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DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS

THIS DECLARATION, made this 3rd day of May, 1984, by Jasnoch Construction, Inc., a Minnesota corporation, hereinafter called "Developer".

W I T N E S S E T H :

WHEREAS, Developer is the owner of the real property described in Article II of this Declaration and desires to create thereon a residential community for the pleasure, recreation and general benefit of said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance thereof and to this end desires to subject the real property described in Article II, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it desirable for the pleasure of the community and for the efficient preservation of the values and amenities in said community to create an agency to which should be delegated and assigned the power to attend to and effectuate programs and facilities that will enhance the pleasure of the community, maintain and administer the community properties and facilities, administer and enforce the covenants and restrictions and collect and disburse the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated, under the laws of the State of Minnesota, Valley Pond Townhome Association for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Developer declares that the real property described in Article II is, and shall be held, transferred, sold, conveyed and occupied, subject to the covenants, conditions, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

a. "Association" shall mean and refer to Valley Pond Townhome Association, a Minnesota non-profit corporation.

b. "Property" shall mean and refer to all properties subject to this Declaration, as defined in Article II, below.

c. "Lot" shall mean and refer to any one of the platted lots of the Property.

d. "Living Unit" shall mean and refer to any portion of a building situated upon a Lot designated and intended for use and occupancy as a residence by a single family.

e. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Property but, notwithstanding any applicable theory of mortgage, shall not mean or refer to a mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or deed in lieu of foreclosure.

f. "Member" shall mean and refer to all Owners who are members of the Association as provided in Article III, Section 1, hereof.

g. "Developer" shall mean and refer to Jasnoch Construction, Inc., its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Developer for the purpose of development.

h. "First Mortgagee" shall mean and refer to any person, corporation or other entity named as mortgagee in any mortgage deed granting a first lien upon the fee simple title to any Lot.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS SUBJECTED THERETO

Section 1. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the City of Northfield, County of Rice, and State of Minnesota, and is more particularly described as follows:

Lots 1, 2, 3 and 4, Block Three, Hidden Valley
Addition No. 1, and Lots 1, 2, 3, 4, 5, 6, 7, 8,
9, 10, 11 and 12, Block Four, Hidden Valley
Addition No. 1 ("Existing Property").

Section 2. Additional real property, hereinafter referred to as "Additional Property", may become subject to the covenants and restrictions of this Declaration by filing for record in the Office of the County Recorder, a Supplementary Declaration of Covenants, Conditions, Easements and Restrictions, hereinafter referred to as "Supplementary Declaration", which shall extend the scheme of the covenants and restrictions of this Declaration to the Additional Property. The Supplementary Declaration may

contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary or desirable to reflect the different character, if any, of the Additional Property and as are not inconsistent with the scheme of this Declaration, but in no event shall any such Supplementary Declaration revoke, modify, or add to the covenants and restrictions established by this Declaration with respect to the Existing Property. Such Supplementary Declaration may be made by the Declarant, its successors or assigns, and without the consent of the members of the Association, for the purpose of subjecting to the covenants and restrictions of this Declaration the following described real property located in the City of Northfield, County of Rice, State of Minnesota:

Those parts of the Southwest Quarter of the Northwest Quarter of Section 12, Township 111 North, Range 20 West of the Fifth Principal Meridian, in the City of Northfield, Rice County, Minnesota, described as follows: Beginning at the Northeast corner of Outlot "B" in Hidden Valley Addition No. 1, Northfield, Minnesota; thence South $0^{\circ}19'09''$ West, assumed bearing, along the East line of said Outlot "B", 230.00 feet; thence South $89^{\circ}01'49''$ East, along the line of Outlot "B" and its easterly prolongation, 170.00 feet; thence North $0^{\circ}19'09''$ East, 230.00 feet; thence North $89^{\circ}01'49''$ West, 170.00 feet to said point of beginning; and also beginning at the Southeast corner of Block Four in said Hidden Valley Addition No. 1; thence South $89^{\circ}01'49''$ East, assumed bearing, along the South line of Outlot "B" in said Hidden Valley Addition No. 1, a distance of 30.08 feet to the Southeast corner of said Outlot "B" and the true point of beginning of the parcel to be herein described; thence North $5^{\circ}15'32''$ East, along said Outlot "B", 150.42 feet; thence continue along said Outlot "B", South $89^{\circ}01'49''$ East, 329.37 feet; thence North $0^{\circ}19'09''$ East, along said Outlot "B", 339.99 feet; thence South $89^{\circ}01'49''$ East, along said Outlot "B", 120.00 feet; thence South $0^{\circ}19'09''$ West, 424.26 feet; thence southwesterly, along a tangential curve, concave northwesterly (curve data: radius = 65.00 feet; delta angle = $90^{\circ}39'02''$; chord bearing and distance = South $45^{\circ}38'40''$ West, 92.44 feet), an arc distance of 102.84 feet; thence North $89^{\circ}01'49''$ West, 396.58 feet to said true point of beginning.

provided, however, that such Supplementary Declaration is filed for record in the appropriate office within six (6) years from the date of this Declaration. Alternatively, such supplementary Declaration may be made by any property owner who desires to add his or her property to the scheme of this Declaration and to subject it to the jurisdiction of the Association upon approval

in writing of the Association pursuant to a vote of two-thirds of each class of its members as provided in its Bylaws.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation unless and until such mortgagee has acquired title pursuant to foreclosure of said mortgage and the period in which the fee owner may redeem from such foreclosure has terminated. Where any such Lot is being sold by the fee owner to a contract vendee who is entitled to possession of the Lot, the contract vendee shall be considered the record owner of the Lot upon furnishing proof to the Association. Membership shall be appurtenant to and may not be separated by the Association.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

CLASS A. Class A members shall be all those owners or vendees referred to in Section 1, with the exception of the Developer, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot.

CLASS B. The sole Class B member shall be the Developer and shall be entitled to 10 votes for each Lot owned. The Declarant may create additional Class B votes for itself by subjecting Additional Property to this Declaration pursuant to Article II, Section 2. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever first occurs:

- (a) When the last Lot within is sold, or
- (b) On December 31, 1988.

ARTICLE IV

NO COMMON PROPERTY

Section 1. No Common Property. There exists no common property and all Owners shall have the exclusive right to occupy

their respective Lot subject only to the easements and restrictions set forth herein.

Section 2. Taxes and Special Assessments. Each Owner shall be individually responsible for the payment of real estate taxes and special assessments that are levied against his Lot.

ARTICLE V

PARKING RIGHTS

Each Owner and their guests, invitees and licensees shall park their motor vehicles only in their own garage or on that portion of their Lot which is paved or blacktopped as a driveway.

ARTICLE VI

COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Developer for each Lot owned by him hereby covenants and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be and hereby is deemed to covenant and agree to pay to the Association (a) annual assessments of charges and (b) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on each such Lot and shall be a continuing lien on each such Lot against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall also be the personal obligation of the person who was the Owner of each such Lot at the time when the assessment fell due.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of maintaining the Living Units and the Lots as herein described and promoting the health, safety and welfare of the members of the Association, including but not limited to the payment of insurance, repair, replacement and additions to the Living Units and the Lots as herein described, and for the cost of labor, equipment, materials, management and supervision thereof. An adequate reserve fund shall be maintained for maintenance, repairs and replacement of those elements for the Property that must be replaced on a periodic basis.

Section 3. Basis and Maximum of Annual Assessments. Until the year beginning January 1, 1985, the maximum annual assessment shall be Three Hundred Dollars (\$300.00) per Lot payable as

hereinafter provided. From and after January 1, 1985, the maximum annual assessment may be increased each year not more than Ten Percent (10%) above the maximum assessment for the previous year without a vote of the membership. The Board of Directors of the Association may, after consideration of current assessment costs and future needs of the Association, fix the actual assessment for any year at a lesser amount. The maximum annual assessment may be increased above Ten Percent (10%) by a vote of two-thirds ($2/3$) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose. The assessment for each Lot owned by the Declarant containing a completed and unoccupied Living Unit shall be one-third ($1/3$) of the annual assessments.

Section 4. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessments fixed by Section 3 hereof prospectively for any such period, provided that any such change shall have the assent of two-thirds ($2/3$) of the vote of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting; provided further that the limitations of Section 3 hereof shall not apply to any change in the maximum and basis of assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Bylaws.

Section 5. Quorum for Any Action Authorized Under Section 4. The quorum required for any action authorized by Section 4 hereof shall be as follows:

At the first meeting called, as provided in Section 4 hereof, the presence at the meeting of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirements set forth in Section 4 and the required quorum at such subsequent meetings shall be one-half ($1/2$) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

Section 6. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association to be the date of commencement; provided, however, that the annual assessment for each Lot owned by the Developer upon which there is no completed Living Unit subsequent to the date fixed by the Board of Directors

of the Association shall commence on the first day of the calendar month subsequent to the date that such Lot contains a complete unoccupied Living Unit thereon, and thereafter the annual assessment for each such Lot owned by the Developer shall be as provided in Section 3 hereof.

The first annual assessments shall be made for the balance of the calendar year and shall become due and payable ratably on the first day of each month of said year.

The amount of annual assessments which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in the year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereinafter added to the properties now subject to assessment at such time other than the beginning of any annual assessment period.

Section 7. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall at that time prepare a roster of the properties and assessments applicable thereof which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessment: Personal Obligation of the Owner; Lien; Remedies of Association. If the assessments are not paid on the date when due (being the date specified in Section 6 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and costs of collection thereof, as hereinafter provided, thereupon become a continuing lien on the property which shall bind such properties in the hands of the then Owner, his or her heirs, devisees, personal representatives and assigns. The Association shall have the authority to file with the County Recorder of Rice County, Minnesota an affidavit or other document evidencing such lien and such affidavit or other document shall be prima facie proof of the validity of such lien. The personal obligation of the then Owner to pay such assessments, however, shall remain a

personal obligation for the statutory period and shall not pass to his or her successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum and the Association may bring an action at law against the Owner personally obligated to pay, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorney's fees to be fixed by the Court together with the costs of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of such Owner's Lot.

Section 9. Subordination of Lien to Mortgages. With respect to liens for assessments arising after the recording of a first mortgage, the lien of the assessments provided for herein shall be subordinate to the lien of such first mortgage; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a vesting of fee title in the purchaser pursuant to a mortgage foreclosure sale by advertisement or action, or deed in lieu of foreclosure. Upon the expiration of the period of redemption from a mortgage foreclosure sale, the interest of the holder of the Sheriff's Certificate shall be prior and superior to the lien of any assessments then against the Lot or Lots which arose subsequent to the recording of the Mortgage so foreclosed. Such sale or transfer shall not release a Lot from liability for any assessment thereafter becoming due, nor from the lien of any such subsequent assessments.

Section 10. Exempt Property. All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use shall be exempt from the assessments, charges and liens created herein.

Notwithstanding any provision herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VII

COVENANTS FOR INSURANCE

Section 1. Maintenance of Insurance. Each Owner of any Lot, except the Developer, by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, covenants to carry, maintain and timely pay the premium or premiums on a policy of fire, extended coverage, vandalism and malicious mischief with all risk endorsement insurance. Said insurance is to cover a minimum of the entire replacement cost of

the Living Unit located on each such Lot. Said insurance shall be in a form satisfactory to the Association and shall be issued in the name of the Association as insurance trustee for the Owner and shall provide that losses shall be payable to the trustee and the mortgagee of record of such Lot, if any. Notwithstanding any of the above, in the event the Association elects to secure a master policy which provides said insurance, the Owner shall join in said master policy. Said master policy shall be issued in the name of the Association as the insurance trustee for the Owner, and shall provide that losses shall be payable to the trustee and mortgagees of record, if any.

Section 2. Association as Insurance Trustee. In the event that any Living Unit or Living Units are destroyed or damaged by causes covered by the insurance referred to above, all proceeds of said insurance coverage shall be payable to the Association as insurance trustee for the Owner or Owners of said Living Unit or Living Units and to the First Mortgagee or Mortgagees of record of said Living Unit or Living Units. Said insurance proceeds shall be applied and administered as follows:

- a. In the event of an insured loss to a Living Unit or Units, all insurance proceeds paid to the trustee and First Mortgagee or Mortgagees of record shall be deposited by said trustee and First Mortgagees in escrow with a title insurance company acceptable to them, as hereinafter provided.
- b. In the event of an insured loss to a Living Unit with respect to which the insured loss occurred shall, within thirty (30) days after the insurance proceeds are deposited with a title insurance company in accordance with paragraph 2a above, enter into a firm contract with a qualified builder providing for the reconstruction or remodeling of the Living Unit to substantially the same condition as existed immediately prior to the insured loss; provided, however, that no contract shall be entered into by the Owner for an amount in excess of the insurance proceeds then held by the title insurance company for said Living Unit, until additional funds are deposited by the Owner sufficient to cover all construction costs as determined by the title insurance company. Said reconstruction or remodeling shall be commenced and completed with due diligence and in no event shall said work be completed later than 180 days after said insurance proceeds are deposited in escrow as aforesaid. The Association and First Mortgagee of record of the Living Unit affected shall have the right, but not the obligation, to deposit such additional funds in excess of

insurance proceeds as may be required to permit construction as herein provided.

- c. In the event the Owner fails to enter into a contract as provided in paragraph b above, for the reconstruction or remodeling of the Living Unit as provided above; or in the event that reconstruction or remodeling is not commenced or completed as provided above, then the trustee, or the First Mortgagee of record, with the consent of the trustee, shall have the right, but not the obligation, to enter into those contracts which it deems necessary to complete said reconstruction or remodeling of the Living Unit, and the trustee or First Mortgagee shall have the right to have said insurance proceeds applied in satisfaction of any obligations incurred pursuant to said contracts, without liability of any kind to the Owner, including, but not limited to, without liability for interest on said insurance proceeds. The Association may employ any bonded party or parties as its agents in exercising those functions given to it in this Section 2. The Association shall be empowered to pay said agent and to collect said charge from the Owner or Owners, as the case may be, and in the same manner as that which is provided in Section 4 below, for the collection of an insurance premium paid by the Association.
- d. Disbursement of funds on deposit pursuant to paragraph a above, for contracts for reconstruction or remodeling entered into under paragraphs b and c above, shall be made by the title insurance company selected as hereinabove provided, subject to the following:
1. Article IX of these covenants entitled "Architectural Control Committee", which shall apply to all said reconstruction or remodeling.
 2. Receipt by the title insurance company of written consent of any party holding a lien or encumbrance on said Living Unit.
 3. Receipt by the title insurance company of such sworn construction statements, lists of subcontractors, lien waivers and receipts as it shall determine to be appropriate. Disbursements may be by periodic or progress payments, and the title insurance company may

make such inspections and withhold such payments as it deems necessary to ensure completion in compliance with plans and specifications. The title insurance company shall be entitled to charge and the trustee shall be empowered to pay a reasonable fee for the services rendered by the title insurance company, and the trustee may collect such charge from the Owner or Owners as the case may be, and in the same manner as that which is provided for in Section 4 below, for the collection of insurance premiums paid by the Association.

4. In the event a contract is entered into pursuant to paragraph b above, the written consent of the Owner to said payment or payments.
- e. Nothing contained in this Section 2 shall be construed to make the Association or its Board of Directors, or the First Mortgagee or Mortgagees of records, if any, responsible for collection or non-collection of any insurance proceeds; said Association or Board of Directors or First Mortgagees being responsible solely for the insurance proceeds which come into their hands. The Owner of each Living Unit damaged or destroyed by causes referred to above shall collect or cause to be collected from the insurance carrier involved the proceeds of the policy covering his or her Living Unit, for the use of the Trustee as hereinabove provided.
- f. In the event that a remodeling or reconstruction contract is, for any reason, not entered into pursuant to the provisions of paragraphs b and c above, within 180 days after deposit of insurance proceeds with the title insurance company for a damaged or destroyed Living Unit, as herein provided, said title insurance company shall disburse said proceeds to each mortgagee of record of the affected Lot or Living Unit as its interest appears to retire the indebtedness secured under said mortgage, and disburse the remaining deposits, if any, first to itself for all necessary costs and expenses, next to the payment of any delinquent assessments created herein, and last to the Lot Owner or Owners, as their interest may appear.

Section 3. Waiver of Subrogation. To the extent permitted by the standard Minnesota form of fire and extended coverage insurance with all risk endorsements and to the extent benefits

are paid under such a policy, each Owner and the Association do hereby mutually release each from the other, and their respective officers, agents, employees and invitees, from all claims for damage or destruction of their respective physical properties if such damage or destruction results from one or more of the perils covered by the standard Minnesota form of fire and extended coverage insurance.

Section 4. Lien for Premiums. The Association may but shall not be required to make payment of insurance premiums on behalf of any Owner who becomes delinquent in such payment. In the event that the Association does make such payment, then such payment and the cost hereof shall be treated as if it is part of the annual assessment as described in Article VI hereof and shall be a charge on the land of and a continuing lien on the property for whose benefit such premium payment is made, and also the personal obligation of the Owner of such property at the time when such premium payment is made.

Section 5. Public Liability Insurance. The Association shall purchase and maintain a comprehensive policy of public liability insurance covering all of the Lots. Such insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. The scope of coverage shall include all other coverage in the kinds and amounts commonly required by location and use.

ARTICLE VIII

PARTY WALLS AND EASEMENTS FOR ENCROACHMENTS

Section 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of the Living Units and placed on the dividing line between the Lots shall constitute a party wall and to the extent not inconsistent with the provisions of this article, the general rules of law regarding party walls and of liability for liability for property damage due to negligent or willful acts or omissions shall apply thereto.

Section 2. Share of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, any Owner who, by his negligent or willful act, causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Easements for Encroachments. In addition, each member (i) shall have an exclusive appurtenant easement for encroachment purposes upon adjoining Lots to areas occupied by fireplaces, roof overhangs, air conditioning compressors, flower boxes, decks, balconies and other appurtenances which are part of the original construction of any Living Unit or which are added pursuant to the provisions of Article IX hereof and (ii) shall have an exclusive appurtenant easement for encroachment purposes upon adjacent Lots to the extent such member's Living Unit encroaches on an adjacent Lot by reason of the construction, reconstruction, rehabilitation, alteration, improvement, settlement, movement or shifting of any of the Living Units. Such easements shall be appurtenant to and shall pass with the title to every Lot.

Section 7. Arbitration. In the event of any dispute arising concerning a party wall or pursuant to the provisions of this article, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator and the decision of a majority of all the arbitrators shall be final and conclusive of the question involved.

ARTICLE IX

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Review by Committee. From and after the completion of construction and sale of each Lot or Living Unit, no building, fence, wall, patio, or other structure shall be commenced, erected or maintained upon such Lot, nor shall the location of any paved or blacktopped driveway be changed, nor shall any exterior addition to or change or alteration therein be made; nor shall any shrubs, trees or bushes be placed within said Lot or anything of a permanent nature be placed, planted or constructed within said Lot or anything of a permanent nature be placed, planted or constructed within said Lot, exterior to said Living Unit, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony or external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by an architectural committee composed of three or

more representatives appointed by the Board. In the event said Board or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this article shall be deemed to have been fully complied with.

ARTICLE X

EXTERIOR AND INTERIOR MAINTENANCE

Section 1. Exterior Maintenance. The Association shall provide exterior maintenance upon each Lot and Living Unit which is subject to assessment under Article VI hereof as follows: paint, repair, replace and care for roofs, gutters, downspouts and exterior building surfaces not including glass surfaces; repair or replace sidewalks, driveways and stoops on each Lot and snow removal on walkways, stoops and garage entrances and mowing of grass located on each Lot.

Section 2. Interior Maintenance. In addition to the maintenance described in Section 1 hereof, the Association may provide, upon a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for such purpose (written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of such meeting), interior maintenance of Living Units which are subject to assessment under Article VI hereof, as follows: sewers and sewage system; plumbing, heating and air conditioning system and electrical system.

Section 3. Assessment of Cost. The cost of such exterior and interior maintenance shall be assessed against the Lot upon which such maintenance is done and shall be added to and become a part of the annual maintenance assessment or charge to which such Lot is subject under Article VI hereof; and as part of such annual assessment or charge, it shall be a lien or obligation of the Owner and shall become due and payable in all respects as provided in Article VI hereof; provided that the Board of Directors of the Association, when establishing the annual assessment against each Lot for any assessment year as required under Article VI hereof, may add thereto the estimated cost of the exterior and interior maintenance for that year but shall thereafter make such adjustment with the Owner as is necessary to reflect the cost thereof.

Section 4. Access at Reasonable Hours. For the purpose solely of performing the exterior and interior maintenance authorized by this article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owners, to enter upon any Lot or Living Unit at reasonable hours of any day.

ARTICLE XI

EASEMENTS

Section 1. Extent of Mutual Easements. The rights and easements of enjoyment of the Owner of each Lot, and the title of the Owner of such Lot in such Lot shall be subject to the right of the Owner of each Lot to a nonexclusive appurtenant easement on and over and across every other Lot to areas occupied by common sidewalk entries and to an exclusive appurtenant easement on and over and across every other Lot to areas occupied by fireplaces, roof overhangs, air conditioning compressors, decks, balconies and flower boxes and a nonexclusive appurtenant easement for the use of common utility installations which are part of the original construction of any Living Unit on each Lot or which are added pursuant to the provisions of Article IX hereof.

Section 2. Extent of Association Easements. The rights and easements of enjoyment by the Owner of each Lot and the title of such Lot shall be subject to the rights of the Association to any nonexclusive easement on and over said Lot for the purpose of installation and maintenance of necessary utilities (including but not limited to water and sewer) to serve the Lots and for the purpose of exterior and interior maintenance of each Lot and Living Unit as specified in Article X hereof.

ARTICLE XII

RIGHTS OF FIRST MORTGAGEES

Section 1. Notification of Default. A First Mortgagee, upon request is entitled to written notification from the Association of any default in the performance by the Owner of any obligation under the Declaration or Bylaws which is not cured within sixty (60) days.

Section 2. Exemption from Right of First Refusal. A First Mortgagee who comes into possession of a Lot and the improvements thereon through foreclosure of its mortgage deed shall forever be exempt from any "right of first refusal" which may at any time be adopted by the Association through its Board of Directors or by amendment of this Declaration as amended, and no First Mortgagee shall be obligated with respect to any right of first refusal unless it has signed an instrument in writing obligating itself with respect thereto.

Section 3. Examination of Association Books and Records. First Mortgagees shall have the right to examine the books and records of the Association during regular business hours upon reasonable notice, which shall not be less than five days.

Section 4. Right to Pay Association Obligations. First Mortgagees may, jointly or singly, pay any charges or debts of the Association which are in default and which may or have become

a charge against the Properties and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such property and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

ARTICLE XIII

RESTRICTIONS OF ACTIVITIES OF THE ASSOCIATION WITHOUT PRIOR APPROVAL

Notwithstanding anything herein contained to the contrary, unless at least sixty-six and two-thirds percent (66-2/3%) of First Mortgagees (based upon one vote for each first mortgage owned) or Owners, other than the Developer, of Living Units and, for so long as a Class B membership exists, the Class B member, have given their prior written approval, the Association shall not be entitled to:

- a. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any part of or all of the Property. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Property shall not be deemed a transfer within the meaning of this clause.
- b. Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner of a Lot as provided for in Sections 3 and 4 of Article VI hereof.
- c. By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or exterior appearance of units, the maintenance of party walls or common fences and driveways or the upkeep of lawns and plantings on the Properties.

ARTICLE XIV

ADDITIONAL RESTRICTIONS

Section 1. No Lot shall be used except for residential purposes, except that Developer shall be entitled to maintain model townhouses upon the Lots.

Section 2. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose, and provided further that any dog, cat or other household pet must be removed if the Owner is directed to do so by the Board of Directors.

Section 3. No sign of any kind shall be displayed to the public view on any Lot, except that a "For Sale" sign may be displayed provided that it is in such form as the Association may require, and except that Developer shall be permitted to erect and maintain upon the Property such signs as it deems appropriate to advertise the development.

Section 4. Garbage, rubbish and trash shall not be kept on a Lot except in sanitary containers. All incinerators or other equipment used or kept for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 5. No noxious or offensive activities shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance or a nuisance to the neighborhood.

Section 6. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other building shall be used on any Lot at any time as a residence, either temporarily or permanently.

Section 7. No television or radio antennae shall be erected or placed upon the exterior of a Lot.

Section 8. No clothes lines shall be permitted upon a Lot.

Section 9. No improvement or structure whatever, other than single family dwelling houses, together with any garage, fence, patio, or other structure accessory to the dwelling house and approved by the Architectural Control Committee may be erected, placed, or maintained.

Section 10. The storage or collection of rubbish of any character whatsoever, any material that emits foul or obnoxious odors, the growing of any noxious weed or other natural substances, and the harboring of the source of any noise or activity which disturbs the peace, comfort or serenity of Owners is prohibited. No Lot shall be used for the storage of materials not customary to or necessary and convenient for residential living.

ARTICLE XV

GENERAL PROVISIONS

Section 1. Duration and Amendments. The covenants, restrictions and easement of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants, restrictions and easements shall be automatically renewed for successive

8/3/2004

5/3/2004

periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be properly recorded.

Section 2. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed postpaid to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or compel compliance, or to recover damages; and against the land to enforce any lien created by these covenants. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Attorney's fees and costs of any such actions to restrain violation or to recover damages as determined by the Court shall be assessable against and payable by any person violating the terms contained herein.

Section 4. FHA/VA Approval. As long as there exists both a Class B membership and any FHA or VA insured mortgage on any Lot, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of the Additional Property or any Amendment of this Declaration of Covenants, Conditions, Easements and Restrictions.

Section 5. Mergers. Upon a merger or consolidation of the Association with another corporation as provided in its Bylaws, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or corporation or alternatively the properties, rights and obligations of another corporation may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established by this Declaration together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or additions to the covenants established by this Declaration except as hereinabove provided.

Section 6. Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals as of the day and year first above written.

JASNOCH CONSTRUCTION, INC.

By Eugene E. Jasnoch
its President

By Sharon M. Jasnoch
its Secretary

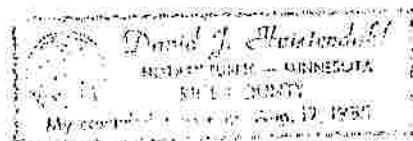
STATE OF MINNESOTA)
COUNTY OF RICE) ss.

On this 2nd day of May, 1984, before me, a Notary Public within and for said County and State, appeared Eugene E. Jasnoch and Sharon M. Jasnoch, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary of Jasnoch Construction, Inc., the Corporation named in the foregoing instrument, and that said instrument was executed on behalf of said Corporation by authority of its Board of Directors; and that said Eugene E. Jasnoch and Sharon M. Jasnoch acknowledged said instrument to be the free act and deed of said Corporation.

David J. Husten
Notary Public

This instrument was drafted by:

Charles Bans
332 Hamm Building
St. Paul, Minnesota 55102



CONSENT BY MORTGAGEE

Norwest Bank of Northfield, as holder of a mortgage on the real property to which the foregoing Declaration of Covenants, Conditions, Easements and Restrictions is subject, hereby consents to the recording of said Declaration.

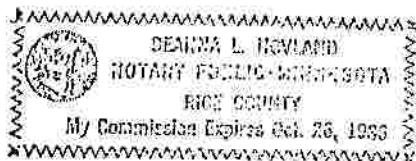
IN WITNESS WHEREOF, Nina M. Errington has caused this Consent to be executed this 3 day of May, 1984.

NORWEST BANK OF NORTHFIELD

By Nina M. Errington
Its A.V.P.

STATE OF MINNESOTA)
COUNTY OF Rice) ss.

The foregoing instrument was acknowledged before me this 3rd day of May, 1984 by Deanna Neiland, the Assistant Service Rep. of Norwest Bank of Northfield, a national banking association, on behalf of said bank.



Deanna Neiland
Notary Public

COUNTY RECORDER
OFFICE OF RICE CO., MINN.

295437
I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS
FILED IN THIS OFFICE FOR RECORD ON THE 3
DAY OF May, A.D. 19 84, AT 10
O'CLOCK AM, IS, AND WAS DULY RECORDED IN
BOOK 84 OF MB PAGE 241-260
Robert Brown COUNTY RECORDER
Arthur D. H. Russell DEPUTY