

COMMON INTEREST COMMUNITY NO. 3

Condominium

DECLARATION

CHURCH HILL SCHOOL CONDOMINIUM

This Declaration is made in the County of Fillmore, State of Minnesota, on this _____ day of _____, 2009, by Church Hill School LLC, a Minnesota limited liability company (the “Declarant”), pursuant to the provisions of the Minnesota Common Interest Ownership Act Minnesota Statutes Chapter 515B, (“MCIOA”), for the purpose of creating Church Hill School Condominium as a condominium under MCIOA.

WHEREAS, Declarant is the owner of certain real property located in Fillmore County, Minnesota, legally described in Exhibit A attached hereto, and Declarant desires to submit said real property and all Improvements thereon (collectively the “Property”) to MCIOA as a condominium, and

WHEREAS, Declarant desires to establish on the Property a plan for a permanent residential community to be owned, occupied and operated for the use, health, safety and welfare of its resident Owners and Occupants, and for the purpose of preserving the value, quality and architectural character of the Property, and

WHEREAS, the Property (i) is not subject to an ordinance referred to in Section 515B.1-106 of MCIOA, governing conversions to common interest ownership; (ii) is not subject to a master association as defined in MCIOA; and (iii) does not include any shoreland as defined in Minnesota Statutes Section 103F.205.

THEREFORE, Declarant subjects the Property to this Declaration under the name “Church Hill School Condominium,” consisting of the Units referred to in Section 2, declaring that this Declaration shall constitute covenants to run with the Property, and that the Property shall be owned, used, occupied and conveyed subject to the covenants, restrictions, easements, charges and liens set forth herein, all of which shall be binding upon all persons owning or acquiring any right, title or interest therein, and their heirs, personal representatives, successors and assigns.

SECTION 1

DEFINITIONS

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

- 1.1. “Act” means the Minnesota Common Interest Ownership Act, Minnesota Statutes Chapter 515B, as amended.

- 1.2. “Assessments” means and refers to all assessments levied by the Association pursuant to Section 6.
- 1.3. “Association” means Church Hill School Condominium Association, a nonprofit corporation created pursuant to Minnesota Statutes Chapter 317A and Section 515B.3-101 of MCIOA, whose members consist of all Owners.
- 1.4. “Board” means the Board of Directors of the Association as provided for in the Bylaws.
- 1.5. “Building” means the structure or structures which are a part of the Property and contain the Units, Common Elements, parts of the Commercial Property and related Improvements.
- 1.6. “Bylaws” means the Bylaws governing the operation of the Association, as amended from time to time.
- 1.7. “City” means the City of Lanesboro, Minnesota.
- 1.8. “Common Elements” means all parts of the Property including all Improvements thereto, except the Units.
- 1.9. “Common Expenses” means all expenditures made or liabilities incurred by or on behalf of the Association and incident to its operation, including Assessments and items otherwise identified as Common Expenses in this Declaration or the Bylaws.
- 1.10. “Declarant Control Period” means the time period during which Declarant has the exclusive right to appoint the members of the Board, as described in Section 15.7.
- 1.11. “Eligible Mortgagee” means any Person that owns a first mortgage on a Unit and that has requested in writing that the Association notify it regarding any proposed action which requires approval by a specified percentage of Eligible Mortgagees.
- 1.12. “Governing Documents” means this Declaration, and the Articles of Incorporation and Bylaws of the Association, as amended from time to time, all of which shall govern the use and operation of the Property.
- 1.13. “Improvement” means any physical improvement of any kind, including but not limited to any Building, wall, fence, sign, enclosure, screening, utilities system, communications system, irrigation or drainage system, pond, roadway, walkway, parking area, landscaping, or any other type of structure or physical improvement, and any additions or changes thereto, located on the Property.
- 1.14. “Limited Common Elements” means a portion of the Common Elements allocated by this Declaration or by operation of Section 515B.2-102(d) or (f) of MCIOA for the exclusive use of one or more, but fewer than all, of the Units.
- 1.15. “Member” means all persons who are members of the Association by reason of being Owners as defined in this Declaration. The words “Owner” and “Member” may be used interchangeably in the Governing Documents.
- 1.16. “Mortgagee” means any Person owning a mortgage on a Unit, which mortgage is first in priority upon foreclosure to all other mortgages that encumber such Unit.
- 1.17. “Occupant” means any person or persons, other than an Owner, in possession of or residing in a Unit.

- 1.18. “Owner” means a Person who owns a Unit, but excluding contract for deed vendors, mortgagees, holders of reversionary or remainder interests and other secured parties within the meaning of MCIOA. The term “Owner” includes contract for deed vendees and holders of a life estate.
- 1.19. “Parking” means the vehicle parking stalls reserved for the use of the Owners and Occupants, as described in Section 3.3.
- 1.20. “Person” means a natural individual, corporation, limited liability company, partnership, limited liability partnership, trustee, or other legal entity capable of holding title to real property.
- 1.21. “Plat” means the recorded plat depicting the Property pursuant to the requirements of Section 515B.2-110(c) of MCIOA, including any amended or supplemental Plat recorded from time to time in accordance with MCIOA.
- 1.22. “Property” means all of the real property subjected to this Declaration, now or in the future, including the Units and all other structures and Improvements located thereon. The Property is legally described in Exhibit B attached hereto.
- 1.23. “Rules and Regulations” means the Rules and Regulations of the Association as approved from time to time pursuant to Section 5.6.
- 1.24. “Unit” means a part of the Property within the Building, including one or more rooms or enclosed spaces, occupying part or all of one or more floors, designed and intended for separate ownership and use as a dwelling, as described in Section 2 and shown on the Plat.

Any terms used in the Governing Documents, and defined in MCIOA and not in this Section, shall have the meaning set forth in MCIOA. References to Section numbers refer to the Sections of this Declaration unless otherwise indicated. References to the singular may refer to the plural, and conversely, depending upon context.

SECTION 2

DESCRIPTION OF UNITS, BOUNDARIES

AND RELATED EASEMENTS

2.1. Units. There are 15 Units, subject to Declarant’s exclusive right to combine or convert Units in accordance with Section 15. All Units are restricted exclusively to residential use. Each Unit constitutes a separate parcel of real estate. The Unit identifiers and locations of the Units are as shown on the Plat, which is incorporated herein by reference. A schedule of Units is set forth in Exhibit A attached hereto.

2.2. Unit Boundaries. The boundaries of each Unit shall be the interior unfinished surfaces of its perimeter structural walls and its demising walls, and its unfinished structural floors and ceilings, as shown on the Plat. Wallpaper, paneling, tiles, non-load bearing stud walls affixed to the interior sides of structural walls, and Unit interior finishing materials adhered to the interior of the Unit boundaries shall be a part of the Unit, however, any load bearing portions of interior or perimeter walls, columns, ceilings or floors, and any common utility lines or other common Building systems, facilities or equipment serving multiple Units and located in or passing through a Unit shall be Common Elements. The boundaries of each Unit shall also extend along the inside

unfinished surfaces of its perimeter doors and windows, and their frames, and said perimeter doors, windows and frames, and their hardware, shall be Limited Common Elements allocated to such Unit. Subject to this Section and Section 3, all spaces, interior partitions, and interior fixtures and Improvements located within the boundaries of a Unit are a part of the Unit.

2.3. Appurtenant Easements. The Units shall be subject to and benefited by the easements described in Section 11.

SECTION 3

COMMON ELEMENTS, LIMITED COMMON ELEMENTS

AND OTHER PROPERTY

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

3.1.1. All of the Property not included within the Unit boundaries; any load bearing portions of any interior or perimeter walls, columns, ceilings or floors; and any common utility lines or other common Building systems, facilities or equipment located in or passing through a Unit shall be Common Elements. The Common Elements include, but are not limited to, all areas and items listed in this Section 3, and those parts of the Property designated as Common Elements on the Plat or in MCIOA.

3.1.2. The Common Elements and their use shall be subject to (i) easements and restrictions as described in this Declaration, the Plat and any other recorded instrument; (ii) the rights of Owners and Occupants in Limited Common Elements allocated to their respective Units; and (iii) the right of the Association to establish reasonable Rules and Regulations governing the use of the Property.

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. The rights to the use and enjoyment of the Limited Common Elements are automatically conveyed with the conveyance of such Units. The Limited Common Elements are described and allocated to the Units, as follows:

3.2.1. Those items or areas designated as Limited Common Elements on the Plat or by MCIOA are allocated to the Units indicated thereon or therein.

3.2.2. Improvements, if any, such as decks, patios, balconies, terraces, shutters, awnings, exterior windows and doors, window boxes, chimneys, driveways, walks, doorsteps and stoops, constructed as part of the original construction to serve a single Unit or Units, and replacements and modifications thereof authorized pursuant to Section 7.10, located wholly or partially outside the Unit boundaries are allocated exclusively to the Unit or Units which they serve.

3.2.3. Chutes, flues, ducts, pipes, wires, conduit or other utility installations, bearing walls, bearing columns, or any other components or fixtures lying wholly or partially outside

the Unit boundaries, and serving only that certain Unit or Units, are allocated to the Unit or Units they serve. Any portion of such installations serving or affecting the function of the Common Elements is a part of the Common Elements.

3.2.4. Heating, ventilating or air conditioning equipment serving only a certain Unit or Units, and located wholly or partially outside the Unit boundaries, are allocated to the Unit or Units served by such equipment.

3.3 Parking. The Parking includes Common Element vehicle parking stalls (collectively the “Stalls” or individually a “Stall”), which are located on the garage level of the Building and are licensed for parking pursuant to this Section 3.3. The Stalls shall be licensed by the Association to the Units by operation of this Section 3.3, as provided by Section 515B.3-102(9) of MCIOA. The initial issuance of Stall licenses and the subsequent transfer of the Stall licenses shall be administered by the Association in accordance with this Section 3.3. The following conditions and restrictions shall govern the assignment, use and transfer of the Stall licenses:

3.3.1 The exclusive license to use one Stall must be purchased from the association or a current owner. Not all units will be able to purchase a stall located on the garage level of the building. Units not holding an exclusive license to use a stall on the garage level may park in the designated public parking area on the east side of the property. Parking in this public parking area is on a first come basis. The Declarant shall file with the Association written notice of the Unit conveyed and the identifier for each related Stall. Additional Stall licenses shall be issued pursuant to Section 3.3 upon the filing of a similar written notice by the Declarant. Effective upon the filing of the notice of Stall assignment with the Association, the identified Stall shall, by operation of this Section 3.3, be deemed to be licensed by the Association to the Unit designated in the notice as of the date set forth in the notice. A certificate evidencing the license shall be executed promptly by the President or Secretary of the Association on behalf of the Association and made available for timely delivery to the Owner of the Unit to which the license is assigned.

3.3.2 Upon and following the initial licensing of a Stall, the use rights with respect to the Stall shall be deemed to be perpetually licensed by the Association exclusively to the Unit to which the Stall is assigned, subject to the provisions of this Section 3.3. The Association shall maintain records identifying the Stalls, the Units to which they are licensed, the names of the Owners of the Units, and the dates of any transfer of the license in accordance with the terms of this Section. A written certification of the license shall be delivered by the Association to the Owner upon the Owner’s request. The Association shall not unilaterally transfer any Stall license, except for handicapped Stall licenses (if any) which may be unilaterally transferred by the Association to accommodate legally handicapped persons, and transfers shall be made only in accordance with Section 3.3.3. At least one Stall shall remain licensed to each Unit at all times.

3.3.3 A Stall license shall remain with the Unit to which it is assigned until the license is transferred in accordance with this Section. Subject to Section 3.3.2, a Stall license may be transferred to another Unit, but only by delivering to the Association (i) a written transfer, in form approved by the Association, signed by the transferor and the transferee, and (ii) all prior license certificates, and copies thereof, issued with respect to the Stall. The Association shall review the proposed transfer for compliance with this Section 3.3, and if the transfer complies, the Association shall transfer the license on its records to the Unit owned by the transferee. In the absence of a proper transfer to the contrary, a

license assigned to a Unit at the time of the Unit's conveyance shall be automatically transferred with the conveyance of title to the Unit.

3.3.4 Owners may rent or allow the use of their licensed Stall only to or by other Owners and Occupants, except as otherwise authorized by the Board in writing. The lease or other use right shall be in written form, and shall terminate when the lessor, lessee or other user is no longer an Owner or Occupant, regardless of the terms of any agreement to the contrary. The Owner shall give the Association advance written notice of any lease or use agreement with respect to such Owner's Stall, and shall provide a copy of the lease or use agreement to the Association upon its request. The Association may hold or transfer the license to, or rent, or permit invitee or handicap parking within, a Stall assigned to it.

3.3.5 The interest of a secured party holding a first lien on a Unit includes the license to any Stall that is licensed to the Unit at the time of foreclosure of the secured party's lien.

3.3.6 The use of the Stalls and the Garage, and the size and types of cars and other property which may be kept in the Garage or elsewhere on the Property, are subject to the restrictions contained in this Declaration and to Rules and Regulations approved from time to time by the Board. The Association shall apply for and maintain any permits required for the Garage.

3.3.7 Any license, lease, rental, use, transfer or purported transfer of any interest in a Stall in violation of this Section shall be void.

3.4. Annexation of Other Property. Real property may be added to the common interest community as Common Elements, and subjected to this Declaration, in accordance with Section 515B.2-125 of MCIOA.

SECTION 4

ASSOCIATION MEMBERSHIP: RIGHTS, OBLIGATIONS AND INTERESTS

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

4.1. Membership. Each Owner shall be a Member solely by reason of owning a Unit, 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 of the Unit terminates. When more than one Person is an Owner of a Unit, all such Persons shall be Members, but multiple ownership of a Unit shall not change the voting rights allocated to such Unit nor authorize the division of the voting rights.

4.2. Voting, Undivided Interests and Common Expenses. Each Unit is allocated one vote. Undivided interests, and Common Expense obligations (subject to Sections 6.4 and 6.7), are allocated equally among the Units. The voting rights, Common Expense obligations and undivided interests referred to in this Section 4.2 shall be reallocated among all Units based upon the above formula in the event that the number of Units changes.

4.3. Appurtenant Rights, Obligations and Interests. The ownership of a Unit shall include the voting rights, undivided interests and Common Expense obligations described in Section 4.2. Said

rights, interests and obligations, and the title to the Units, shall not be separated or conveyed separately, and any conveyance, encumbrance, judicial sale or other transfer of any allocated interest in a Unit, separate from the title to the Unit shall be void. The allocation of the rights, interests and obligations described in this Section may not be changed, except in accordance with the Governing Documents and MCIOA.

4.4. Authority to Vote. The Owner, or another individual who must be an Owner and who is designated to act as proxy on behalf of the Owner, may cast the vote allocated to the Owner's Unit at meetings of the Association. However, 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 Section 3 of the Bylaws.

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 Rules and Regulations, and MCIOA. The Association shall be responsible for the operation and management of the Property. The Association shall have all powers described in the Governing Documents, MCIOA and the statute under which the Association 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 MCIOA. 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 and the Rules and Regulations; (ii) maintaining, repairing and replacing those portions of the Property and any other property for which it is responsible; and (iii) preserving the value and the architectural 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 or MCIOA shall be binding upon all Owners and Occupants, and their lessees, guests, heirs, personal representatives, successors and assigns, and all secured parties as defined in MCIOA.

5.4. Bylaws. The Association shall have Bylaws. The Bylaws shall govern the operation and administration of the Association, and shall be binding on all Owners and Occupants.

5.5. Management. The Board may delegate to a manager or managing agent the management duties imposed upon the Association's officers and directors by the Governing Documents and MCIOA. However, 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.

5.6. Rules and Regulations. The Board shall have exclusive authority to approve and implement such reasonable Rules and Regulations as it deems necessary from time to time for the purpose of operating and administering the affairs of the Association and regulating the use of the Property; provided that the Rules and Regulations shall not be inconsistent with the Governing Documents or MCIOA. 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.

5.7. Association Assets; Surplus Funds. All funds and real or personal property acquired by the Association shall be held and used for the benefit of the Owners for the purposes stated in the 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.

5.8. Resale Disclosure Certificates. Pursuant to Section 515B.4-107 of MCIOA, in the event of a resale of a Unit by an Owner other than Declarant, that Owner shall furnish to the purchaser a resale disclosure certificate containing the information required by Section 515B.4-107(b) of MCIOA. Pursuant to Section 515B.4-107(d) of MCIOA, the Association shall, within ten days after a request by an Owner or the Owner's authorized representative, furnish the resale disclosure certificate. The Association may charge a reasonable fee for furnishing the resale disclosure certificate and any documents related thereto.

SECTION 6

ASSESSMENTS

6.1. General. A budget shall be established, and Assessments shall be determined and assessed against the Units by the Board, in its discretion; subject to the requirements and procedures set forth in this Section 6 and the requirements of the Bylaws. Assessments shall include annual Assessments under Section 6.2, and may include special Assessments under Section 6.3 and limited Assessments under Section 6.4. Annual and special Assessments shall be allocated among the Units in accordance with the allocation formula set forth in Section 4.2. Limited Assessments under Section 6.4 shall be allocated to Units as set forth in that Section.

6.2. Annual Assessments. Annual Assessments shall be established and levied annually by the Board. Each annual Assessment shall cover all of the anticipated Common Expenses of the Association for that year which are to be shared by all Units in accordance with the allocation formula set forth in Section 4.2. Annual Assessments shall be payable in equal monthly or quarterly installments, as established by the Board. Annual Assessments shall provide, among other things, for an adequate reserve fund for the replacement of the Common Elements and those parts of the Units for which the Association is responsible and which are not funded by limited Assessments pursuant to Section 6.4.

6.3. Special Assessments. In addition to annual Assessments, the Board may, subject to approval by a majority vote of the Owners, levy in any Assessment year a special Assessment against all Units in accordance with the allocation formula referred to in Section 4.2. Special

Assessments shall be used for the purpose of defraying in whole or in part the cost of any unforeseen or unbudgeted Common Expenses.

6.4. Limited Assessments. In addition to annual Assessments and special Assessments, the Board may, at its discretion, levy and allocate limited Assessments among only one or more, but not all, Units in accordance with the following requirements and procedures:

6.4.1. Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element shall be assessed exclusively against the Unit or Units to which that Limited Common Element is allocated, equally, in proportion to their relative area or by actual cost per Unit, unless otherwise determined by resolution of the Board.

6.4.2. Any Common Expense benefiting fewer than all of the Units, but not falling within Section 6.4.1, may be assessed against the Unit or Units benefited, equally, in proportion to their relative area or by actual cost per Unit.

6.4.3. The costs of insurance may be assessed among the Units equally, in proportion to their relative area or by actual cost per Unit, and the costs of common utilities may be assessed equally, in proportion to usage or relative area, or by such other reasonable allocation as may be approved by the Board.

6.4.4. Reasonable attorneys' fees and other professional costs incurred by the Association in connection with (i) the collection of Assessments, and (ii) the enforcement of the Governing Documents, MCIOA, or the Rules and Regulations against an Owner or Occupant or their guests, may be assessed against the Owner's Unit.

6.4.5. Late charges, fines and interest may be assessed as provided in Section 12.

6.4.6. Assessments levied under Section 515B.3-116(a) of MCIOA 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.

6.4.7. If any damage to the Common Elements, Limited Common Elements or another Unit or any portion of the Owner's Unit that the Association is obligated to maintain hereunder is caused by the act or omission 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.

6.4.8. Assessments levied under Sections 6.4.1 through 6.4.7 may, at the Board's discretion, be assessed as a part of, or in addition to, the Assessments levied under Section 6.1 or 6.2.

6.5. Working Capital Fund. There shall be established a working capital fund to meet unforeseen expenditures or to purchase additional equipment or services for the Association. The Board may include in each subsequent annual budget a reasonable amount of working capital, based upon the anticipated needs of the Association for the year in question.

6.6. Liability of Owners for Assessments. If an Assessment has been levied, the obligation of an Owner to pay Assessments shall commence at the time at which the Owner acquires title to the Owner's Unit. 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. Subject to Section 6.7, an Owner's liability for Assessments is absolute and unconditional, and no Owner is exempt from liability for payment of Assessments 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 Declarant, the Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents or MCIOA.

6.7. Declarant's Liability for Assessments. Pursuant to Section 515B.3-115(a) of MCIOA, the Declarant's liability for Assessments shall be subject to the following limitations.

6.7.1. Notwithstanding anything to the contrary in the Governing Documents, if an Assessment has been levied, Declarant may elect to have any unsold Unit owned by it assessed at the rate of twenty-five percent of the Assessments (exclusive of replacement reserves) levied on that Unit and other similarly situated Units until a certificate of occupancy or comparable City approval has been issued with respect to such Unit.

6.7.2. The provisions of Section 6.7.1 shall not affect the share of replacement reserves for Units owned by Declarant, which reserves must be funded by Declarant as required by Section 515B.3-115 of MCIOA. However, there are no assurances that Declarant's reduced Assessment obligation, if elected by the Declarant, will not affect the level of services for other items set forth in the Association's budget. In the event that Declarant elects to pay a reduced Assessment in accordance with Section 6.7.1, the Declarant shall be obligated, within sixty days following the termination of the Declarant Control Period, to make up any operating deficit incurred by the Association during the Declarant Control Period.

6.7.3. Declarant's reduced Assessment obligation shall apply to each Unit owned by Declarant at the time that any Assessment is levied against the Unit, and shall terminate with respect to each such Unit upon the issuance of a certificate of occupancy or comparable City approval for the Unit.

6.8. 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 MCIOA are liens, and are enforceable as Assessments, under this Section 6. Recording of this Declaration constitutes record notice and perfection of any lien under this Section 6, and no further recordation of any notice of or claim for the lien is required. The release of the lien shall not release the Owner from personal liability unless agreed to in writing by the Association.

6.9. Foreclosure of Lien; Remedies. A lien for Assessments may be foreclosed against a Unit under the laws of the State of Minnesota (i) by action, or (ii) by advertisement in a like manner as 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 to its other remedies, 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.

6.10. Lien Priority; Foreclosure. A lien for Assessments is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before this 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 (1) a first mortgage on a Unit is foreclosed; (2) the first mortgage was recorded on or after the date of recording of this Declaration; and (3) no Owner redeems during the Owner's period of redemption provided by Minnesota Statutes Chapters 580, 581, or 582, then the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the Unit subject to unpaid Assessments for Common Expenses levied pursuant to Sections 515B.3-115(a), (e)(1) to (3), (f) and (i) of MCIOA which became due, without acceleration, during the six months immediately preceding the first day following the end of the Owner's period of redemption.

6.11. 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 released. 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 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 MCIOA or 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 and MCIOA, as amended from time to time. All covenants, restrictions and obligations set forth in the Governing Documents are in furtherance of a plan for the Property, and shall run with the Property and be a burden and benefit to all 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. Certain Subdivisions and Conveyances Prohibited. Except as permitted by this Declaration, no Unit nor any part of the Common Elements may be subdivided or partitioned without the prior written approval of all Owners and all secured parties holding first mortgages on the Units.

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

7.4. Business Use Restricted. An Owner or Occupant residing in a Unit may maintain a home occupation in such Unit; provided, that such use (i) is incidental to the residential use; (ii) does not involve physical alteration of the Unit visible from the exterior; (iii) is in compliance with all governmental laws, ordinances and regulations; (iv) does not involve observable business activity such as signs, advertising displays, unusual numbers of deliveries, or customer or employee traffic; (v) does not involve employees; and (vi) does not otherwise involve activity which disturbs the quiet use and enjoyment of the Property by other Owners or Occupants. Other types of business, trade, occupational or professional use of any kind, whether carried on for profit or otherwise, shall not be conducted, maintained or permitted in any Unit or the Common Elements, except:

7.4.1. The Association may maintain offices on the Property for management and related purposes.

7.4.2. Declarant may maintain offices, models, sales and leasing facilities and other business facilities on the Property in connection with the exercise of its declarant rights.

7.5. Leasing. Leasing of Units shall be allowed, subject to reasonable regulation by the Association. The leasing of Units and other contractual occupancy rights in Units (as opposed to occupancy by guests of Owners and Occupants) shall be subject to the following conditions: (i) no Unit may be subleased; (ii) a Unit must be leased in its entirety (not by room) unless simultaneously occupied by the Owner; (iii) the lease shall be in writing; (iv) unless otherwise required in connection with the financing, guarantee or insuring of a Unit mortgage, no lease shall be for a period less than three or more than 12 months, except for extenuating situations approved by the Board; and (v) the lease shall provide that it is subject to the Governing Documents, the Rules and Regulations and MCIOA, and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. The Association may impose such reasonable Rules and Regulations as may be necessary to implement non-discriminatory procedures for the leasing of Units, consistent with this Section and applicable law, including but not limited to (i) a requirement for a form addendum to be attached to each Unit lease to assure that the Property, and the rights of the Association and Owners and Occupants, are protected, and (ii) a requirement for background reports on prospective lessees through a licensed screening organization; provided that such screening shall not violate federal, state or local discrimination laws.

7.6. Storage and Parking. Personal property may not be stored, displayed or otherwise left outside the Units, except as authorized by the Board. The walkways, driveways and portions of the Common Elements used for access to and from the Units, may not be obstructed, or used for parking, storage, activities or any purpose other than access and authorized parking. The Garage shall be used for parking of vehicles owned or leased by Owners and Occupants and such other incidental uses as may be authorized in this Declaration or in writing by the Board. Any vehicle which, when parked, extends into or over the drive lanes or striped parking lanes within the Garage

may be prohibited from parking within the Garage. The use of Stalls, 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 but not limited to the right of the Association to restrict parking for proper purposes, tow vehicles parked in unauthorized areas and to remove unauthorized personal property.

7.7. Animals. The Board shall have the exclusive authority to prohibit, or to allow and regulate, by Rules and Regulations, the keeping of animals on the Property. This authority may be exercised so as to permit or prohibit different types of animals, but those animals which are permitted (if any) shall be limited to common domestic house pets such as dogs, cats, fish and birds. However, no animal may be bred, or kept or maintained for business or commercial purposes, anywhere on the Property. The word "animal" shall be interpreted in its broadest sense and shall include all living creatures except humans. Notwithstanding the foregoing, no Rule or Regulation may prohibit the keeping of a qualified service dog or similar animal by a person who is handicapped within the meaning of the Fair Housing Amendments Act of 1988 or comparable state law.

7.8. Quiet Enjoyment. All Owners and Occupants and their guests shall have a right of quiet use and enjoyment in their respective Units, subject to the rights of other Owners and Occupants to the reasonable use of their respective Units and to the normal and customary sights, sounds, odors and activity generated by in-home activity, vehicular and pedestrian traffic, Building mechanical systems, and activities of other residents in the higher density living environment associated with the type and location of the Building. Taking into consideration the foregoing factors, Owners and Occupants shall use the Property in such a manner as will not cause a nuisance, nor unduly restrict, interfere with or impede the use and enjoyment of the Property by other Owners and Occupants and their guests.

7.9. Prohibited Conduct No Owner or Occupant shall (i) cause or permit any physical changes to their Unit that could jeopardize or impair the weather-tight soundness or safety of the Building, any Building system, or other Improvement located on the Property; (ii) interfere with any easement; (iii) install or permit the installation of hard surface floor coverings within their Unit without the prior written authorization of the Board, except for the replacement of floor coverings of the same type as originally installed in the Unit; (iv) unless otherwise approved in writing by the Board, cause or permit any physical changes to their Unit which would impair the sound insulation qualities of the Building, including, but not limited to, the installation, in or on the Unit's walls, floors or ceilings, of speakers or other sound emitting devices; or (v) drill into or otherwise penetrate in any manner the structural walls, floors or ceilings of the Units or the Common Elements.

7.10. Architectural Standards. Subject to Section 7.9 and this Section 7.10, no modifications, Improvement, repairs, replacements of any type, whether temporary or permanent, structural, aesthetic or otherwise, including but not limited to, any structure, building, addition, deck, patio, fence, wall, enclosure, window, exterior door, antenna or other type of sending or receiving apparatus, sign, display, decoration, color change, shrubbery, material topographical or landscaping change, 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, the Limited 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 an architectural committee appointed by it, and compliance with the requirements of this Section. Declarant's written consent shall also be required for Improvements until the Declarant no longer owns a Unit for initial sale.

7.10.1. The Board may appoint, supervise and disestablish an architectural committee, and specifically delegate to it part or all of the functions which the Board exercises under this Section, in which case the references to the Board shall refer to the architectural committee where appropriate. In the event the Board makes a delegation hereunder, the Board shall also determine whether there is a right to appeal decisions of the architectural committee to the Board and, if so, the procedures that shall govern such an appeal. Notwithstanding the foregoing, the architectural committee shall be subject to the supervision of the Board.

7.10.2. The Board shall have authority to establish reasonable forms and procedures for applying for authorization for Improvements, and reasonable requirements for Improvements. The Board, in its sole discretion, may impose standards for design, appearance or construction which are greater or more stringent than standards prescribed by the Governing Documents, or by building, zoning, or other governmental laws, codes, or regulations; provided that such standards shall be consistent with the architectural character and use of the Property as planned and developed by the Declarant. The Board shall be the sole judge of whether such criteria are satisfied, subject to any restrictions imposed by any applicable governmental laws, codes, ordinances or regulations, and shall have the right and authority to approve, conditionally approve or deny requests for Improvements in its sole absolute discretion and its determination in this regard shall be binding upon the Owners, Occupants and any other Person holding or acquiring any interest in the Unit.

7.10.3. The purpose of the requirements established by the Board shall be (i) to preserve the architectural style, the quality and the value of the Property, and (ii) to protect the Association and the Owners from undue liability arising out of the Improvements or any construction activity in connection therewith.

7.10.4. Improvements may be made in compliance with Section 515B.2-113 of MCIOA, and relocation of the boundaries of Units may be made in compliance with Section 515B.2-114 of MCIOA.

7.10.5. Approval of Improvements which cause a minor encroachment 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 Improvements are approved, notwithstanding any contrary requirement in the Governing Documents or MCIOA. A file of the Board or committee resolutions approving or denying all proposed Improvements shall be maintained permanently as a part of the Association's records.

7.10.6. Notwithstanding the restrictions set forth in this Section 7.10, certain types of antennas may be installed, and the U.S. flag may be displayed in certain areas, in accordance with applicable state and federal law and any Rules and Regulations consistent therewith.

7.10.7. An Owner who causes an Improvement to be made, regardless of whether the Improvement is approved by the Board, shall be solely responsible for the construction standards and specifications relating to the Improvement, and for the construction work. The Owner, and not the Association, is responsible for determining whether the Improvement is in compliance with any requirements imposed by any governmental authority having jurisdiction over the Property. The Owner shall hold harmless, indemnify and defend the Association, and its officers, directors and agents, from and against any expenses, claims, damages, losses or other liabilities, including without limitation attorneys' fees and other professional fees, and any other costs, arising out of (i) an Improvement that violates any governmental laws, codes, ordinances or regulations; (ii) the inadequacy of the specifications for construction of the Improvement; (iii) defects in the construction of the Improvement; or (iv) any damage to the Property caused by the construction or use of the Improvement.

7.10.8. This Section 7.10 shall not apply to Improvements or changes to the Property made by Declarant in exercising its Declarant rights under Section 15.

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

7.13. 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, by the Association's management agents or by any public safety personnel. Entry is also authorized for maintenance purposes under Sections 8 and 11 and for enforcement purposes under Section 12.

SECTION 8

MAINTENANCE AND REPAIR

The following provisions shall govern the maintenance, repair and replacement of the Property.

8.1. Association Responsibility. The Association shall undertake and perform the maintenance, repair and replacement of all Common Elements and Limited Common Elements, in accordance with and subject to the following qualifications:

8.1.1. Subject to Section 8.1.2, the costs associated with the Association's maintenance obligations under this Section 8.1 shall be funded by Assessments determined and levied in accordance with Section 6.

8.1.2. The Association may, upon reasonable notice, assign to an Owner the obligation for maintenance of a Limited Common Element allocated to the Owner's Unit. However, if

the Owner fails to perform the maintenance to the standards established by the Association, the Association may enter the Unit or Limited Common Element, perform the maintenance and assess the Owner's Unit for the costs; provided that reasonable notice and an opportunity to cure the violation shall first be given to the Owner.

8.1.3. The Association may, upon reasonable notice, elect to maintain, repair or replace mechanical, structural or other components within the Units and assess the costs against the Unit, if the failure or impairment of the component could result in damage to the Common Elements or other Units, impair the function of any Building system, or could create a health or safety hazard for the Owner or other Owners or Occupants.

8.1.4. The Association shall be responsible for incidental damage caused to a Unit or its Limited Common Elements by work undertaken by the Association pursuant to this Section 8.

8.1.5. If damage is caused to the Common Elements, Limited Common Elements or other Units by an Owner or Occupant, or their guests, or by any condition in the Unit or Limited Common Elements which the Owner or Occupant has caused or allowed to exist, then the Association may, upon reasonable notice, repair the damage or correct the condition and assess the cost thereof against the responsible Owner's Unit.

8.1.6. The Association shall maintain, repair and replace the Common Elements in compliance with the requirements of applicable City approvals, permits, ordinances, regulations and agreements.

8.2. Owner Responsibility. The Owner shall, at his or her expense, be responsible for maintenance, repair and replacement as follows:

8.2.1. To maintain, repair, and replace all portions of the Owner's Unit, except those maintained by the Association, in good, clean, sanitary and safe condition, and in compliance with any applicable maintenance manuals or instructions.

8.2.2. To perform maintenance of the Limited Common Elements allocated to the Unit to the extent the Association assigns such obligations to the Owner pursuant to Section 8.1.2. The Association may require that the Owners perform their maintenance obligations in accordance with reasonable standards established by the Association.

8.2.3. To perform the foregoing maintenance obligations in such manner as not to damage the Property, or unreasonably disturb or cause a hazard to other persons occupying or using the Property.

8.2.4. To promptly pay or reimburse the Association for any costs incurred by the Association for the repair of any damage to the Property caused by the Owner or Occupant, or their guests, or caused by any condition in the Unit or its Limited Common Elements which the Owner or Occupant has allowed to exist.

8.3. Duty to Inspect/Report Defects. The Association shall regularly inspect the Common Elements for the purpose of evaluating the need for maintenance, repair or replacement. Owners or Occupants shall promptly report to the Association any material defect in the Common Elements or Limited Common Elements which may require maintenance, repair or replacement.

8.4. Easements for Maintenance, Repair and Replacement. Each Unit and the Common Elements and Limited Common Elements are subject to the inspection, maintenance, repair and replacement easements described in Section 11 and in Section 515B.3-107 of MCIOA.

SECTION 9

INSURANCE

9.1. Required Coverage. The Association shall obtain and maintain, at a minimum, a master policy or policies of insurance in accordance with the insurance requirements set forth in MCIOA 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:

9.1.1. Property insurance in broad form covering all risks of physical loss in an amount equal to one hundred percent of the insurable “replacement cost” of the Property, less deductibles, exclusive of land, footings, excavation and other items normally excluded from coverage (but including all building service equipment and machinery). The Association may or may not, as determined by the Board, insure the Improvements and betterments referred to in Section 515B.3-113(b)(i) through (vii) of MCIOA, but must do so if required by the FNMA, FHLMC, FHA or VA, as referred to hereafter. The policy or policies shall cover personal property owned by the Association. The policy or policies shall also contain “Inflation Guard” and “Agreed Amount” endorsements, if reasonably available. If approved by the Board, such policy or policies may include any additional endorsements, coverages and limits with respect to the foregoing and other hazards as may be required by the Federal Housing Administration (“FHA”), the U.S. Department of Veterans’ Affairs (“VA”), the Federal National Mortgage Association (“FNMA”) or the Federal Home Loan Mortgage Corporation (“FHLMC”) as a precondition to the insuring, purchasing or financing a mortgage on a Unit. The Board may also, on behalf of the Association, enter into binding written agreements with a mortgagee, insurer or servicer, including without limitation the FHA, VA, FNMA or FHLMC, obligating the Association to keep certain specified coverages or endorsements in effect.

9.1.2. Commercial general liability insurance covering the use, operation and maintenance of the Common Elements and the activities of the Association, with minimum limits of One Million Dollars 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. If approved by the Board, the policy may include such additional endorsements, coverages and limits with respect to such hazards as may be required by the regulations of the FHA, VA, FNMA or FHLMC as a precondition to its insuring, purchasing or financing a mortgage on a Unit.

9.1.3. Fidelity bond or insurance coverage against dishonest acts on the part of directors, officers, managers, trustees, employees or persons responsible for handling funds belonging to or administered by the Association, if deemed to be advisable by the Board or required by the regulations of any financing-related institution as a precondition to the purchase, insuring, guarantee, or financing of a mortgage on a Unit. The fidelity bond or insurance shall name the Association as the named insured.

If approved by the Board, the coverages may comply with the regulations of the FNMA, FHLMC, FHA or VA, if required by one of such agencies as a precondition to the purchase, financing, insuring, or guarantee of a mortgage on a Unit. 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.

9.1.4. Workers' Compensation insurance as applicable and required by law.

9.1.5. Directors and officers liability insurance with such reasonable limits and coverages as the Board shall determine from time to time.

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

9.2. Premiums; Improvements; Deductibles. Except as provided in Section 6.4 and this Section, all insurance premiums shall be assessed and paid as an annual Assessment. Policy deductible amounts shall be determined by the Board. If Improvements and betterments to the Units are covered, any increased cost may be assessed against the Units affected. The Association may, in the case of a claim for damage to a Unit or Units, (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. The Association's decision as to who shall be charged with paying the deductible amount may, but need not, be based on fault.

9.3. Loss Payee; Insurance Trustee. All insurance coverage maintained by the Association shall be written in the name of, and the proceeds thereof shall be payable to, the Association (or a qualified insurance trustee selected by it) as trustee for the benefit of the Owners and secured parties 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.

9.4. Required Policy Provisions. All policies of property insurance carried by the Association shall provide that:

9.4.1. Each Owner and secured party is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Association.

9.4.2. The insurer waives its right to subrogation under the policy against any Owner or member of the Owner's household and against the Association and members of the Board.

9.4.3. The coverage shall not be voided by or conditioned upon (i) any act or omission of an Owner or mortgagee, unless acting within the scope of authority on behalf of the Association, or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

9.4.4. If at the time of a loss under the policy there is other insurance in the name of an Owner covering the same property covered by the policy, the Association's policy is primary.

9.5. Cancellation; Notice of Loss. Property insurance and comprehensive liability insurance policies maintained by the Association shall provide that the policies shall not be canceled or substantially modified, for any reason, without at least thirty days prior written notice to the Association and to all secured parties holding first mortgages on Units.

9.6. Restoration in Lieu of Cash Settlement. All policies of property insurance policies 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.

9.7. Owner's Personal Insurance. Each Owner shall obtain personal insurance coverage (commonly known as "gap coverage" or an "HO6" policy) at his or her own expense covering fire and other casualty to the interior Unit Improvements and the Owner's personal property, and insurance covering the Owner's personal liability. Property insurance policies maintained by the Owner shall provide, if possible, that the policies shall not be canceled or substantially modified, for any reason, without at least 30 days prior written notice to the Association. Insurance policies maintained by Owners are without contribution as against the insurance purchased by the Association, except as to deductible amounts or other items not covered under the Association's policies. Owners must provide proof of insurance to the Association.

9.8. Notice to Declarant. Recognizing that Declarant is obligated to disclose to prospective purchasers the current Association budget and the insurance coverage provided by the Association, it is important that Declarant be advised of any changes in such matters during the initial marketing and sale of Units by Declarant. Accordingly, the Association shall give Declarant at least thirty days' prior written notice of any change in the Association's annual budget or insurance policies until Declarant no longer owns any Unit for initial sale.

SECTION 10

RECONSTRUCTION, CONDEMNATION AND EMINENT DOMAIN

10.1. Reconstruction. The obligations and procedures for the repair, reconstruction or disposition of the Property following damage or destruction thereof shall be governed by MCIOA. Any repair or reconstruction shall be commenced as soon as practicable after the casualty and shall be substantially in accordance with the plans, specifications and design of the Property as initially constructed and subsequently improved. Notice of substantial damage or destruction shall be given as provided in Section 16.4.

10.2. Condemnation and Eminent Domain. In the event of a taking of any part of the Property by condemnation or eminent domain, the provisions of MCIOA shall govern; provided, (i) that notice shall be given as provided in Section 16.4; (ii) that the Association shall be the attorney-in-fact to represent the Owners in any related proceedings, negotiations, settlements or agreements; and (iii) that any awards or proceeds shall be payable to the Association for the benefit of the Owners and the mortgagees of their Units. Mortgagees shall be entitled to priority for condemnation awards in accordance with the priorities established by MCIOA and the Governing Documents, as their interests may appear.

10.3. Termination and Liquidation. The termination of the common interest community, and the distribution of any proceeds therefrom, shall be governed by MCIOA. Any distribution of funds shall be based upon the value of the Units as determined by their relative value for property insurance purposes, and shall be made to Owners and their mortgage holders, as their interests may appear, as provided in MCIOA.

10.4. Notice. The Association shall give written notice of any condemnation proceedings or substantial destruction of the Property to the Mortgagees entitled to notice under Section 14.

10.5. Association's Authority. In all cases involving reconstruction, condemnation, eminent domain, termination or liquidation of the common interest community, the Association shall have authority to act on behalf of the Owners in all proceedings, negotiations and settlement of claims. All proceeds shall be payable to the Association to hold and distribute for the benefit of the Owners and their mortgage holders, as their interests may appear, in accordance with MCIOA.

SECTION 11

EASEMENTS

Each Unit and the Common Elements, and the rights of the Owners and Occupants therein, shall be subject to the appurtenant easements and rights granted and reserved in this Section 11.

11.1. Access. Each Unit shall be the beneficiary of a nonexclusive easement for access, ingress to and egress from public roadways and walkways on and across those portions of the Common Elements designated for use as driveways or walkways, as originally constructed, shown on the Plat or otherwise designated by the Association, subject to any restrictions authorized by the Governing Documents or the Rules and Regulations.

11.2. Use and Enjoyment. Each Unit shall be the beneficiary of nonexclusive easements for use and enjoyment on and across the Common Elements and any Limited Common Element allocated to the Units, subject to any restrictions authorized or imposed by the Governing Documents or the Rules and Regulations.

11.3. Structural Support. Each Unit and the Common Elements shall be subject to and the beneficiary of nonexclusive easements for structural support in all walls, columns, joists, girders and other structural components located in or passing through another Unit or other parts of the Building, or shared with an adjoining Unit or the Common Elements.

11.4. Encroachments. Each Unit and the Common Elements, and the rights of the Owners and Occupants therein, shall be subject to a nonexclusive easement in favor of the adjoining Units for encroachments caused by the construction, reconstruction, repair, shifting, settlement or movement of any part of the Property, and for Improvements which are added in compliance with Section 7.10. If there is an encroachment upon another Unit or the Common Elements, as a result of any of the aforementioned causes, an easement shall exist for the encroachment, for the use, enjoyment and habitation of any encroaching Unit or Improvement, and for the maintenance thereof. Improvements or alterations added pursuant to Section 7.10 shall be limited to minor encroachments, and no easement shall exist unless the proposed Improvements 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.

11.5. Inspection, Maintenance, Repair and Replacement. Each Unit, and the rights of the Owners and Occupants thereof, and the Common Elements and Limited Common Elements, shall be subject to and benefited by a nonexclusive easement in favor of the Association and the Declarant for the inspection, maintenance, repair and replacement and reconstruction of the Common Elements, the Units and Improvements related thereto, and the utilities serving the Units, to the extent necessary for the Association to fulfill its obligations under the Governing Documents or for

the Declarant to investigate or undertake its warranty obligations. Each Owner shall afford to the Association and its management agents and employees, access at reasonable times and upon reasonable notice, to and through the Unit and its Limited Common Elements for inspection, maintenance, repair and replacement of the Property; provided that access may be had without notice and at any time in case of emergency.

11.6. Utilities. The Common Elements and the Units shall be subject to and benefited by nonexclusive easements in favor of the Association, the City and all utility companies and other service providers for the installation, use, maintenance, repair and replacement of all utilities, services and common operating systems. Such systems and related structural Improvements include, without limitation, systems for natural gas, electricity, telephone, cable TV, internet and other electronic communications, plumbing, heating, ventilating, air conditioning, water, sewer, septic, wells, irrigation, fire control, and related metering and control devices, which exist, which are constructed as part of the development of the Property, which are approved by the City, which are approved by the Association under authority contained in the Governing Documents or MCIOA, or which are described or referred to in the Plat, this Declaration or other recorded instruments. Each Unit, and the rights of the Owners and Occupants thereof, shall also be subject to non-exclusive easements in favor of the other Units, the Common Elements and the Association for all such utilities, services, and systems existing or installed in accordance with the foregoing provisions of this Section.

11.7. Emergency Access to Units. In case of emergency, all Units and Limited Common Elements are subject to an easement, without notice and at any time, in favor of the Association for access by the Association's management agents, and in favor of fire, police or other public safety personnel.

11.8. Project Signs. Declarant and the Association shall have a non-exclusive easement and right to erect and maintain, on the Common Elements and Units owned by Declarant, temporary and permanent signs and related monuments identifying the common interest community. Those parts of the Property on which permanent monument signs or related Improvements are located shall be subject to non-exclusive easements in favor of the Association for the continuing use, maintenance, repair and replacement of said signs and related Improvements.

11.9. Declarant's Easements. The Units and Common Elements are subject to exclusive easements in favor of Declarant for the exercise of its declarant rights as described in the Governing Documents, and for periodic inspection of the Units and Common Elements during any warranty periods and thereafter to review the condition of the Property and Building systems and to determine whether Unit and Building maintenance requirements are being followed.

11.10. Construction Easements. Recognizing that Units may be purchased as "shell Units" and built out by the Owner, each Unit (an "adjacent Unit") located adjacent to a Unit being built out (the "build-out unit") shall be subject to reasonable, non-exclusive easements in favor of the build-out Unit for the installation, maintenance and repair of plumbing pipes, air ducts, electrical conduit, mechanical chases and other Improvements to the Property reasonably necessary to construct and outfit the build-out Unit with customary utilities and other Building services, provided: (i) that such easements shall be for reasonable access only through the adjacent Units to

construct and maintain the applicable installations within the Common Element ceiling, floor or wall spaces of the Building (not within the adjacent Units); (ii) that access shall be permitted only upon reasonable notice to the Owners and Occupants of any adjacent Unit and shall be limited to the minimum period within which workers can reasonably accomplish the work; and (iii) that the Owner of the build-out Unit and those parties performing the work shall promptly repair and restore, to prior or better condition, any part of any adjacent Unit or adjacent Common Element walls, floors or ceilings which are altered or damaged as a result of the work, and shall hold harmless, indemnify and defend the Owners and Occupants of any adjacent Unit, and the Association and its officers, directors and agents, from and against any claims, losses, damages or other liabilities arising out of the performance of the work or future maintenance of the Improvements.

11.11. Other Easements. The Property shall be subject to such other easements as may be recorded against the Property by reason of the City's requirements in connection with the development of the Property.

11.12. Duration, Restrictions and Use. The rights and easements granted or reserved by this Section 11 shall be permanent, shall run with the land, shall benefit the Units and their Owners and Occupants, and shall be subject to the following qualifications:

11.12.1. The easements shall supplement and not limit any easements described elsewhere in this Declaration or any recorded instrument.

11.12.2. A non-resident Owner who has delegated the right to occupy the Unit to an Occupant, whether by a lease or otherwise, does not have the use and easement rights in the Property during such delegated occupancy, except (i) as a guest of an Owner or Occupant, or (ii) in connection with the inspection of the Unit or recovery of possession of the Unit pursuant to law.

11.12.3. The easements shall be subject to reasonable regulation by the Association and including without limitation such reasonable limitations as to location and routing as may be established by the Association or any governmental authority.

11.12.4. The easements shall include reasonable access through the Units and their Limited Common Elements, and over, under and across other parts of the Property, to maintain, repair, replace and reconstruct the easement areas and any Improvements located thereon.

11.12.5. No Improvement shall be erected or maintained, no excavation, grading or reshaping shall be undertaken, and no fill or other material shall be placed, in an easement area, which may damage or interfere with the installation, use or maintenance of such area, or which may change or impede the intended flow of water through any drainage easement area.

11.12.6. Persons exercising easement rights shall (i) do so in a reasonable manner so as not to materially interfere with the operation of the Property or cause damage to the Property; (ii) take reasonable care to avoid damaging the Property or creating safety hazards; (iii) promptly repair any damage to the Property which they or their employees or agents caused; (iv) promptly reimburse the Association for all costs incurred by it for repairing damage to the Property caused by the Person; and (v) hold harmless, indemnify and defend the Association and other Owners, and their officers and

directors, from and against all claims, damages, losses and other liabilities arising out of the exercise of the easement rights.

11.12.7. Any equipment or systems installed on the Property pursuant to easement rights described in this Section 11 shall be installed, used, maintained and repaired so as not to interfere with the use and quiet enjoyment of the Units by the Owners and Occupants, nor affect the structural or architectural integrity of the Building, the Units or the Common Elements.

11.12.8. Declarant's easement rights described in this Declaration shall terminate when Declarant no longer owns a Unit for initial sale.

11.12.9. Notwithstanding anything in this Declaration to the contrary, no Owner or Occupant shall be denied reasonable access to his or her Unit or the right to utility services thereto.

SECTION 12

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 MCIOA, the Governing Documents, the Rules and Regulations, and such amendments thereto as may be made from time to time, and the decisions of the Association. 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 or MCIOA.

12.1. Entitlement to Relief. Legal relief may be sought by the Association, at its discretion, against any Owner, or by an Owner against the Association or another Owner, to enforce compliance with the Governing Documents, the Rules and Regulations, MCIOA or the decisions of the Association. However, no Owner may withhold any Assessments payable to the Association, nor take or omit other action in violation of the Governing Documents, the Rules and Regulations or MCIOA, as a measure to enforce such Owner's position, or for any other reason.

12.2. 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 MCIOA:

12.2.1. Commence legal action for damages or equitable relief in any court of competent jurisdiction, subject to Section 12.8.

12.2.2. Impose late charges, as provided by the Rules and Regulations, for each past due Assessment or installment thereof.

12.2.3. In the event of default of more than thirty 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 or installments thereof, together with all attorneys' fees and other professional fees, costs and late charges, are not paid in full prior to the effective date of the

acceleration. Not less than ten days advance written notice of the effective date of the acceleration shall be given to the defaulting Owner.

12.2.4. Impose reasonable fines, penalties or charges for each violation of MCIOA, the Governing Documents or the Rules and Regulations.

12.2.5. Suspend the rights of any Owner or Occupant, or their guests, to use any Common Element amenities; provided, that the suspension of use rights shall not apply to Limited Common Elements allocated to the Unit, and those portions of the Common Elements providing utilities service and access to the Unit. Such suspensions shall be limited to periods of default by such Owners and Occupants in their obligations under the Governing Documents, and for up to one year thereafter, for each violation.

12.2.6. Enter any Unit, Common Elements or Limited Common Elements and restore any portions of the Common Elements, Unit or Units, or Limited Common Elements used, damaged or altered, or allowed to be used, 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.

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

12.2.8. Foreclose any lien arising under the provisions of the Governing Documents or under law, in the manner provided by MCIOA.

12.3. Rights to Hearing. Before the imposition of any of the remedies authorized by Section 12.2.4, 12.2.5, 12.2.6 or 12.2.7, the Board shall, upon written request of the offender, grant to the offender an opportunity for a fair and equitable hearing as contemplated by MCIOA. The offender shall be given notice of the nature of the violation and the right to a hearing, and ten 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 ten days' prior written notice to the offender. If the offender fails to timely request a hearing or 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 announced at the hearing.

12.4. Lien for Charges, Penalties Etc. Any charges, fines, expenses, penalties, interest or other impositions 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 makes a written decision at or 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 Association's right to pursue any others.

12.5. Costs and Fees. With respect to any collection measures, or any measures or action, legal, administrative or otherwise, which the Association takes pursuant to the provisions of MCIOA, Governing Documents or Rules and Regulations, whether or not finally determined by a court or arbitrator, the Association may assess the Unit owned by the violator with any expenses incurred in connection with such enforcement, including without limitation fines or charges previously imposed by the Association, reasonable attorneys' fees, and other professional fees, costs and interest (at the highest rate allowed by law) on the delinquent amounts owed to the Association. Such expenses shall also include any collection or contingency fees or costs charged to the Association by a collection agency or other Person acting on behalf of the Association in collecting any delinquent amounts owed to the Association by an Owner or Occupant. The foregoing fees and costs shall be the personal obligation of the Owner of the Unit and shall be a lien against such Owner's Unit.

12.6. Liability for Owner's and Occupant's 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 responsible Owner's Unit.

12.7. 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, the Rules and Regulations, and MCIOA as provided therein.

12.8. Pre-litigation Requirement. Any litigation, administrative proceeding or other action instituted or intervened in by or in the name of the Association, exclusive of (i) any action to collect Assessments or foreclose Assessment liens, or (ii) to enforce the Governing Documents or the Rules and Regulations, is subject to prior approval by the Owners of Units to which are allocated in excess of fifty percent of the total votes in the Association. The Owners' approval shall be obtained at a meeting of the members of the Association (not a vote by mailed ballot) and the Owners shall be provided, prior to or at the meeting, with sufficient information fairly presenting the facts forming the basis of the proposed litigation, and the advantages and disadvantages of the proposed litigation, upon which the Owners can make an informed decision as to whether the litigation or other action is in the best interests of the Association and its Members.

SECTION 13

AMENDMENTS

13.1. Approval Requirements. Subject to the provisions of MCIOA and except for amendments by Declarant pursuant to Section 15, this Declaration may be amended with the following approvals:

13.1.1. The Board.

13.1.2. Owners of Units to which are allocated at least sixty-seven percent of the total votes in the Association, except as otherwise required by MCIOA.

13.1.3. The percentage of Mortgagees (based upon one vote per Unit financed) as and if required by Section 14.

13.1.4. Declarant as to certain amendments as provided in Section 15.8.

13.2. Procedures. Approval of the Owners may be obtained in writing or at a meeting of the Association duly held in accordance with the Bylaws. Consents of Mortgagees or Declarant, if required, shall be in writing. The amendment shall be effective when recorded as provided in MCIOA. An affidavit by the Secretary of the Association as to the outcome of the vote, or the execution of the foregoing agreements or consents, shall be adequate evidence thereof for all purposes, including without limitation, the recording of the amendment.

SECTION 14

RIGHTS OF MORTGAGEES

It is important that individual mortgage loans on the Units be available to Owners and prospective Owners, and that, in order to enhance the availability of such financing, the Governing Documents contain qualification provisions that are acceptable to lenders, guarantors and insurers of Unit loans, such as the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") and the Federal Housing Administration ("FHA"). Accordingly, Mortgagees shall have the rights and protections set forth in this Section 14, which rights and protections shall control as against any other provisions of the Governing Documents.

14.1. Eligible Mortgagees. Eligible Mortgagees shall have the following rights and protections:

14.1.1. Consent to Certain Amendments. The written consent of Eligible Mortgagees representing at least fifty-one percent of the Units that are subject to first mortgages held by Eligible Mortgagees (based upon one vote per Unit financed) shall be required for any amendment to the Governing Documents which causes any change in provisions relating to the following: (i) voting rights; (ii) increases in Assessments over twenty-five percent; (iii) Assessment liens, or priority of Assessment liens; (iv) reductions in budgeted reserves

for maintenance, repair and replacement of Common Elements; (v) responsibility for maintenance and repairs; (vi) reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use; (vii) redefinition of any Unit boundaries; (viii) convertibility of Units into Common Elements or vice versa; (ix) expansion or contraction of the Property or the addition, annexation or withdrawal of property to or from the Property; (x) hazard or fidelity insurance requirements; (xi) imposition of restrictions on the leasing of Units; (xii) imposition of any restrictions on an Owner's right to sell or transfer his or her Unit; (xiii) restoration or repair of the Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Governing Documents; (xiv) any action to terminate the legal status of the common interest community after substantial destruction or condemnation occurs; or (xv) any provisions that expressly benefit Eligible Mortgagees, or insurers or guarantors of mortgages.

14.1.2. Consent to Certain Actions. The written consent of Eligible Mortgagees representing at least sixty-seven percent of the Units that are subject to first mortgages held by Eligible Mortgagees (based upon one vote per Unit financed) shall be required to (i) abandon or terminate the common interest community; (ii) change the allocations of voting rights, Common Expense obligations or interests in the Common Elements; (iii) partition or subdivide a Unit except as permitted by statute; (iv) abandon, partition, subdivide, encumber or sell any Common Elements; or (v) use hazard insurance proceeds for other than the repair, replacement or reconstruction of the Property, except as otherwise provided by law.

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

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

14.1.5. Priority of Lien. Any Person who comes into possession of a Unit by foreclosure of the first mortgage on a Unit, or by deed or assignment in lieu of foreclosure of the first mortgage on a Unit, takes the Unit free of any claims for unpaid Assessments or any other charges or liens imposed against the Unit by the Association which have accrued against such Unit prior to the acquisition of possession of the Unit by said Person; (i) except as provided in Section 6.10 or MCIOA and (ii) except that any unreimbursed Assessments or charges may be reallocated among all Units in accordance with their interests in the Common Elements.

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

14.1.7. Priority for Condemnation Awards. No provision of the Governing Documents shall give an Owner, or any other party, priority over any rights of the Eligible Mortgagee of the Unit pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Unit and/or the Common

Elements. The Association shall give written notice to all Eligible Mortgagees of any condemnation or eminent domain proceeding affecting the Property promptly upon receipt of notice from the condemning authority.

14.1.8. Requirements for Management Agreements. The term of any agreement for professional management of the Property shall not exceed two years. Any such agreement shall provide for termination without penalty or termination fee by either party as follows: (i) with cause, upon a minimum of thirty days prior written notice, and, (ii) without cause, upon ninety days prior written notice.

14.1.9. Access to Books and Records/Audit. Eligible Mortgagees shall have the right to examine the books and records of the Association upon reasonable notice and during normal business hours, and to receive free of charge, upon written request, copies of the Association's annual reports and other financial statements. Financial statements, including those which are audited, shall be available within one hundred twenty days after the end of the Association's fiscal year. If the common interest community consists of fewer than fifty Units, FNMA, or any institutional guarantor or insurer of a mortgage loan against a Unit, may require that, at its own expense, an audit of the Association's financial statements be made for the preceding year, in which case the Association shall cooperate in having an audit made and a copy given to the requesting party.

14.1.10. Notice Requirements. Eligible Mortgagees shall be entitled to timely written notice of:

14.1.10.1. a condemnation loss or any casualty loss which affects a material portion of the Property or the Unit securing the mortgage;

14.1.10.2. a sixty day delinquency in the payment of Assessments or charges owed by the Owner of a Unit on which it holds a mortgage;

14.1.10.3. a lapse, cancellation or material modification of any insurance policy maintained by the Association; and

14.1.10.4. a proposed action which requires the consent of a specified percentage of Eligible Mortgagees.

14.2. Rights of Non-Qualified Mortgagees. Notwithstanding anything to the contrary in this Declaration, a Mortgagee that has not qualified for status as an Eligible Mortgagees (a "Non-Qualified Mortgagee") shall have the following rights and protections in lieu of the rights and protections provided to Eligible Mortgagees:

14.2.1. Consent to Certain Amendments and Actions. In addition to any additional requirements imposed by this Declaration or by law, the consent of Non-Qualified Mortgagees representing at least fifty-one percent of the votes allocated to Units that are subject to first mortgages held by Non-Qualified Mortgagees (based upon one vote per Unit financed) shall be required for (i) any amendment to this Declaration or other Governing Documents of a material adverse nature to Non-Qualified Mortgagees; and (ii) any action to

terminate the common interest community after substantial destruction or condemnation occurs. A Non-Qualified Mortgagee shall be deemed to consent to and approve of any such amendment or action in the event the Non-Qualified Mortgagee fails to submit a written objection to the Association within sixty (60) days after it receives notice of the same, by registered or certified mail, with a return receipt requested.

14.2.2. No Limitations on Sale/Right of First Refusal. The right of a Non-Qualified Mortgagee to foreclose or accept a deed in lieu of foreclosure on a Unit, or to sell, lease, transfer or otherwise convey a Unit which it acquires by foreclosure or deed in lieu of foreclosure, shall not be subject to any right of first refusal or similar restrictions.

14.2.3. Priority of Lien. Any Non-Qualified Mortgagee that comes into possession of a Unit by foreclosure of its first mortgage on a Unit, or by deed or assignment in lieu of foreclosure of the first mortgage on the Unit, takes the Unit free of any claims for unpaid Assessments or any other charges or liens imposed against the Unit by the Association which have accrued against such Unit prior to the acquisition of possession of the Unit by the Non-Qualified Mortgagee, (i) except as provided in Section 515B.3-116 of MCIOA or Section 6.9, (ii) except that the Non-Qualified Mortgagee will be liable for any fees or costs of collection of the unpaid Assessments if the Association's lien priority includes such fees and costs, and (iii) except that any unreimbursed Assessments or charges may be reallocated among all Units in accordance with their allocated interests in the common interest community.

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

14.2.5. Priority for Insurance/Condemnation Proceeds. No provision of this Declaration or other Governing Documents shall give an Owner, or any other party, priority over any rights of the Non-Qualified Mortgagee of the Unit pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Unit and/or the Common Elements. The Association shall give written notice to all Non-Qualified Mortgagees of any condemnation or eminent domain proceeding affecting the common interest community, promptly upon receipt of notice from the condemning authority.

14.2.6. Notice Requirements. Non-Qualified Mortgagees shall be entitled to timely written notice of:

14.2.6.1. a condemnation loss or any casualty loss which affects a material portion of the common interest community or the Unit securing the mortgage;

14.2.6.2. a sixty day delinquency in the payment of Assessments or charges owed by the Owner of a Unit on which it holds a mortgage;

14.2.6.3. a lapse, cancellation or material modification of any insurance policy maintained by the Association; and

14.2.6.4. a proposed action which requires the consent of a specified percentage of Non-Qualified Mortgagees pursuant to Section 13.2.

14.2.7. Any institutional insurer or guarantor of a mortgage on a Unit shall also be entitled to notice of the foregoing events or actions.

SECTION 15

DECLARANT RIGHTS

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

15.1. Complete Improvements. To complete all the Units and other Improvements indicated on the Plat, or otherwise included in Declarant's development plans or authorized by the City or by this Declaration, and to make alterations in the Units owned by Declarant and the Common Elements to accommodate the exercise of any special declarant rights.

15.2. Rights to Relocate Boundaries, Combine and Convert Units. Declarant shall have the exclusive right and authority to (i) relocate the boundaries of any Units owned by it pursuant to Section 515B.2-114 of MCIOA, or (ii) create other Units, Common Elements and Limited Common Elements, or any combination thereof, by the conversion or combining of any Unit owned by it, pursuant to Section 515B.2-112 of MCIOA.

15.3. Maximum Number of Units. The maximum number of additional Units that may be created within the common interest community by the subdivision and conversion of Units by Declarant pursuant to Section 15.2 is none.

15.4. Sales Facilities. To construct, operate and maintain a sales office, management office, models, and other development, sales and rental facilities within the Common Elements, and within any Units owned or leased by Declarant from time to time, located anywhere on the Property.

15.5. Signs. To erect and maintain signs and other sales displays offering the Units for sale or lease, in or on any Unit owned by Declarant and on the Common Elements.

15.6. Easements. To have and use easements, for itself, its employees, contractors, representatives, agents, prospective purchasers and other invitees through and over the Common Elements and the Units for the purpose of exercising its declarant rights reserved herein and such other rights granted to Declarant by the Governing Documents or by law.

15.7. Consent to Certain Amendments. Until such time as Declarant no longer owns a Unit for initial sale, Declarant's written consent shall be required for any amendment to any of the Governing Documents or the Rules and Regulations.

SECTION 16

MISCELLANEOUS

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

16.2. Construction. Where applicable, the masculine gender of any word used herein shall mean the feminine or neutral gender, or vice versa, and the singular of any word used herein shall mean the plural, or vice versa. References to MCIOA, or any section thereof, shall be deemed to include any statutes amending or replacing MCIOA, and the comparable sections thereof. Any amendment to MCIOA shall retroactively apply to the Association and the Property, except as expressly prohibited or qualified by the Governing Documents.

16.3. Tender of Claims/Notice to Declarant. In the event that any incident occurs which could reasonably give rise to a demand by the Association against Declarant for indemnification pursuant to MCIOA, the Association shall promptly tender the defense of the action to its insurance carrier, and give Declarant (i) written notice of such tender; (ii) written notice of the specific nature of the action; and (iii) an opportunity to defend against the action.

16.4. Notices. Unless specifically provided otherwise in the Governing Documents or MCIOA, all notices required to be given by or to the Association, the Board, the Association officers, or the Owners or Occupants shall be given as provided in the Bylaws.

16.5. Notice to Declarant. Recognizing that the Declarant is obligated to disclose certain information relating to the Association's operations to the initial purchasers of Units in connection with Declarant's sales activities, it is important that Declarant be advised of any budget or other changes. Accordingly, the Association shall give Declarant at least thirty days' prior written notice of any change in the Association's budget or insurance policies until Declarant no longer owns any Unit for initial sale.

16.6. Conflicts Among Documents. In the event of any conflict among the provisions of MCIOA, this Declaration, the Bylaws and the Rules or Regulations, MCIOA shall control unless it permits the documents to control. As among this Declaration, the Bylaws and the Rules and Regulations, this Declaration shall control, and as between the Bylaws and the Rules and Regulations, the Bylaws shall control.

16.7. Duration of Covenants. The covenants, conditions, restrictions, easements, liens and charges contained in this Declaration shall be perpetual, subject only to termination as provided in this Declaration and MCIOA.

IN WITNESS WHEREOF, the undersigned has executed this instrument the day and year first set forth in accordance with the requirements of MCIOA.

CHURCH HILL SCHOOL LLC

By: _____

Title: _____

STATE OF MINNESOTA)

) **ss.**

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 200__,
by _____, the _____ of Church Hill School
LLC, a Minnesota limited liability company, on behalf of said entity.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

FELHABER, LARSON, FENLON & VOGT, P.A. (DBE)

Attorneys at Law

220 South Sixth Street, Suite 2200

Minneapolis, Minnesota 55402

(612) 373-8520

COMMON INTEREST COMMUNITY NO. 3

CHURCH HILL SCHOOL CONDOMINIUM

EXHIBIT A TO DECLARATION

UNDERLYING LEGAL DESCRIPTION OF PROPERTY

Lots 1, 2, 3, 10, 11, 12, Block 27, Original Plat of Lanesboro, Minnesota.

AND

That part of an unnamed alley lying between the eastern property lines of Lots 4 and 9 and the west right of way of Ridgeview Avenue, in Block 27, Original Plat of the City of Lanesboro, Fillmore County, Minnesota.