “Board” shall mean the Board of Directors of the Association as provided for in the Bylaws.
- 1.3 “Bylaws” shall mean the Amended and Restated Bylaws (referred to as the “Bylaws”) governing the operation of the Association, as amended from time to time.
- 1.4 “Common Elements” shall mean all parts of the Property except the Units, including all improvements thereon, owned by the Association for the common benefit of the Owners and Occupants.
- 1.5 “Limited Common Elements” The Limited Common Elements (found also in Section 3.2) are those parts of the Common Elements reserved for the exclusive use of the Owners and Occupants of the Units to which they are allocated, and the rights to the use and enjoyment thereof are automatically conveyed with the conveyance of such Units.
- 1.6 “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 allocations to reserves and those items specifically identified as Common Expenses in the Declaration or Bylaws. The Association's Common Expenses shall be determined by the Board of Directors and shall be subject to the sole discretion of the Board of Directors.
- 1.7 “Dwelling” shall mean a part of a building consisting of one or more floors, designed and intended for occupancy as a single family residence, and located within the boundaries of a Unit. The Dwelling includes any garage attached thereto or otherwise included within the boundaries of the Unit in which the Dwelling is located.
- 1.8 “Governing Documents” shall mean this Declaration, and the Articles of Incorporation, Bylaws and Rules and Regulations of 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” may be 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 Unit.
- 1.11 “Owner” shall mean a Person who owns a Unit, but excluding contract-for-deed vendors, mortgagees and other secured parties. The term “Owner” includes, without limitation, contract-for-deed vendees and holders of a life estate.
- 1.12 “Party Wall” shall mean the shared wall between two Dwellings.

- 1.13 “Person” shall mean a natural individual, corporation, limited liability company, partnership, trustee, other or legal entity capable of holding title to real property.
- 1.14 “Property” shall mean all of the real property submitted to this Declaration, including the Dwellings and all other structures and improvements located thereon now or in the future.
- 1.15 “Rules and Regulations” shall mean the Rules and Regulations of the Association as approved from time to time pursuant to Section 5.5.
- 1.16 “Unit” shall mean any lot subject to this Declaration upon which a Dwelling is located or intended to be located, including all improvements thereon, but excluding the Common Elements. All Units are restricted to residential use.

## **SECTION 2 DESCRIPTION OF UNITS AND APPURTENANCES**

2.1 Units. The Units 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.

2.2 Unit Boundaries. The front, rear and side boundaries of each Unit shall be the boundary lines of the platted lot upon which the Dwelling is located on any recorded plat or subdivision map of the Property. The Units shall have no upper or lower boundaries. Subject to this Section 2 and Section 3.2, all spaces, walls, and other improvements within the boundaries of a Unit are a part of the Unit.

2.3 Access Easements. Each Unit shall be the beneficiary of an appurtenant easement for access to a public street or highway on or across any other Lot or the Common Elements as shown on any recorded plat or subdivision map of the Property, subject to any restrictions set forth in the Declaration.

2.4 Use and Enjoyment Easements. Each Unit shall be the beneficiary of appurtenant easements for use and enjoyment on and across the Common Elements, and for use and enjoyment of any Limited Common Elements allocated to the Unit, subject to any restrictions authorized by the Declaration.

2.5 Utility and Maintenance Easements. Each Unit shall be subject to and shall be the beneficiary of appurtenant easements for all services and utilities serving the Units and the Common Elements, and for maintenance, repair, and replacement as described in Section 13.

2.6 Encroachment Easements. Each Unit shall be subject to and shall be the beneficiary of the appurtenant easements for encroachments as described in Section 13.

2.7 Recorded Easements. The Property shall be subject to such other easements as may be recorded against it.

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

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

### **SECTION 3 COMMON ELEMENTS AND LIMITED COMMON ELEMENTS**

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

- a. All of the Property not included within the Units constitutes Common Elements. The Common Elements are owned by the Association for the benefit of the Owners and Occupants.
- b. The Common Elements shall be subject to certain easements as described in Section 2, and to the rights of Owners and Occupants in Limited Common Elements appurtenant to their Units.
- c. Subject to Sections 5, 6 and 9, all maintenance, repair, replacement, management and operation of the Common Elements shall be the responsibility of the Association.
- d. Common Expenses for the maintenance, repair, replacement, management and operation of the Common Elements shall be assessed and collected from the Owners in accordance with Section 6.

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

- a. Chutes, flues, ducts, pipes, wires, conduit or other utility installations, bearing walls, bearing columns, or any other components or fixtures lying partially within

and partially outside the boundaries of a Unit, and serving only that Unit, are allocated to the Unit they serve. Any portion of such installations serving or affecting the function of more than one Unit or any portion of the Common Elements is a part of the Common Elements, but is not a Limited Common Element.

- b. Improvements such as decks, balconies, patios (including *all* parts of any such deck, balcony or patio), exterior lighting, shutters, awnings, window boxes, chimneys, gutters, skylights, patio slabs, all garage doors, all perimeter doors and windows, and their frames, constructed as part of the original construction to serve a single Unit, and authorized replacements and modifications to that single Unit, if located wholly or partially outside the unit boundaries, are Limited Common Elements allocated exclusively to that Unit.
- c. Notwithstanding anything to the contrary contained herein, maintenance of the Limited Common Elements shall be governed by Sections 6 and 9 hereof. The allocation of the costs of any such maintenance shall be determined by the Board of Directors in its sole discretion.

#### **SECTION 4 ASSOCIATION MEMBERSHIP: RIGHTS AND OBLIGATIONS**

Membership in the Association, and the allocation to each Unit of a portion of the votes in the Association and a portion of the Common Expenses of the Association shall be governed by the following provisions:

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

4.2 Voting and Common Expenses. Voting rights and Common Expense obligations are allocated equally among the Units; except that special allocations of Common Expenses shall be permitted as provided in Section 6.1.

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

4.4 Authority to Vote. The Owner, or other homeowner designated to act as proxy on behalf of the Owner, may cast the vote allocated to such Unit at meetings of the Association;



provided, that if there are multiple Owners of a Unit, only the Owner or other Person designated pursuant to the provisions of the Bylaws, may cast such vote. The voting rights of Owners are more fully described in the Bylaws. Pursuant to the provisions in the Bylaws, the Board may suspend the voting rights of any Owner who is delinquent in paying the Owner's assessments or other amounts owed to the Association.

## **SECTION 5 ADMINISTRATION**

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

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

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

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

5.4 Management. The Board may delegate to a manager or managing agent the management duties imposed upon the Association's officers and directors by the Governing Documents; 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; and provided further that any contract or agreement between the Association and any party concerning the management, maintenance, and/or administration of the Association shall permit the Association to terminate the contract or agreement without cause, and without penalty or fee, on written notice of not more than sixty (60) days.

5.5 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 balance of the Governing Documents. 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. By way of example and not of limitation, such Rules and Regulations may concern any or all of the following subjects: storage of items; pets and animals; use of recreational equipment; parking and/or vehicle storage; garbage collection; exterior furniture; and motor vehicle repairs conducted outside of garages.

5.6 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.

## **SECTION 6 ASSESSMENTS FOR COMMON EXPENSES**

6.1 General. Assessments for Common Expenses shall be determined and assessed against the Units by the Board, in its discretion; subject to the limitations set forth in Section 6, and the requirements of the Bylaws. Assessments for Common Expenses shall include annual assessments and may include special assessments (explained in Section 6.2 and 6.3). Assessments shall be allocated among the Units according to the Common Expenses allocations set forth in Section 4.2, subject to the following qualifications:

- a. Any Common Expenses associated with the maintenance, repair, or replacement of a Limited Common Element undertaken by the Association may be assessed exclusively against the Unit or Units to which that Limited Common Element is assigned, on the basis of: (i) equality; (ii) the area being maintained, repaired or replaced; or (iii) the actual cost incurred with respect to each Unit.
- b. Any Common Expenses or portion thereof benefiting fewer than all of the Units may be assessed exclusively against the Unit or Units benefited, on the basis of: (i) equality; (ii) the area being maintained, repaired or replaced; or (iii) the actual cost incurred with respect to each Unit. This Section 6.1(b) specifically includes, without limitation, the authority of the Association to assess costs incurred for maintenance, repair or replacement of exterior portions of a Unit or Units exclusively against such Unit or Units.
- c. Reasonable attorneys' fees and other costs incurred by the Association in connection with: (i) the collection of assessments; and (ii) the enforcement of the Governing Documents against an Owner or Occupant, or their guests, may be assessed against the Owner's Unit.

- d. Fees, charges, late charges, fines and interest may be assessed as provided in Section 14.
- e. Assessments levied to pay a judgment against the Association may be levied only against the Units existing at the time the judgment was entered, in proportion to their Common Expense liabilities.
- f. If any damage to the Common Elements or another Unit is caused by the willful act or gross negligence of any Owner or Occupant, or their guests, the Association may assess the costs of repairing the damage exclusively against the Owner's Unit to the extent not covered by insurance.
- g. If any installment of an assessment becomes more than thirty (30) days past due, then the Association may, upon ten (10) days written notice of the Owner, declare the entire amount of the assessment immediately due and payable in full.
- h. If Common Expense liabilities are reallocated for any purpose authorized by the Governing Documents, Common Expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

6.2 Annual Assessments. Annual assessments shall be established and levied by the Board, subject only to the limitations set forth in this Section 6. Each annual assessment shall cover all of the anticipated Common Expenses of the Association for the year. The written notice of annual assessment change, if any, shall be provided to all members not less than thirty (30) days before enactment. Prior to enactment, a Board Meeting or Special Meeting shall be held for members on this matter.

6.3 Special Assessments. In addition to annual assessments and subject to the limitations set forth hereafter, the Board may levy in any assessment year a special assessment against all Units for the purpose of defraying, in whole or in part: (i) the cost of any 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. The written notice of special assessment change, if any, shall be provided to all members not less than thirty (30) days before enactment. Prior to enactment, a Board Meeting or Special Meeting shall be held for members on this matter.

6.4 Liability of Owners for Assessments. The obligation of an Owner to pay assessments shall commence at the later of: (i) the time at which the Owner acquires title to the Unit; or (ii) the due date of the first assessment levied by the Board. The Owner at the time an assessment is payable with respect to the Unit shall be personally liable for the share of the Common Expenses assessed against such Unit. Such liability shall be joint and several where there are multiple Owners of the Unit. The liability is absolute and unconditional. No Owner is

exempt from liability for payment of his or her share of Common Expenses by right of set-off, by waiver of use or enjoyment of any part of the Property, by absence from or abandonment of the Unit, by the waiver of any other rights, or by reason of any claim against the Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents. The Association may invoke the charges, sanctions and remedies set forth in Section 14, in addition to any remedies provided elsewhere in the Governing Documents or by law, for the purpose of enforcing its rights hereunder.

6.5 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, including without limitation attorneys' fees and other collection costs, charges, late charges, fines and interest charges imposed by the Association are liens, and are enforceable as assessments, under this Section. Recording of the Declaration constitutes record notice and perfection of any lien under this Section, and no further recordation of any notice of or claim for the lien is required.

6.6 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 advertisement; or (ii) by action as a lien under a mortgage containing a power of sale. The Association, or its authorized representative, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey any Unit so acquired. The Owner and any other Person claiming an interest in the Unit, by the acceptance or assertion of any interest in the Unit, grants to the Association a power of sale and full authority to accomplish the foreclosure. The Association shall, in addition, have the right to pursue any other remedy at law or in equity against the Owner who fails to pay any assessment or charge against the Unit.

6.7 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 Original Declaration; (ii) any first mortgage encumbering the fee simple interest in the Unit; and (iii) liens for real estate taxes and other governmental assessments or charges against the Unit. Notwithstanding the foregoing, if: (i) a first mortgage on a Unit is foreclosed; (ii) the first mortgage was recorded on or after June 1, 1994; and (iii) no Owner redeems during the Owner's period of redemption provided by Chapters 580, 581, or 582, then the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the Unit subject to a lien in favor of the Association for unpaid assessments for Common Expenses levied pursuant to Minnesota Statutes Sections 515B.3-115(a), (e)(1) to (3), (f), and (i) which became due, without acceleration, during the six months immediately preceding the first day following the end of the Owner's period of redemption.

6.8 Voluntary Conveyances; State 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 by 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.

6.9 Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to each Lot on the first day of the month following the conveyance of a Unit to a new owner. The Board of Directors shall fix the amount of subsequent annual dues at least thirty (30) days in advance of each subsequent calendar year. Written notice thereof shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a statement signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid. A properly executed statement of the Association as to the status of assessments on a Unit is binding upon the Association as of the date of its issuance.

6.10 Effects of Nonpayment of Assessments. Any assessment not paid within ten (10) days after the due date shall be charged a reasonable late fee and/or interest. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclosure the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Unit. A suit to recover a money judgment for unpaid expenses hereunder shall be maintainable without foreclosing or waiving the lien securing the same. Any account of an Owner that is delinquent in the payment of Assessments may be referred to legal counsel for collection proceedings. The delinquent Owner shall be responsible for payment of any and all legal fees incurred by the Association in collecting any amounts due and owing. The Association shall have the right to recover all attorneys' fees and costs incurred in seeking to collect and these amounts may be added to an Owners balance owing to the Association. The Association may suspend an Owner's voting rights during any time period in which any assessment, fee, fine, interest, or other charge against the Owner's Unit remains unpaid. The Association may also suspend an Owner's voting rights for a period not to exceed sixty (60) days for each violation of the Association's Governing Documents.

## **SECTION 7 RESTRICTIONS ON USE OF PROPERTY**

All Owners and Occupants, and all secured parties, by their acceptance or assertion of an interest in the Property, or by their occupancy of a Unit, covenant and agree that, in addition to any other restrictions which may be imposed by the Governing Documents, the occupancy, use, operation, alienation and conveyance of the Property shall be subject to the following restrictions:

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

7.2 Residential Use. The Units shall be used by Owners and Occupants and their guests exclusively as private, single family residential dwellings. Transient, hotel, commercial, business or other non-residential purposes is not permitted. Any lease of a Unit (except for occupancy by guests with the consent of the Owner) for a period of less than twelve (12) months, or any occupancy which includes services customarily furnished to hotel guests, is presumed to be for transient, hotel or other such purposes.

7.3 Business Use Restricted. No business, trade, occupation or profession of any kind, whether carried on for profit or otherwise, shall be conducted, maintained or permitted in any Unit or the Common Elements; except (i) an Owner or Occupant residing in a Unit may keep and maintain his or her business or professional records in such Unit and handle matters relating to such business by computer (including Internet access), telephone or similar correspondence therefrom, provided that such uses are incidental to the residential use, do not involve physical alteration of the Unit and do not involve any observable business activity such as signs, advertising displays, bulk mailings, deliveries, or visitation or use of the Unit by existing or potential customers, clients or employees; and (ii) the Association may maintain offices on the Property for management and related purposes.

7.4 Leasing. Owners shall be permitted to lease their Units, subject to the limitations and restrictions set forth in the Governing Documents, including this Section 7.4. The following restrictions shall apply to any and all leases of a Unit: (i) no Unit shall be leased for transient or hotel purposes; (ii) no Unit may be subleased; (iii) all leases shall be in writing with a minimum rental period of twelve (12) months of continuous occupancy; (iv) all leases shall provide that they are subordinate and subject to the provisions of the Governing Documents and the Rules and Regulations, and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease; and (v) any Owner leasing said Owner's Unit shall notify the Board of Directors and provide it with a copy of the written lease agreement prior to the commencement of the lease term and provide to the lessee a copy of all legal documents, including this Declaration, Bylaws, Rules and Regulations and any amendments, and (vi) no Unit shall be leased if the Owner is delinquent in his or her account with the Association. The Association may impose such reasonable Rules and Regulations as may be necessary to implement procedures for the leasing of Units, consistent with this Declaration. Owners must adhere to all local and state rental licensing requirements, as applicable.

7.5 Animals. No animal may be bred, kept or maintained for business or commercial purposes, anywhere on the Property. Only conventional domesticated animals may be kept as pets. Conventional animals specifically exclude, among other animals, tarantulas, snakes, reptiles of any sort, large cats such as tigers, lions, cougars, and similar animals. Animals may not be left tethered unattended on property. No kennel, doghouse or outside run shall be constructed or maintained on the Property. The Board shall also have the authority to regulate, by Rules and Regulations, the keeping of animals on the Property. The word "animal" shall be construed in its broadest sense and shall include all living creatures except humans.

7.6 Signs. No signs of any kind shall be displayed to the public view in or on any Unit or Dwelling; absent as provided in the Rules and Regulations.

7.7 Garages. All garages shall be retained and used as a garage facility for the off-street interior storage of vehicles and related items and no garage shall be converted by construction, usage or otherwise to any other purpose.

7.8 Parking and Storage of Motor Homes and Recreational Vehicles. No motor homes, recreational vehicles, trailers, boats, snowmobiles or other similar vehicles shall be parked, stored or kept on or about any Unit unless such vehicle is kept entirely within the interior of a garage; provided, however, that any such vehicle may be temporarily parked by an Owner or his/her guests or visitors for a reasonable period of time as determined by the Board, but in no event shall any such temporary parking of such a vehicle be for more than forty-eight (48) hours in any thirty (30) day period of time.

7.9 No Storage Sheds. No detached storage structures, including, but not limited to, storage sheds, tool sheds, or other outbuildings whose intended use is the storage of goods or materials, shall be erected or maintained on any Unit.

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

7.11 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 any Owner or Occupant.

7.12 Exterior Alterations. No alterations, changes, improvements, repairs or replacements of any type, temporary or permanent, structural, aesthetic or otherwise (collectively referred to as "alterations") shall be made, or caused or allowed to be made, by any Owner or Occupant, or their guests, in any part of the Common Elements, or in any part of the Unit which affects the Common Elements or another Unit or which is visible from the exterior of the Unit, without the prior written authorization of the Board, or a committee appointed by it, as provided in Section 8. The Board, or the appointed committee if so authorized by the Board, shall have authority to establish reasonable criteria and requirements for alterations, and shall be the sole judge of whether the criteria are satisfied.

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

7.14 Access to Units. In case of emergency, all Units and Limited Common Elements are subject to entry, without notice and at any time, by an officer or member of the Board of the Association, by the Association's management agents or by any public safety personnel. Entry is also authorized for maintenance purposes under Section 9 and for enforcement purposes under Section 14.

## SECTION 8 ARCHITECTURAL CONTROL

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

- a. Except as expressly provided in this Section 8, no structure, building, addition, deck, patio, fence, wall, enclosure, window, exterior door, sign, display, decoration, color change, shrubbery, material topographical or landscaping change, nor any other exterior improvements to or alteration of any Dwelling or any other part of a Unit which is visible from the exterior of the Unit (collectively referred to as "alterations"), shall be commenced, erected or maintained in a Unit, unless and until the plans and specifications showing the nature, kind, shape, height, color, materials and locations of the alterations shall have been approved in writing by the Board of Directors or a committee appointed by it.
- b. The criteria for approval of exterior improvements shall include and require, at a minimum: (i) substantial uniformity of color, size, location, type and design in relation to existing Units, improvements and topography; (ii) comparable or better quality of materials as used in existing improvements; (iii) ease of maintenance and repair; (iv) adequate protection of the Property, the Association, Owners and Occupants from liability and liens arising out of the proposed alterations; (v) compliance with governmental laws, codes and regulations; and (vi) anticipated completion date of the proposed alterations. All contractors must be licensed, bonded, and insured.
- c. Approval of alterations which encroach upon another Unit or the Common Elements shall create an appurtenant easement for such encroachment in favor of the Unit with respect to which the alterations are approved; provided, that any easement for a deck or patio other than as originally constructed shall be approved by resolution of the Board of Directors and a file of such resolutions shall be maintained permanently as a part of the Association's records.

8.2 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 of Directors, shall be



submitted to the Board of Directors at least thirty (30) days prior to the projected commencement of construction. No alterations shall be commenced prior to written approval.

- b. The Board of Directors shall give the Owner written notice of approval or disapproval. If the Board of Directors fails to approve or disapprove within thirty (30) days after receipt of said plans and specifications and all other information requested by the Board of Directors, the approval will be deemed rejected.
- c. If no request for approval is submitted, approval is denied.
- d. All fees and costs incurred by the Association in conjunction with any such request for approval, including attorney's fees and costs or fees and costs of other professionals, shall be borne by the requesting party. Any such fee or cost which the requesting party fails to pay shall be assessed to the subject Unit and Owner of such Unit, and shall be a lien against such Unit and the personal obligation of such Unit Owner in the same manner and with the same priority and effect as assessments under Section 6 hereof.

8.3 Remedies for Violations. The Association may undertake any measures, legal or administrative, to enforce compliance with this Section and shall be entitled to recover from the Owner(s) causing or permitting the violation of 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(s) and a lien against the Owner's Unit.

8.4 Modification to Allow Access for Persons with Disabilities. Subject to the provisions of applicable law, an Owner, at Owner's expense, may make improvements or alterations to a Unit as necessary, with Board notification, for the full enjoyment of the Unit by any person residing in the Unit who has a handicap or disability, as provided in the Fair Housing Amendments Act, United States Code, Title 42, Section 3601, *et seq.*, and/or the Minnesota Human Rights Act, Chapter 363, and any amendments to those acts, and/or other similar laws. The Association may not prohibit such improvements or alterations referred to in this Section 8.4, but may reasonably regulate the type, style and quality of the improvements or alterations as they relate to health, safety and architectural standards.

## **SECTION 9 MAINTENANCE**

9.1 Maintenance by Association. The Association shall provide for all maintenance, repair or replacement (collectively referred to as "maintenance") of the Common Elements. In addition, for the purpose of preserving the architectural character, quality, and uniform and high

standards for appearance of the Property, the Association shall provide the following exterior maintenance:

- a. The Association shall provide for exterior maintenance upon the Dwelling in each Unit as follows: maintain and/or replace roofs, driveways, driveway aprons, sidewalks and exterior siding.
- b. The Association shall provide for snow removal, lawn care, care and maintenance for shrubs originally planted or installed by the Association, and care and maintenance of trees.
- c. Subject to the provisions of Section 9.2 hereof, the Association's obligation to maintain exterior building surfaces shall *exclude* entry doors, door hardware, door bells, exterior lights, heating and air conditioning equipment, gutters, downspouts, windows, glass, window frames and sashes, skylights (including frame, hardware, glass and all other parts of the skylight), patio doors and frames, storm windows, screens, garage doors, and any other items not specifically referred to in this Section.
- d. The Association vendor shall plow and/or otherwise remove snow from the Common Area driveways, walkways, and parking areas, but shall not be obligated to remove snow from patios, decks, or balconies.
- e. The Association vendor shall mow, rake and maintain, all to the extent the Board deems necessary or desirable, all lawns and exterior plantings. The Association does not water gardens and plantings.
- f. The Association shall have easements as described in Section 13 to perform its obligations under this Section 9.

9.2 Maintenance by Owner. Except for the exterior maintenance required to be provided by the Association under Section 9.1, all maintenance of the Dwellings and Units, including any patios or garages attached thereto, 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 any responsible Owner fails to or improperly performs and assess the Unit and the Owner for the cost thereof.

9.3 Damage Caused by Owner. Notwithstanding any provision to the contrary in this Section, if, in the judgment of the Association, the need for maintenance of any part of the Property is caused by the willful or negligent act or omission of any Owner or Occupant, or their guests, or by a condition in a Unit which the Owner or Occupant has acted willfully or negligently in allowing

to exist, the Association may cause such damage or condition to be repaired or corrected (and enter upon any Unit to do so), and the cost thereof may be assessed against the Unit of the Owner responsible for the damage. In the case of party walls between Dwellings, the Owners of the affected Dwellings shall be liable as provided in Section 10.

9.4 Maintenance Responsibilities Defined by Board of Directors. Notwithstanding any provisions to the contrary, the Board of Directors shall have the sole and exclusive authority to define the scope of maintenance and repair to be provided by the Association. The Board of Directors is hereby vested with the authority to interpret the Governing Documents and rule on any ambiguities contained therein. The Owners shall be legally bound by any decisions of the Board of Directors pertaining to the determination of the Association's maintenance obligations and the scope and extent thereof.

9.5 Required Provision for the Benefit of the City of Woodbury. The Association shall maintain the Common Elements in accordance with the following conditions and rules:

(a) If, in the opinion of the City Council of the City of Woodbury, expressed in a resolution, the Association has failed to provide: adequate maintenance and repair of any streets within the Property which have not been dedicated to public use; adequate snow removal from any said streets; adequate control of surface water drainage; adequate construction, and/or maintenance and repair of any sanitary sewer, storm sewer, water supply system, or other public utilities the construction, and/or maintenance and repair of which are the responsibility of the Association or the owners of Units. Then duly authorized agents of the City of Woodbury may enter upon the Common Property and perform such: street maintenance and repair; snow removal from streets; control of surface water drainage; maintenance and repair of sanitary sewer, storm sewer, water supply system or other public utilities or care of the Common Elements; as the City Council of the City of Woodbury shall have deemed necessary to preserve the health, safety and welfare of the residents of the Property or of the City of Woodbury.

(b) If the City of Woodbury performs maintenance or makes repairs pursuant to this Declaration or constructs any public improvements pursuant to the laws of the State of Minnesota, then the City may assess the cost of said maintenance or repairs or public improvement directly against the benefited Units, or the City may assess the Common Elements for the cost of said maintenance or repairs, or public improvement. If the City assesses the Common Elements for the cost of said maintenance or repairs, then the Association or the Owners of Units shall levy a special assessment against the Units to defray the total amount of the City assessment. Said special assessment need not have the consent of the Owners, occupants, or owner/tenants.

(c) The title of the Association and the Owners of Units in and to the Common Elements is hereby made subject to a non-exclusive easement in favor of the City of Woodbury for the purpose of ingress and egress for police, fire rescue and other emergency calls, animal control, health and prospective inspection and to provide to the Owners other

public services deemed necessary by the City of Woodbury, and for the purposes set forth herein.

(d) The cost of any work performed by the City of Woodbury pursuant to this Declaration shall be assessed pursuant to the above provisions.

## **SECTION 10 PARTY WALLS**

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

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

10.3 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has use of the wall may, with the consent of the Association, restore it, and the other Owner shall promptly reimburse the Owner who restored the wall for his or her share of the cost of restoration thereof; provided, however, that the cost of restoration resulting from destruction or other casualty resulting from the acts or omissions of certain Owners shall be the financial responsibility of such Owners, and the Association may assess the responsible Owners for their share of the costs, without prejudice to the right of an Owner to recover a larger contribution from the other Owner. Insurance claims shall be made promptly following any casualty.

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

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

10.6 Arbitration. In the event of any dispute arising concerning a party wall, and if the same is not resolved within thirty (30) days of the event causing the dispute, the matter shall be submitted to binding arbitration upon the written demand of the Association or any Owner whose

Dwelling shares the party wall. If the parties to the dispute cannot mutually agree on an arbitrator or arbitrators and/or regarding the rules governing the Arbitration, then the applicable rules of the American Arbitration Association shall apply to the Arbitration, including the selection of arbitrator(s). Each party agrees that the decision of the arbitrator(s) shall be final and conclusive of the questions involved. The fees of the arbitrator(s) shall be shared equally by the parties, but each party shall pay its own attorney fees or other costs to prove its case.

## **SECTION 11 INSURANCE**

11.1 Owner's Personal Insurance. Each Owner must obtain personal insurance coverage (often called "HO-6 insurance") at his, her, or its own expense covering fire and other casualty to the Unit, and personal property and personal liability. Each policy should cover, at a minimum, the Association's deductible under the master policy of insurance, loss assessment, all personal property within the Unit, and provide for the replacement of any upgrades or additions. Each Owner shall be responsible for any deductible or related expenses to said personal property or personal liability insurance coverage. Owners having no or inadequate insurance coverage may be assessed costs to properly maintain coverage and/or may be responsible for assessed costs should a loss occur.

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

- a. Property insurance in broad form covering all risks of physical loss in an amount equal to one hundred percent (100%) of the insurable "replacement cost" of the Property (including Units and Common Elements), less deductibles, exclusive of land, footings, excavation and other items normally excluded from coverage (but including all building service equipment and machinery). The Association shall provide a "bare walls" policy. An owner's HO-6 or owner insurance policy should include all items from bare walls to the interior, also known as "all-in".
- b. Comprehensive public liability insurance covering the use, operation and maintenance of the Common Elements, with minimum limits of \$1,000,000 per occurrence, against claims for death, bodily injury and property damage, and such other risks as are customarily covered by such policies for projects similar in construction, location and use to the 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.
- c. Fidelity bond or insurance coverage against dishonest acts on the part of directors, officers, manager, trustees, employees or persons responsible for handling funds

belonging to or administered by the Association is deemed to be advisable by the Board. The fidelity bond or insurance shall name the Association as the named insured and shall, if required by any applicable government regulations as a precondition to their insuring, purchasing or financing of a mortgage on a Unit, be written in an amount equal to the greater of: (i) the estimated maximum of Association funds, including reserves, in the custody of the Association or management agent at any given time while the bond is in force; or (ii) a sum equal to three (3) months aggregate assessments on all Units plus reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers, or a waiver of defense based upon the exclusion of persons serving without compensation shall be added.

- d. Workers' Compensation insurance as required by law.
- e. Directors' and officers' liability insurance with such reasonable limits and coverages 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.

11.3 Premiums; Improvements; Deductibles. All insurance premiums shall be assessed and paid as a Common Expense, unless otherwise determined by the Board of Directors. The insurance need not cover improvements and betterments to the Units installed by Owners, but if improvements and betterments are covered, any increased cost may be assessed against the Units affected. The Association Board of Directors may, in the case of a claim for damage to a Unit: (i) pay the deductible amount as a Common Expense; (ii) assess the deductible amount against the Units affected in any reasonable manner; or (iii) require the Owners of the Units affected to pay the deductible amount directly. In any event, the Owner of the Unit for which a claim is submitted to the Association's insurer shall be wholly responsible for the Association's deductible amount.

11.4 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, which suffer loss. The Association, or any insurance trustee selected by it, shall have exclusive authority to negotiate, settle and collect upon any claims or losses under any insurance policy maintained by the Association.

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

11.6 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 sixty (60) days prior written notice to the Association and all of the insureds.

11.7 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 provisions of any insurance trust agreement to which the Association may be a party, or any requirement of law.

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

11.9 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 or omission of an Owner, 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 12 RECONSTRUCTION, CONDEMNATION AND EMINENT DOMAIN**

12.1 Reconstruction. The obligations and procedures for the repair, reconstruction or disposition of the Property following damage to or destruction thereof shall be governed by the Governing Documents. Any repair or reconstruction shall be substantially in accordance with the plans and specifications of the Property as initially constructed and subsequently improved. The Association shall have all authority necessary to cause the Property to be reconstructed, including without limitation the authority: (i) to require the Owners to enter into reconstruction contracts on their respective Units; or (ii) to contract for the reconstruction of the Units on behalf of the owners using only licensed, bonded and insured contractors.

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 Governing Documents shall govern.

## **SECTION 13 EASEMENTS**

13.1 Easement for Encroachments. Each Unit and the Common Elements, and the rights of the Owners and Occupants therein, shall be subject to an exclusive easement for encroachments in favor of the adjoining Units for fireplaces, walls, roof overhangs, air conditioning systems,

decks, balconies, porches, patios, utility installations and other appurtenances which are part of the original construction on the adjoining Unit or the Property or which are added pursuant to Section 8. If there is an encroachment by a Dwelling, or other building or improvement located in a Unit, upon another Unit or Dwelling as a result of the construction, reconstruction, repair, shifting, settlement or movement of any part of the Property, an appurtenant easement for the encroachment, for the use, enjoyment and habitation of any encroaching Dwelling, building or improvement, and for the maintenance thereof, shall exist; provided that with respect to improvements or alterations added pursuant to Section 8, no easement shall exist unless the same have been approved and constructed as required by this Declaration. Such easements shall continue for as long as the encroachment exists and shall not affect the marketability of title.

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

13.3 Utilities Easements. The Property shall be subject to non-exclusive, appurtenant easements for all utilities, water and sewer, and similar services, which exist from time to time. Each Unit and the rights of the Owners and Occupants thereof, shall be subject to a non-exclusive easement in favor of the other Units for all such services, including without limitation any sewer or water lines servicing other Units. Each Unit shall also be subject to an exclusive easement in favor of the Association and all utilities companies providing service to the Units for the installation and maintenance of utilities metering devices.

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

## **SECTION 14 COMPLIANCE AND REMEDIES**

Each Owner and Occupant, and any other Person owning or acquiring any interest in the Property, shall be governed by and comply with the provisions applicable law, 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 applicable law.



14.1 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 applicable law, with the Governing Documents, the Rules and Regulations 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 applicable law, as a measure to enforce such Owner's position, or for any other reason.

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

- a. Commence legal action for damages or equitable relief in any court of competent jurisdiction.
- b. Impose late charges and/or interest as determined by the Board of Directors from time to time for each past due assessment of installment thereof and interest at up to the highest rate permitted by law.
- 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 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. Ten (10) days 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 Governing Documents or the Rules and Regulations of the Association.
- e. Restore any portions of the Common Elements or Limited Common Elements damaged or altered, or allowed to be damaged or altered, by any Owner or Occupant or their guests in violation of the Governing Documents, and to assess the cost of such restoration against the responsible Owners and their Units.
- f. Enter any Unit or Limited Common Element in which, or as to which, a violation or breach of 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 their guests, or the safety or soundness of any Dwelling or other part of the Property or the property of the Owners or Occupants, and to summarily abate and remove, at the expense of the offending Owner or Occupant, any structure, thing or

condition in the Unit or Limited Common Elements which is causing the violation; provided, that any improvements which are a part of a Unit may be altered or demolished only pursuant to a court order or with the agreement of the Owner.

- g. Foreclose any lien arising under the provisions of the Governing Documents or under in the manner provided for the foreclosure of mortgages by action or under a power of sale in the State of Minnesota.

14.3 Rights to Hearing. In the case of imposition of any of the remedies authorized by Section 14.2.d., e, or f, of this Section, the Board shall, upon written request of the offender, grant to the offender a fair and equitable hearing before the Board concerning the alleged violation. The offender shall be given notice of the nature of the violation and the right to a hearing, and at least ten (10) days within which to request a hearing. The hearing shall be scheduled by the Board and held within thirty (30) days of receipt of the hearing request by the Board, and with at least ten (10) days prior written notice to the offender. If the offending Owner fails to appear at the hearing, then the right to a hearing shall be waived and the Board may take such action as it deems appropriate. The decision of the Board and the rules for the conduct of hearings established by the Board shall be final and binding on all parties. The Board's decision shall be delivered in writing to the offender within fifteen (15) days following the hearing, if not delivered to the offender at the hearing.

14.4 Lien for Charges, Penalties, Etc. Any assessments, charges, fines, penalties or interest imposed under this Section shall be a lien against the Unit of the Owner or Occupant against whom the same are imposed and the personal obligation of such Owner in the same manner and with the same priority and effect as assessments under Section 6. The lien shall 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.

14.5 Costs of Proceeding and Attorney's Fees. With respect to any collection measures, or any measures or action, legal, administrative, or otherwise, which the Association takes to enforce the provisions the 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 Unit with any expenses incurred in connection with such enforcement, including without limitation fines or charges previously imposed by the Association, reasonable attorneys' fees, and interest (at the highest rate allowed by law) on the delinquent amounts owed to the Association.

14.6 Liability for Owners' and Occupants' Acts. An Owner shall be liable for the expense of any maintenance, repair or replacement of the Property rendered necessary by such Owner's acts or omissions, or by that of Occupants or guests in the Owner's Unit, to the extent that such expense is not covered by the proceeds of insurance carried by the Association or such Owner or Occupant. However, any insurance deductible amount and/or increase in insurance

rates, resulting from the Owner's acts or omissions may be assessed against the Owner responsible for the condition and against his or her Unit.

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

## **SECTION 15 AMENDMENTS**

This Declaration may be amended by the consent of: (i) Owners or Units to which are allocated at least sixty-seven percent (67%) of the votes in the Association. Consent of the Owners may be obtained in writing or at a meeting of the Association duly held in accordance with the Bylaws. An amendment shall be effective when recorded. An affidavit by the Secretary or another officer of the Association as to the outcome of the vote, or the execution of the foregoing agreements or consents, shall be adequate evidence thereof for all purposes, including without limitation, the recording of the amendment.

## **SECTION 16 MISCELLANEOUS**

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

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

16.3 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.

16.4 Notices. Unless specifically provided otherwise in the Governing Documents or applicable law, 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 the Bylaws shall be effective upon receipt by the Association.

16.5 Conflicts Among Documents. In the event of any conflict among the provisions of this Declaration, the Bylaws or any Rules and Regulations approved by the Association, the Declaration shall control. As among the Bylaws and the Rules and Regulations, the Bylaws shall control.

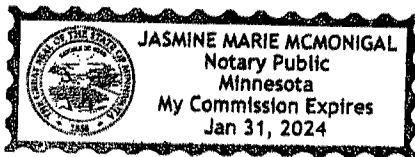
IN WITNESS WHEREOF, the undersigned has executed this instrument the day and year set forth below.

CARVER LAKE MEADOWS HOME OWNERS  
ASSOCIATION

By: Margaret Motzel  
Its: President

STATE OF MINNESOTA )  
COUNTY OF Ramsey ) ss.

The foregoing instrument was signed and acknowledged before me this 2nd day of March, 2021, by Margaret Motzel, the President of Carver Lake Meadows Home Owners Association, a Minnesota non-profit corporation, on behalf of the corporation.



Jasmine McMonigal  
Notary Public

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY SUBJECT TO DECLARATION**

Lots 1 through 20, inclusive, Block 1;  
Lots 1 through 29, inclusive, Block 2; and  
Outlots A, B, C, D, and E;

All in Carver Lake Meadows according to the recorded plat thereof, Washington County,  
Minnesota.

**AFFIDAVIT OF PRESIDENT**

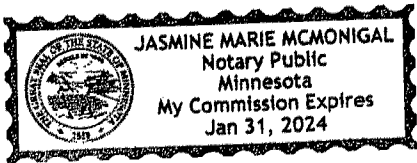
STATE OF MINNESOTA )  
  ) ss.  
COUNTY OF Ramsey )

The undersigned, President of Carver Lake Meadows Home Owners Association, a Minnesota non-profit corporation, being first duly sworn upon oath, hereby swears and certifies, pursuant to the applicable provisions of Minnesota law and the Original Declaration, that the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Carver Lake Meadows Home Owners Association has been duly approved by a vote of the Board of Directors of the Association, and in writing by the Owners, in compliance with the requirements of Minnesota law and the Original Declaration.

Margaret Motzel  
President

STATE OF MINNESOTA )  
  ) ss.  
COUNTY OF Ramsey )

The foregoing was sworn to and signed before me this 3rd day of March, 2021, by Margaret Motzel, the President of Carver Lake Meadows Home Owners Association, a Minnesota non-profit corporation, on behalf of the corporation.



Jasmine McMonigal  
Notary Public

This Instrument was Drafted By:

Toohey Law Firm, P.A.  
11660 Theatre Drive, Suite 280  
Champlin, MN 55316  
Telephone (763) 401-4120