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**DECLARATION OF COVENANTS**

**OAK HILL TWINHOMES**

## DECLARATION OF COVENANTS

### OAK HILL TWINHOMES

This Declaration of Oak Hill Twinhomes (the “Declaration”) is made in the County of Pierce, State of Wisconsin, on this 20th day of February, 2024, by CREATIVE HOME CONSTRUCTION INVESTMENTS, LLC, a Wisconsin limited liability company (the “Declarant”), for the purpose of establishing Oak Hill Twinhomes as a single-family residential twinhome housing community.

**WHEREAS**, Declarant is the owner of certain real property located in Pierce County, Wisconsin, legally described in Exhibit A attached hereto, and Declarant desires to submit said real property and all improvements thereon (collectively the “Property”) to this Declaration; and

**WHEREAS**, Declarant or its assigns has the option to add the real property legally described on Exhibit C attached hereto (the “Additional Real Estate”) to the Property; and

**WHEREAS**, Declarant desires to establish on the Property, and any Additional Real Estate added thereto, a plan for a permanent residential twinhome 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 quality and the character of the Property; and

**WHEREAS**, the Oak Hill Twinhomes Association, Inc., a Wisconsin nonprofit, nonstock corporation (hereinafter referred to as the “Association”), has been formed to hold title to, maintain and administer the Common Elements, to preserve and enhance the Property, to administer and enforce the covenants and restrictions, and to collect and disburse the assessments and charges hereinafter created.

**WHEREAS**, the Property is subject to the Master Declaration of Oak Hill (the “Master Declaration”), and to the jurisdiction of Oak Hill Master Association (the “Master Association”); and

**WHEREAS**, the Master Association may exercise certain powers on behalf of the Association, as described in the Master Declaration.

**NOW, THEREFORE**, Declarant subjects the Property to this Declaration under the name “Oak Hill Twinhomes” 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, and all Additional Real Estate added thereto, shall be owned, used, occupied and conveyed subject to the covenants, restrictions, easements, charges and liens set forth herein, and in the Master Declaration, 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 Wisconsin Nonstock Corporation Act, Wisconsin Statutes Chapter 181, as amended.
- 1.2 “Additional Real Estate” means the real property described in Exhibit C attached hereto, and all improvements located thereon, now or in the future, which Additional Real Estate the Declarant has the unilateral right to add to the Property.
- 1.3 “Assessments” means and refers to all assessments levied by the Association pursuant the Governing Documents.
- 1.4 “Association” means the Oak Hill Twinhomes Association, Inc., a Wisconsin nonprofit, nonstock corporation created pursuant to the Act, whose members consist of all Owners.
- 1.5 “Board” means the Board of Directors of the Association as provided for in the Bylaws.
- 1.6 “Building” means any single structure containing one or more Dwellings.
- 1.7 “Builder” means a Person who acquires a Unit from the Master Developer, the Declarant or another Person for the construction and sale of a Dwelling located or to be located thereon.
- 1.8 “Bylaws” means the Bylaws governing the operation of the Association, as amended from time to time.
- 1.9 “City” means the City of River Falls, Wisconsin.
- 1.10 “Common Elements” means all parts of the Property except the Units, including all improvements thereon, owned by the Association for the common benefit of the Owners and Occupants. The Common Elements, if any, as of the date of recording this Declaration, are legally described on the attached Exhibit B.
- 1.11 “Common Expenses” means all expenditures made or liabilities incurred by or on behalf of the Association and incident to its operation, and items otherwise identified as Common Expenses in the Declaration or Bylaws.
- 1.12 “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 17.6.
- 1.13 “Declarant Rights” means those exclusive rights reserved to Declarant as described in Section 17.

- 1.14 “Development Area” means all real estate subject to development by the Master Developer as part of the Oak Hill community, as described in the Master Declaration.
- 1.15 “Dwelling” means a Building or a part of a Building consisting of one or more floors, designed and intended for occupancy as a single family residence, and located within the boundaries of a Unit. The Dwelling includes any garage attached thereto or otherwise included within the boundaries of the Unit in which the Dwelling is located.
- 1.16 “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.
- 1.17 “Improvement” means any physical improvement of any kind, including without limitation any Building, wall, fence, retaining wall, sign, enclosure, screening, utilities system, communications system, irrigation or drainage system, pond, roadway, trail, trees, shrubs or other planting, landscaping, or any other type of structure or physical improvement, and any additions or changes thereto, located on the Property.
- 1.18 “Limited Common Elements” means a portion of the Common Elements allocated by the Declaration for the exclusive use of one or more but fewer than all of the Units.
- 1.19 “Master Assessment” means, collectively, any assessment levied by the Master Association under Section 6 of the Master Declaration.
- 1.20 “Master Association” means Oak Hill Master Association, a Wisconsin nonprofit, nonstock corporation created pursuant to the Act.
- 1.21 “Master Board” means the board of directors of the Master Association as provided in the Master Bylaws.
- 1.22 “Master Bylaws” means the bylaws governing the operation of the Master Association, as amended from time to time.
- 1.23 “Master Declaration” means the Master Declaration of Oak Hill recorded in the office of the Pierce County Recorder and/or Registrar of Titles, as amended or supplemented from time to time.
- 1.24 “Master Developer” means the Master Developer as defined in the Master Declaration, and its successors and assigns.
- 1.25 “Master Developer Control Period” means and refers to the Master Developer Control Period described in the Master Declaration.
- 1.26 “Master Developer Rights” means the exclusive rights reserved to the Master Developer to, among other things, control the Master Association and complete

the development of the Development Area, as described in the Master Declaration.

- 1.27 “Master Governing Documents” means the Master Declaration, and the Articles of Incorporation and Master Bylaws of the Master Association, as amended from time to time, all of which shall govern the use and operation of the Development Area and the Property.
- 1.28 “Master Rules” means the Rules of the Master Association, as approved from time to time by the Master Board.
- 1.29 “Member” means all Persons who are members of the Association by virtue of being Owners as defined in this Declaration. The words “Owner” and “Member” may be used interchangeably in the Governing Documents.
- 1.30 “Mortgagee” means any Person owning a mortgage on any Unit, which mortgage is first in priority upon foreclosure to all other mortgages that encumber such Unit.
- 1.31 “Occupant” means any Person or Persons, other than an Owner, in possession of or residing in a Unit.
- 1.32 “Owner” means a Person who owns a Unit, but excluding land contract vendors, mortgagees, holders of reversionary or remainder interests and other secured parties. The term “Owner” includes, without limitation, land contract vendees and holders of a life estate.
- 1.33 “Person” means a natural individual, corporation, limited liability company, partnership, trustee, or other legal entity capable of holding title to real property.
- 1.34 “Plat” means the recorded plat depicting the Property and satisfying the requirements of Wisconsin Statutes Chapter 236, as applicable, including any amended or supplemental Plat recorded from time to time.
- 1.35 “Property” means all of the real property subjected to this Declaration, now or in the future, including the Dwellings and all other structures and improvements located thereon. The Property is legally described in Exhibit A attached hereto.
- 1.36 “Rules and Regulations” means the Rules and Regulations of the Association as approved from time to time pursuant to Section 5.6.
- 1.37 “Unit” means any platted lot subject to this Declaration upon which a Dwelling is located or intended to be located, as described in Section 2.1 and shown on the Plat, including all improvements thereon, but excluding the Common Elements.

Capitalized terms defined in the Master Declaration, and not in this Section, shall have the same meanings set forth in the Master Declaration. References to section numbers shall refer to sections in this Declaration unless otherwise indicated. References to the singular may refer to the plural, and conversely, depending upon context.

## SECTION 2 DESCRIPTION OF UNITS AND BOUNDARIES

2.1 Units. There are sixteen (16) Units, subject to the right of the Declarant to add Additional Real Estate or other property thereto as described in Sections 2.2 and 2.3 or to deannex portions of the Property as described in Section 2.4. All Units are restricted to residential use, except as otherwise provided herein and the Master Declaration. 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. The Unit identifier for a Unit is its lot number and the subdivision name. The legal descriptions of the Units are set forth on Exhibit A attached hereto.

2.2 Annexation of Additional Real Estate. The Declarant may, but is not obligated to, subject all or any part of the Additional Real Estate described in Exhibit C to this Declaration as part of the Property; provided the Master Developer subjects the same Additional Estate to the Master Declaration. This right shall be exercised by the Declarant in accordance with the provisions of Section 18. Any property so annexed may be designated as Common Elements or Units.

2.3 Annexation of Other Property. In addition to the Additional Real Estate, other real property may be annexed to the Property and subjected to this Declaration subject to the following requirements: (i) the parcel shall be owned by the Declarant; (ii) the annexation shall be approved by the Master Developer, the Master Board and the Board; (iii) an amendment to this Declaration describing the annexation and the parcel being annexed, subjecting said parcel to this Declaration, and reallocating Common Expense obligations, voting rights and memberships, shall be executed by the Declarant, consented to by any Mortgagee of the annexed parcel, and recorded; and (iv) the Master Developer subjects the parcel being annexed to the Master Declaration. Any property so annexed may be designated as Common Elements or Units

2.4 Dedication and Deannexation of Property. Portions of the Property may be deannexed and withdrawn from this Declaration subject to the following requirements: (i) the Property shall be owned by the Declarant; (ii) the deannexation shall be approved by the Master Developer, the Master Board and the Board; and (iii) an amendment to this Declaration describing the deannexation and the parcel being deannexed shall be executed by the Declarant, consented to by any Mortgagee of the deannexed parcel, and recorded. The Association shall also have the power to deannex and dedicate or convey reasonable portions of the Property owned by it to any governmental or private Person for private or public purposes, subject to the written consent of the Master Developer and Declarant so long as either owns an unsold Unit for sale or has the right to add Additional Real Estate. The portion of the Property which is deannexed shall be automatically released from and no longer subject to this Declaration, and any rights or obligations accruing thereto shall terminate, effective upon the recording of such instrument; provided that such instrument shall reference this Declaration and the authority contained in this Section.

2.5 Unit Boundaries. The front, rear and side boundaries of each Unit shall be the boundary lines of the platted lot upon which the Dwelling is located or intended to be located, as shown on the Plat. The Units shall have no upper or lower boundaries. Subject to this Section 2 and Section 3.2, all spaces, walls, and other improvements within the boundaries of a Unit are a part of the Unit.

2.6 Appurtenant Easements. The Units shall be subject to and benefited by the easements described in Section 13.

**SECTION 3  
COMMON ELEMENTS, LIMITED COMMON ELEMENTS**

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

3.1.1 All of the Property not included within the Units constitutes 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 legally described in Exhibit B attached hereto. The Common Elements are owned by the Association for the benefit of the Owners and Occupants.

3.1.2 The Common Elements shall be subject to (i) certain easements as described in this Declaration, the Master Declaration, and any other easements recorded against the Common Elements; (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.

3.1.3 Except as otherwise expressly provided in the Governing Documents, all maintenance, repair, replacement, management and operation of the Common Elements shall be the responsibility of the Association.

3.1.4 Common Expenses for the maintenance, repair, replacement, management and operation of the Common Elements shall be assessed and collected from the Owners in accordance with Section 6.

3.2 Limited Common Elements. The Limited Common Elements are those parts of the Common Elements reserved for the exclusive use of the Owners and Occupants of the Units to which they are allocated. 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 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 Unit or Units, are allocated to the Unit or Units they serve. Any portion of such installations serving or affecting the function of all Units or any portion of the Common Elements is a part of the Common Elements, but is not a Limited Common Element.

3.2.2 Improvements, if any, such as decks, patios, porches, driveways, walkways, balconies, shutters, awnings, window boxes, doorsteps, stoops, chimneys, constructed as part of the original construction to serve a single Unit or Units, and replacements and modifications thereof authorized pursuant to Section 8, and located wholly or partially outside the Unit boundaries, are allocated exclusively to the Unit or Units which they serve.

3.2.3 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.

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

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

4.1 Membership. Each Owner shall be a Member 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 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 increase the voting rights allocated to such Unit nor authorize the division of the voting rights.

4.2 Voting and Common Expenses. Voting rights and Common Expense obligations are allocated among the Units as follows:

4.2.1 Each Unit is allocated one (1) vote in the affairs of the Association.

4.2.2 Subject to Sections 6.4 and 6.5, the Common Expenses shall be allocated and assessed against the Units equally.

Such rights and obligations are reallocated on the same basis as other Units are annexed to the Property.

4.3 Appurtenant Rights and Obligations. The ownership of a Unit shall include the voting rights and Common Expense obligations described in Section 4.2. Said rights 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 and obligations described in this Section may not be changed, except in accordance with the Governing Documents and the Master Governing Documents.

4.4 Authority to Vote. The Owner, or some natural person designated to act as proxy on behalf of the Owner, and who need not be an Owner, may cast the vote allocated to such 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.

4.5 Relationship to Master Association. The Association is a Neighborhood Association and the Property and any Additional Real Estate added thereto constitutes a Neighborhood as described in the Master Declaration. Each Owner is also a member of the Master Association. Rights with respect to each Owner's membership in the Master Association, including but not limited to voting, are as described in the Master Declaration and the Master

Bylaws. The Master Assessment obligations associated with membership in the Master Association are governed by the Master Declaration.

## **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, Master Governing Documents, Master Rules, and the Rules and Regulations. The Association shall, subject to the Owners set forth in the Governing Documents, be responsible for the operation, management and control of the Property. The Association shall have all powers described in the Governing Documents and the statute under which 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. All references to the Association shall mean the Association acting through the Board, unless specifically stated to the contrary.

5.2 Delegation of Powers to Master Association. Except as relinquished by the Master Association in accordance with Section 8.1 of the Master Bylaws, the Master Association shall have all of the powers described in Sections 3.1 and 3.2 of the Master Declaration and to the extent such powers are the Association's, they are delegated to the Master Association. The Board shall have the authority to delegate any of the other powers described in Section 6.4 of the Bylaws, except for the powers described in Section 6.4.2 of the Bylaws, to the Master Association. Any such delegation shall be subject to the applicable provisions of the Master Declaration and Master Bylaws.

5.3 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, the Master Governing Documents, the Master Rules, and the Rules and Regulations; (ii) maintaining, repairing and replacing those portions of the Property and other property for which it is responsible; and (iii) preserving the value, and the architectural uniformity and character, of the Property.

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

5.5 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.

5.6 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. 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.

5.7 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, the Master Governing Documents or the Master Rules. 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.

5.8 Association Assets; Surplus Funds. All funds and real or personal property acquired by the Association shall be held and used for the benefit of the Owners for the purposes stated in the Governing Documents. Surplus funds remaining after payment of or provision for Common Expenses and reserves shall be credited against future Assessments or added to reserves, as determined by the Board.

## **SECTION 6 ASSESSMENTS**

6.1 General. 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 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; provided, that the Board may allocate a reduced share of an annual or special assessment against those Units which are unimproved or unoccupied to reflect reduced services received from the Association or the Master Association. Limited Assessments under Section 6.4 shall be allocated to Units as set forth in that Section. Master Assessments shall be levied against the Units by the Association as a part of the Association's annual Assessments, or as a special Assessment, as applicable.

6.2 Annual Assessments. Annual Assessments shall be established and levied by the Board, subject to the limitations set forth hereafter. Each annual Assessment shall cover all of the anticipated Common Expenses of the Association which are to be shared by all Units in accordance with the allocation 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 maintenance, repair and replacement of the Common Elements and those parts of the Units for which the Association is responsible.

6.3 Special Assessments. In addition to annual Assessments, and subject to the limitations set forth hereafter, the Board may levy in any Assessment year a special Assessment against all Units in accordance with the allocation formula set forth in Section 4.2, and for the purposes described in this Declaration. Among other things, special Assessments shall be used for the purpose of defraying in whole or in part the cost of any unforeseen and unbudgeted Common Expense.

6.4 Limited Assessments. In addition to annual Assessments and special Assessments, the Board has the authority to levy and allocate limited Assessments among only certain 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.

6.4.2 Any Common Expense benefiting fewer than all of the Units may, at the Board's discretion, be assessed exclusively against the Unit or Units benefited; provided, that the cost of maintenance, repair or replacement of Limited Common Elements shall be assessed as provided in Section 6.4.1.

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

6.4.4 Reasonable attorneys' fees and other professional fees and costs incurred by the Association in connection with (i) the collection of Assessments, and (ii) the enforcement of the Governing Documents 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 14.

6.4.6 Assessments levied to pay a judgment against the Association may be levied only against the Units existing at the time the judgment was entered, in proportion to their Common Expense liabilities.

6.4.7 If any damage to the Common Elements or another Unit 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 If Common Expense liabilities are reallocated for any purpose authorized by this Declaration, Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

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, other Assessments levied under Section 6.1 or 6.2.

6.5 Working Capital Fund. There shall be established a working capital fund for the Association to meet unforeseen Association expenditures or for the Association to purchase additional equipment or services during the Association's beginning years of operation. There shall be contributed to the Association's working capital fund on a one-time basis for each Unit sold an amount equal to two (2) months installments of the estimated annual Assessment per Unit. The contribution shall be paid at time of closing of sale of the Unit to purchaser other than a Declarant or Builder. The contributions to this fund are in addition to the regular installments of Assessments.

6.6 Liability of Owners for Assessments. Subject to Section 6.7, the obligation of an Owner to pay Assessments shall commence at the later of (i) the time at which the Owner acquires title to the Unit, or (ii) the due date of the first Assessment levied by the Board. The Owner at the time an Assessment is payable with respect to the Unit shall be personally liable for the share of the Common Expenses assessed against such Unit. Such liability shall be joint and several where there are multiple Owners of the Unit. Subject to Section 6.7, the liability 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 Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents, the Master Governing Documents or the Act.

6.7 Exemptions. The Declarant and the Master Developer, and any Unit owned by either of them, are exempt from Assessments and Assessment liens until a certificate of occupancy (or similar approval) has been issued by the City with respect to a Dwelling located in such Unit. Builders approved by the Declarant, and any Unit owned by such a Builder, are exempt from Assessments and Assessment liens until the earlier of (i) the date a certificate of occupancy (or similar approval) has been issued by the City with respect to a Dwelling located in such Unit; or (ii) six (6) months after the date the Builder closes on the acquisition of the applicable 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 this Declaration are liens, and are enforceable as Assessments, under this Section 6. Recording of the 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 enforced and foreclosed by the Association or any other person specified in the Bylaws, in the same manner, and subject to the same requirements, as a foreclosure of mortgages on real property in the State of Wisconsin. The Association may recover costs and actual attorneys' fees. 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. Suit for any deficiency following foreclosure may be maintained in the same proceeding.

6.10 Lien Priority; Foreclosure. A lien for Assessments is prior to all other liens and encumbrances on a Unit except (i) liens for general and special taxes; (ii) all sums unpaid on a first mortgage against the Unit recorded prior to the making of the Assessment; (iii) liens and encumbrances recorded before the Declaration; and (iv) mechanic's liens filed prior to the making of the Assessment.

6.11 Taxes. Taxes and other charges and fees which would normally be levied against the Common Elements by governmental authorities, shall be allocated equally among and levied against the Units, and shall be a lien against each Unit in the same manner as a lien for taxes levied against the Unit alone.

6.12 Voluntary Conveyances; Statement of Assessments. In a voluntary conveyance of a Unit, the transferee shall not be personally liable for any part of any unpaid Assessments due and payable by the transferor prior to or at the time of conveyance of title to the transferee. However, a lien for any Assessment levied against the Unit, shall remain against the Unit until satisfied or released. The Association shall furnish to the transferor or transferee of a Unit, upon request, a statement as to the current status of Assessments against the Unit. The Association may charge a reasonable fee for such services.

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

All Owners and Occupants, and all secured parties, by their acceptance or assertion of an interest in the Property, or by their occupancy of a Unit, covenant and agree that, in addition to any other restrictions which may be imposed by the Master Governing Documents 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 Master Governing Documents, the Master Rules, the Governing Documents and the Rules and Regulations, all as amended from time to time. All covenants, restrictions, obligations, conditions and easements set forth in the Master Governing Documents and 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 Subdivision Prohibited. Except as otherwise provided herein, no Unit nor any part of the Common Elements may be subdivided or partitioned without the prior approval by a vote of the Owners, any governmental authorities having jurisdiction over the Property, and any Mortgagees of the affected Unit. The dedication or de-annexation of a portion of the Property pursuant to Section 3 shall not be deemed a subdivision or partition.

7.3 Residential Use. Except as provided in Section 7.4, the Units shall be used by Owners and Occupants and their guests exclusively as private, single family residential Units. An Owner may delegate, in accordance with the Master Governing Documents and the Governing Documents, the Owner's right of use and enjoyment of the Unit to persons living in the Unit pursuant to a legal right of possession; provided, that such persons shall be subject to the Governing Documents, the Governing Documents and the Rules and Regulations.

7.4 Permitted Business Activities. No business, trade, occupation or profession of any kind, whether carried on for profit or otherwise, shall be conducted, maintained or permitted on any Unit or the Common Elements except:

7.4.1 An Owner or Occupant residing in a Dwelling may maintain an office or home occupation in such Owner or Occupant's Dwelling; provided, that such use (i) is incidental to the residential use; (ii) does not involve physical alteration of the Dwelling visible from the exterior; (iii) is permitted by and in compliance with applicable governmental laws, ordinances and regulations; (iv) does not involve observable business activity such as signs, advertising displays, business-related deliveries, or unusual levels of pedestrian or vehicular traffic to and from the Unit; (v) does not involve employee; and (vi) does not otherwise involve activity which disturbs the quiet enjoyment of the Property by other Owners or Occupants.

7.4.2 Declarant, Master Developer or a Builder authorized by the Declarant, may maintain offices, sales facilities, model homes and other related facilities on the Property, including the Property, in connection with the exercise of their rights under the Master Governing Documents and the Governing Documents.

7.5 Leasing. Leasing of Units and Dwellings is allowed, subject to reasonable regulation by the Association, and subject to the following conditions: (i) that no Unit or Dwelling shall be leased for transient or hotel purposes; (ii) that no Unit or Dwelling may be subleased; (iii) that a Dwelling must be leased in its entirety, not by room or other part, unless the Dwelling is simultaneously occupied by the Owner; (iv) that all leases shall be in writing; (v) that all leases shall provide that they are subject to the Master Governing Documents, the Master Rules, the Governing Documents and the Rules and Regulations and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease; and (vi) the lease is permitted by and in compliance with all governmental laws, ordinances and regulations. The Association may impose such reasonable Rules and Regulations as may be necessary to implement non-discriminatory procedures for the leasing of Dwellings.

7.6 Parking/Vehicles/Personal Property. The outside storage or parking of buses, trucks (other than pick-ups, SUVs and similar small trucks used for the Owner's or Occupant's personal vehicles), trailers, unlicensed automobiles, aircraft, tractors, motorcycles, snowmobiles, motorhomes, all-terrain vehicles, or watercraft is prohibited, except for temporary parking as authorized by the Association. Garages shall not be used for storage or other purposes so that they become unavailable for parking vehicles and keeping incidental personal property. No Person shall perform maintenance, repair or restoration work on any vehicle on the Property except for their own vehicles, and then only (i) within the Owner's garage, or (ii) for emergency repairs. Notwithstanding anything to the contrary in this Section, commercial vehicles shall not be parked or stored on the Property, except within a garage or on a temporary basis in connection with construction work on a Unit or deliveries.

7.7 Traffic Regulations. All vehicular traffic on the Property is subject to federal, state and local laws and regulations. All vehicles operated on the Property shall be operated in a careful, prudent, and safe manner; and with due consideration for the rights of all Owners and Occupants.

7.8 Animals. In addition to all federal, state and local laws, ordinances and regulations, the Board shall have the authority to regulate by Rules and Regulations, the keeping of animals on the Property, but those animals which are permitted shall be limited to common domestic house pets such as dogs, cats, fish, birds and the like. 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 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.

7.9 Signs. In addition to all federal, state and local laws, ordinances and regulations, no sign or comparable device of any kind shall be placed, erected or maintained on the Property except (i) one (1) sign per Unit of a size and style approved by the Master Association, advertising the Unit for sale or rent; (ii) signs placed by the Master Developer, the Declarant or Builders to advertise the Property, Units or Dwellings or for other business or construction related purposes during the construction, development or sales period; (iii) the permanent entrance signs and monuments erected by the Master Developer or Declarant to identify the Property; and (iv) other signs that are expressly authorized by and in compliance with all governmental laws, ordinances and regulations.

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

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 Master Association, the Association or any Owner or Occupant.

7.12 Fencing and Other Improvements. Except for those made by Master Developer, Declarant or authorized Builders in connection with the sale of a Unit or construction of the first Dwelling thereon, no Improvement may be made, or caused or allowed to be made on the Common Elements, or on any part of a Unit which is visible from outside the exterior of a Dwelling existing structures except in accordance with Section 8.

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

7.14 Access to Units. In case of emergency, the yard areas of all Units are subject to entry, without notice and at any time, by an officer or member of the Board, by the management agent of the Association, or by any public safety personnel. Reasonable access is also authorized for maintenance purposes under Sections 9 and 12 and for enforcement purposes under Section 13.

## **SECTION 8 ARCHITECTURAL STANDARDS**

The Master Rules contain provisions establishing architectural guidelines and standards for Improvements to the Units. These guidelines and standards will be administered by the Master Board or a committee appointed by the Master Board. All Dwellings, Buildings and

other Improvements to the Units must be constructed in accordance with the guidelines and standards set forth in the Master Rules, as the same may be amended from time to time at the discretion of the Master Board. The Board, in its sole discretion, may adopt Rules and Regulations imposing standards for design, appearance, construction, or development which are greater or more stringent than standards prescribed by the Master Rules; provided that such standards shall be consistent with the Master Rules and 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, and its determination in this regard shall be binding upon the Owners.

## **SECTION 9 MAINTENANCE**

9.1 Maintenance by Association. The maintenance obligations of the Association are as follows:

9.1.1 The Association shall provide for all maintenance, repair and replacement of the Common Elements.

9.1.2 The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for, and be vested with, managing the snow removal from the driveways and sidewalks up to (but not including) the front stoop located within boundaries of the Units or the adjacent right of way. Other than the driveway and sidewalk maintenance described herein, all maintenance, repair and replacement of the driveways and sidewalks shall be the responsibility of the Owners and shall not be the responsibility of the Association including, without limitation, any damage resulting from the removal of snow therefrom.

9.1.3 The Association shall mow, trim, rake, water and otherwise maintain, all to the extent the Board, in its sole discretion, deems necessary or desirable, all lawns and at the Board's sole option exterior Association plantings on the Units. The Association will not be responsible for any damage to any Owner's gardens and/or Owner's plantings due to overwatering or underwatering. Any and all Owner plantings shall be subject in each instance to the prior written approval of the Board and subject to the Board's right to disapprove any plantings and/or locations which the Board in its discretion deems undesirable or disharmonious. The Association shall also be responsible for, all to the extent the Board deems necessary, subject to the rights of the Owners as set forth in this Declaration, and be vested with, the exclusive management and control of certain lawn maintenance on all Units.

9.1.3 The Association may, at the discretion of the Board, provide for (a) removal of trash and recyclables from the Units; and/or (b) the maintenance, repair and/or replacement of other Improvements within the yard areas of the Units.

9.1.4 The Association shall perform any maintenance obligation it may have under any agreement, now or hereafter entered into, with the City or other third Person.

9.1.5 In the event the Association fails to perform any of its obligations set forth herein, the City may provide written notice to the Association regarding the Association's failure to perform its obligations, which notice shall specifically describe the

maintenance, repair or replacement which the Association has failed to provide. If the Association fails to provide the maintenance, repair or replacement described in the City's notice within thirty days following the Association's receipt of the City's notice, the City may, but shall not be obligated, to enter upon the Property and perform the maintenance, repair or replacement described in the City's notice. The costs and expenses incurred by the City in performing such maintenance, repair or replacement shall be deemed for the benefit of all Units constituting part of the Property, notwithstanding that said work was performed only on the Common Elements, and shall be considered a special charge pursuant to Wisconsin Statutes Section 66.0627 which may at the City's option be charged back proratably against the property tax bill of each Unit constituting a part of the Property. The City shall have no liability for property damage or personal injury that may result from its work performed pursuant to this provision, except for damage or injury caused by the negligent or intentional acts of the City, its agents, employees or contractors, subject to all defenses, immunities and liability limitations available to the City under Wisconsin law.

9.2 Optional Maintenance by Association. In addition to the maintenance described in Section 9.1, the Association may, with the approval of the Board and a majority of the total votes in the Association, undertake to provide additional exterior maintenance to the Units or Dwellings, to the extent that such maintenance is not expressly excluded by Section 9.1.2.

9.3 Maintenance by Owner. Except for the exterior maintenance required to be provided by the Association under Section 9.1, all maintenance of the Dwellings and Units shall be the sole responsibility and expense of the Owners thereof, as follows:

9.3.1 Each Owner shall be responsible for maintenance of the exterior of such Owner's Dwelling and Unit and shall maintain the same in good condition and repair. The Association may require that any exterior maintenance to be performed by the Owner be accomplished pursuant to uniform standards established by the Association.

9.3.2 In the event the roof or exterior siding of a Building is damaged by fire or other casualty or shall otherwise require replacement, the Owners of the Dwellings with such Building shall cooperate and assist each other in contracting for the replacement thereof; provided, however, in the event of an emergency, such as exposure to the elements, any such Owner may proceed as reasonably necessary to replace the roof or exterior siding. In situations not involving an emergency, the affected Owners shall jointly select a contractor to perform the work and shall jointly select the repair or replacement materials. If the Owners are unable to agree regarding replacement materials, the quality, style and colors of such materials shall be selected by the contractor and shall match the existing quality, colors and styles as closely as possible. The affected Owners shall share equally in the cost of replacement; provided, however, that the cost of replacement resulting from destruction or other casualty caused by the acts or omissions of an Owner shall be the financial responsibility of such Owner. Insurance claims shall be made promptly following any casualty and each Owner shall be responsible for resolving any insurance claim or coverage issue with the Owner's own insurance company.

9.3.3 Each Owner shall be responsible for the maintenance, repair and, if necessary, replacement of the windows and exterior doors in such Owner's Dwelling. If

the windows or exterior doors are replaced, the Owner shall replace the same with windows or doors of like design and quality so as to maintain a uniform appearance with the adjacent Dwelling.

9.3.4 Each Owner shall have a right of contribution as against the Owner of the adjacent Dwelling for such Owner's share of the cost of replacement of the roof or exterior siding of the Dwellings under this Section. The right of an Owner to contribution from the other Owner under this Section shall be appurtenant to the Unit and shall pass to such Owner's assigns and successors in title.

9.3.5 Subject to Section 9.1, the Limited Common Elements allocated to a Unit shall be maintained by the Owner of that Unit.

9.4 Right of the Master Association to Perform Neglected Maintenance. If any maintenance required to be performed by the Association pursuant to Section 9.1 or any exterior maintenance required to be performed by an Owner pursuant to Section 9.3 is not, in the judgment of the Master Board, performed as required under Sections 9.1 or 9.3, the Master Board may provide written notice to the Association or responsible Owner describing the maintenance, repair or correction that has not been performed and demanding that such maintenance, repair or correction be provided within thirty (30) days thereafter, or if such work cannot be performed within thirty (30) days a stated period of time reasonable for completion thereof. If the maintenance, repair or correction is not completed within the time specified in the notice, the Master Association may undertake such maintenance, repair or correction which the Association or responsible Owner failed to or improperly performed, and charge and assess the Association, if the required maintenance was the responsibility of the Association, or charge the responsible Owner's Unit if the required exterior maintenance was the responsibility of the Owner, for the cost thereof. If the cost is charged against a Unit, the cost shall be a personal obligation of the Owner and a lien against the Owner's Unit.

9.5 Right of the Association to Perform Neglected Maintenance. If any maintenance required to be performed by an Owner pursuant to Section 9.3 is not, in the judgment of the Board, performed as required under Section 9.3, the Board may provide written notice to the responsible Owner describing the maintenance, repair or correction that has not been performed and demanding that such maintenance, repair or correction be provided within thirty (30) days thereafter, or if such work cannot be performed within thirty (30) days a stated period of time reasonable for completion thereof. If the maintenance, repair or correction is not completed within the time specified in the notice, the Association may undertake such maintenance, repair or correction which the responsible Owner failed to or improperly performed, and charge and assess the responsible Owner's Unit, for the cost thereof.

9.6 Damage Caused by Owner. Notwithstanding any provision to the contrary in this Declaration, if, in the judgment of the Association, the need for maintenance of any part of the Property is caused by the act or omission of an Owner or Occupant, or his or her guests, or by a condition in a Unit which the Owner or Occupant has caused or allowed to exist after notice from the Association, the Association may cause such damage or condition to be repaired or corrected (and enter the yard area of upon any Unit to do so), and the cost thereof may be charged and assessed against the Unit of the Owner responsible for the damage. Such cost shall be a personal obligation of the Owner and a lien against the Owner's Unit. In the case of party

walls between Dwellings, the Owners of the affected Dwellings shall be liable as provided in Section 10.

## **SECTION 10 PARTY WALLS**

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

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

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

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

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

10.6 Arbitration. In the event of any dispute arising concerning a party wall, and if the Owners of the affected Units do not resolve the dispute by a written agreement within thirty days of the event causing the dispute, the matter shall be submitted to binding arbitration under the rules of the American Arbitration Association (or under such other rules as the parties may unanimously agree), upon the written demand of the Association or any Owner whose Dwelling shares the party wall. A single arbitrator shall be used unless multiple arbitrators are agreed to by the parties. The Association shall, upon its request, be made a party to the arbitration, but cannot be compelled to be a party. Each party agrees that the decision of the arbitrators shall be final and conclusive of the questions involved. The fees of the arbitrators shall be shared equally

by the parties, but each party shall pay its own attorneys' fees or other costs incurred in the arbitration.

## **SECTION 11 INSURANCE**

11.1 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 herein, issued by a reputable insurance company or companies authorized to do business in the State of Wisconsin, as follows:

11.1.1 Property insurance in broad form covering all risks of physical loss in an amount equal to one hundred percent (100%) of the insurable "replacement cost" of Improvements (if any) to the Common Elements, less deductibles, exclusive of land and other items normally excluded from coverage. The policy or policies shall also cover personal property owned by the Association.

11.1.2 Commercial general liability insurance covering the use, operation and maintenance of the Common Elements, and the use, operation and maintenance of other lands or Improvements which the Association is obligated to maintain against claims for death, bodily injury and property damage, and such other risks as are customarily covered by such policies for projects similar in type, location and use to the Property. The policy shall have minimum limits of One Million Dollars (\$1,000,000.00) per occurrence. The policy shall, if reasonably available, 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.

11.1.3 Insurance coverage against dishonest acts on the part of directors, officers, managers, trustees, employees or other persons responsible for handling funds belonging to or administered by the Association, if deemed to be advisable by the Board or required as a precondition to the purchase, insuring or financing of a mortgage on a Unit. The insurance shall name the Association and the Master Association as insureds, as their interests may appear.

11.1.4 Workers' compensation insurance as required by law.

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

11.2 Premiums; Improvements; Deductibles. All insurance premiums shall be assessed and paid as annual Assessments, and allocated among the Units as determined by the Board consistent with the Governing Documents. The Association may, in the case of a claim for damage or personal injury with respect to Improvements which the Association maintains (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.

11.3 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 mortgagees which suffer loss. The Association, or any insurance trustee selected by it, shall have exclusive authority to negotiate, settle and collect upon any claims or losses under any insurance policy maintained by the Association. Subject to Section 11.1.4, the Association, or any insurance trustee selected by it, shall use the proceeds from property insurance on a damaged Improvement solely to repair and reconstruct the damaged Improvement, and not for any other purpose.

11.4 Required Policy Provisions. All policies of property insurance carried by the Association shall, if such provisions are reasonably available, provide that:

11.4.1 Each Owner and Mortgagee is an insured Person under the policy with respect to liability arising out of the Owner's interest or membership in the Association.

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

11.4.3 No act or omission by any Owner or Mortgagee of a Unit, unless acting within the scope of authority on behalf of the Association, shall void the policy or be a condition to recovery under the policy.

11.4.4 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 insurance.

11.5 Cancellation; Notice of Loss. All policies of property insurance and comprehensive liability insurance maintained by the Association shall provide that the policies shall not be canceled or substantially modified, for any reason, without at least thirty (30) days' prior written notice to the Association, and all of the insureds.

11.6 Restoration in Lieu of Cash Settlement. All policies of property insurance maintained by the Association shall provide that, despite any provisions giving the insurer the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable (i) without the prior written approval of the Association (or any insurance trustee), or (ii) when in conflict with provisions of any insurance trust agreement to which the Association may be a party, or any requirement of law.

11.7 Owner's Personal Insurance. It is the obligation of each Owner to obtain personal insurance coverage at his or her own expense covering fire and other casualty to the Owner's Dwelling and other insurable Improvements located within the Owner's Unit, and public liability insurance covering the Owner's Unit. All insurance policies maintained by Owners shall, if possible, provide that they are without contribution as against any insurance purchased by the Association, except as to deductibles under Section 11.2.

11.8 Notice to Declarant. Recognizing that the Declarant is obligated to disclose to prospective purchasers the Association's projected budget, it is important that the Declarant be advised of any budget changes following the termination of the Declarant Control Period. Accordingly, the Association shall give Declarant at least thirty (30) days prior written notice of any change in the Association's insurance policies until Declarant no longer owns any Unit for initial sale and no longer has the right to add Additional Real Estate to the Property.

**SECTION 12**  
**RECONSTRUCTION, CONDEMNATION AND EMINENT DOMAIN**

12.1 Reconstruction. In the event of a casualty on or to any portion of the Property, the obligations and procedures for the repair, reconstruction or disposition of the damaged Improvements shall be governed by the following provisions:

12.1.1 All repair and reconstruction of the damaged Improvements shall be commenced promptly following the casualty and shall be carried through diligently to conclusion. The Association shall be responsible for the repair and reconstruction of Common Element Improvements, and the Owners shall be responsible for the repair and reconstruction of Improvements to their respective Units.

12.1.2 All repair and reconstruction shall comply with the architectural standards and guidelines established by the Master Rules and/or Rules and Regulations. The repair and reconstruction shall be in accordance with the requirements of all applicable zoning, subdivision, building, and other governmental regulations.

12.1.3 Notice of substantial damage or destruction to any portion of the Property shall be promptly given to the Association by the Owner of the damaged Improvements.

12.1.4 Notwithstanding the foregoing, repair and reconstruction of a Dwelling need not be undertaken if the Master Board, the Board, the Owner and the Owner's Mortgagee agree in writing that the damaged Improvements need not be repaired and reconstructed. If such an agreement is made, the ruins and debris of any damaged Improvements shall promptly be cleared away and the Property shall be left in an orderly, safe and sightly condition.

12.2 Condemnation and Eminent Domain. In the event of a taking of any part of the Common Elements by condemnation or eminent domain, 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 Mortgagees, as their interests may appear. With respect to the taking of all or part of a Unit, the Owner of the Unit shall negotiate and settle all claims, subject to the rights of any Mortgagee of the Unit.

**SECTION 13**  
**EASEMENTS**

Each Unit and the Common Elements, and the rights of the Owners and Occupants therein, shall be subject to or beneficiary of (i) the appurtenant easements and rights granted and reserved in the Master Declaration; (ii) the appurtenant easements and rights granted and reserved in this Section 13; and (iii) other appurtenant easements and rights of record as referenced herein.

13.1 Access. Each Unit is the beneficiary of a non-exclusive easement for access to a public street or highway on or across those portions of the Master Common Elements or Common Elements designed and intended for use as streets or trails, as shown on the Plat or otherwise designated for such uses by the Master Association or the Association, subject to any restrictions imposed pursuant to the Master Governing Documents or Governing Documents.

13.2 Use and Enjoyment. Each Unit is the beneficiary of a nonexclusive easement for use and enjoyment on and across the Master Common Elements or Common Elements, subject to any restrictions authorized or imposed pursuant to the Master Governing Documents or Governing Documents.

13.3 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 or shared with another Unit or the Common Elements.

13.4 Encroachments. Each Unit and the Common Elements, and the rights of the Owners and Occupants therein, shall be subject to nonexclusive easements in favor of the adjoining Units for minor encroachments caused by the construction, reconstruction, repair, shifting, settlement or movement of any part of the Property, and for improvements which are part of the original construction of the Property or which are added in compliance with Section 8. If there is an encroachment upon another Unit or the Common Elements as a result of any of the aforementioned causes, an appurtenant easement shall exist for the encroachment, for the use, enjoyment and habitation of any encroaching improvement, and for the maintenance thereof. Such easements shall continue for as long as the encroachment exists and shall not affect the marketability of title.

13.5 Drainage Easements. The Common Elements and the yard areas of the Units shall be subject to and benefited by nonexclusive easements for storm water drainage over those parts of the Property which are designed, improved or graded for such purposes.

13.6 Maintenance, Repair, Replacement and Reconstruction. Each Unit, and the rights of the Owners and Occupants thereof, and the Common Elements shall be subject to and benefited by nonexclusive easements in favor of the Association for the maintenance, repair, replacement and reconstruction of the Common Elements, the Dwellings and other improvements located within the Units, and utilities serving the Units, to the extent necessary to fulfill the Association or Master Association's obligations under the Governing Documents or the Master Governing Documents. Each Owner shall afford to the Association and their management agents and employees, access at reasonable times and upon reasonable notice, to and through the Unit and its Limited Common Element for maintenance, repair and replacement; provided that access may be had without notice and at any time in case of emergency.

13.7 Utilities, Services and Operating Systems. The Property is subject to non-exclusive, appurtenant easements in favor of all public utility companies, other utility providers the Master Association and the Association for the installation, use, maintenance, repair and replacement of all utilities, such as natural gas, electricity, cable TV, telephone, data and other electronic communications, water, sewer, irrigation, wells, and similar services, and metering and control devices, which exist or are constructed as part of the development of the Property, or which are referred to in the Plat or otherwise described in the Master Declaration, this Declaration or any other duly recorded instrument. Each Unit, and the rights of the Owners and Occupants thereof, shall also be subject to a non-exclusive, appurtenant easement in favor of the other Units for all such utilities and services; provided, that the utilities and services shall be installed, used, maintained and repaired so as not to interfere with the reasonable use and quiet enjoyment of the Units by the Owners and Occupants, nor affect the structural or architectural integrity of the Units or Dwellings.

13.8 Declarant and Master Developer's Rights. Declarant shall have and be the beneficiary of exclusive easements for the exercise of its Declarant Rights, and the Master Developer shall have easements as described in the Master Governing Documents.

13.9 Master Association and Association Access. There is a non-exclusive easement in favor of the Master Association and the Association, including without limitation any management agent or service vendor retained by the Master Association or the Association, for access on and across the Common Elements and the yard areas of Units, for the purpose of performing the Master Association's or the Association's obligations under the Master Governing Documents or Governing Documents. Except in the event of emergencies, this easement shall be exercised only during normal business hours and then, whenever practicable, only upon advance notice to the Owner or Occupant directly affected.

13.10 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 Master Association and Association for access by their management agents, and in favor of fire, police or other public safety personnel. The Board may require that an Owner or Occupant leave keys to the Unit with another Owner or Occupant of his or her choice, and advise the manager or Board of the location(s) of the keys, so as to allow access for emergencies when the Owner or Occupant is absent for extended periods.

13.11 Project Signs. Declarant or the Master Developer, as applicable, shall have the right to erect and maintain temporary and permanent signs and related monuments identifying the project on the Common Elements and on Units owned by it for so long as it owns a Unit for sale. Those parts of the Property on which permanent monument signs or related decorative improvements are located shall be subject to nonexclusive easements in favor of the Association or the Master Association for the continuing use, maintenance, repair and replacement of said signs and improvements.

13.12 Other Easements. The Property shall be subject to such other easements as may be authorized by the Association under authority contained in the Governing Documents or recorded against the Property by reason of the City's requirements in connection with the development of the Property.

13.13 Continuation, Scope and Conflict of Easements. The easements set forth in this Section (i) shall run with the land and shall be appurtenant to the benefited Property; (ii) shall supplement and not limit any easements described elsewhere in this Declaration, or the Master Declaration or otherwise recorded; (iii) shall be permanent, subject only to termination in accordance with the terms of the easement; and (iv) shall include reasonable access to the easement areas over and through the Property for purposes of construction, maintenance, repair, replacement and reconstruction. In the event of a conflict between the easements and rights provided by this Section and by the Master Declaration, the Master Declaration shall control.

13.14 Non Interference; Impairment Prohibited. All Persons exercising easement rights shall do so in a reasonable manner so as not to materially interfere with the operation of the Property or cause damage to the Property, and shall be financially liable for all costs of repair of any part of the Property which is damaged by the Person's exercise of the easement rights. No Person shall impair, obstruct or cause damage to any easement area, or improvements or equipment installed therein. 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.

13.15 Benefit of Easements. All easements benefiting a Unit shall benefit the Owners and Occupants of the Unit, and their families and guests. However, an Owner who has delegated the right to occupy the Unit to an Occupant or Occupants, whether by a lease or otherwise, does not have the use and other easements 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.

## **SECTION 14 COMPLIANCE AND REMEDIES**

Each Owner and Occupant, and any other Person owning or acquiring any interest in the Property, shall be governed by and comply with the provisions of the Act, the Master Governing Documents, the Governing Documents, the Rules and the Master Rules, and such amendments thereto as may be made from time to time, and the decisions of the Association and the Master Association with respect to matters over which each has authority. 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.

14.1 Entitlement to Relief. Legal relief may be sought by the Master Association or Association against any Owner, or by an Owner against the Master Association, Association or another Owner, to enforce compliance with the Master Governing Documents, the Governing Documents, the Master Rules, the Rules, the Act 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 Master Governing Documents, the Rules, the Master Rules or the Act, as a measure to enforce such Owner's position, or for any other reason. The Master Association may also exercise the rights and remedies granted or reserved to it by the Master Governing Documents.

14.2 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 Master Governing Documents, the Governing Documents, the Master Rules or the Rules and Regulations:

14.2.1 Commence legal action for damages or equitable relief in any court of competent jurisdiction.

14.2.2 Impose late charges in an amount determined by the Board, from time to time, for each past due Assessment or installment thereof, and impose interest at the highest rate permitted by law accruing beginning on the first day of the month after the Assessment or installment was due.

14.2.3 In the event of default of more than thirty (30) days in the payment of any Assessment or installment thereof, all remaining installments of Assessments assessed against the Unit owned by the defaulting Owner may be accelerated and shall then be payable in full if all delinquent Assessments 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 (10) days' advance written notice of the effective date of the acceleration shall be given to the defaulting Owner.

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

14.2.5 Suspend the rights of any Owner or Occupant and their guests to use any Common Element or Master Common Element amenities; provided, that the suspension of use rights shall not apply to Limited Common Elements or those portions of the Common Elements or Master 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 or the Master Governing Documents, and for up to thirty days thereafter, for each violation.

14.2.6 Restore any portions of any Common Elements, Unit, or Limited Common Elements damaged or altered, or allowed to be damaged or altered, by any Owner or Occupant or their guests in violation of the Governing Documents, and to assess the cost of such restoration against the responsible Owners and their Units.

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

14.2.8 Foreclose any lien arising under the provisions of the Governing Documents or under law.

14.3 Rights to Hearing. Before the imposition of any of the remedies authorized by Section 14.2.4, 14.2.5, 14.2.6 or 14.2.7, the Board shall, upon written request of the offender, grant to the offender an opportunity for a fair and equitable hearing. The offender shall be given notice of the nature of the violation and the right to a hearing, and at least ten (10) days within which to request a hearing. The hearing shall be scheduled by the Board and held within thirty (30) days of receipt of the hearing request by the Board, and with at least ten (10) days' prior written notice to the offender. If the offender fails to timely request a hearing or to appear at the hearing, then the right to a hearing shall be deemed 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 (10) days following the hearing, if not delivered to the offender at the hearing.

14.4 Lien for Charges, Etc. All charges, fines, expenses, penalties or interest imposed under this Section shall be a lien against the Unit of the Owner or Occupant against whom the

same are imposed and the personal obligation of such Owner in the same manner and with the same priority and effect as Assessments under Section 6. The lien shall attach as of the date of imposition of the remedy, but shall not be final as to violations for which a hearing is held until the Board 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.

14.5 Costs and Fees. With respect to any collection measures, or any other measure or action, legal, administrative, or otherwise, which the Association takes to enforce the provisions of the Master Governing Documents, the Governing Documents, the Master Rules or the 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 and 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. Such collection or contingency fees or costs shall be the personal obligation of the Owner and shall be a lien against the Owner's Unit.

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

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

14.8 Pre-Litigation Requirement. Notwithstanding anything to the contrary contained herein, any litigation, administrative proceeding or other legal 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 (50%) of the total votes in the Association.

## **SECTION 15 AMENDMENTS**

15.1 Approval Requirements. This Declaration may be amended only by the approval of:

15.1.1 The Board;

15.1.2 Owners of Units to which are allocated at least fifty percent (50%) of the total votes in the Association, except that any amendment which changes the allocation of voting rights and Common Expense obligations described in Section 4.2 of this Declaration shall require unanimous approval;

15.1.3 The Master Board as to any amendment which materially affects the Association's relationship to the Master Association, or any rights or obligations relating to the Master Association.

15.1.4 The percentage of Mortgagees (based upon one vote per Unit financed) required by Section 16 as to certain amendments referenced by said Section;

15.1.5 Declarant as to certain amendments as provided in Section 17.7; and

15.1.6 The Master Developer if required by the Master Declaration.

15.2 Procedures. If any provision of this Declaration, the Bylaws, or the Articles requires the vote or consent of the Owners as a condition for the approval or effectiveness of an amendment to this Declaration, the Bylaws, or the Articles, the affirmative vote or consent of an Owner shall be deemed to be granted if the Association sends notice and a copy of the amendment, by certified United States mail, postage prepaid and return receipt requested, and (i) if a vote is conducted, the Owner's vote is not cast against the proposed amendment, or (ii) if consent is requested, the Owner's written refusal to consent is not received by the Association within sixty (60) days after notice is mailed. Subject to the foregoing, approval of the Owners shall be obtained in accordance with the procedures set forth in the Bylaws and other required approvals shall be in writing. Any amendment shall be subject to any greater requirements imposed by this Declaration. The amendment shall be effective when recorded in the office of the appropriate recording office in the county in which the Property is located. An affidavit by the President or 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 16 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 mortgage loans, such as FNMA, FHLMC and FHA. Accordingly, Mortgagees shall have the rights and protections set forth in this Section 16, which rights and protections shall control as against any other provisions of the Governing Documents.

16.1 Consent to Certain Amendments and Actions. In addition to any additional requirements imposed by this Declaration or by law, the consent of Mortgagees representing at least fifty-one percent (51%) of the votes allocated to Units that are subject to first mortgages held by 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 Mortgagees; and (ii) any action to terminate the community after substantial destruction or condemnation occurs or other reasons agreed to by the foregoing percentage of Mortgagees. A

Mortgagee shall be deemed to consent to and approve of any such amendment or action in the event the Mortgagee fails to submit a written objection to the Association within sixty (60) days after the Mortgagee receives notice of the same from the Association, by registered or certified mail, with a return receipt requested.

16.2 No Limitations on Sale/Right of First Refusal. The right of a 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.

16.3 Priority of Lien. Any 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 title to the Unit by said Mortgagee, (i) except that the 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 (ii) except that any unreimbursed Assessments or charges may be reallocated among all Units in accordance with the allocation formula set forth in Section 4.2.

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

16.5 Priority for Insurance/Condemnation Proceeds. No provision of this Declaration or any other Governing Documents shall give an Owner, or any other Person, priority over any rights of the Mortgagee of a 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 Property, if any. The Association shall give written notice to all Mortgagees of any condemnation or eminent domain proceeding affecting the Property, promptly upon receipt of notice from the condemning authority, in accordance with Section 16.6.

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

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

16.6.2 a sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of a Unit on which it holds a mortgage;

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

16.6.4 a proposed action which requires the consent of a specified percentage of Mortgagees pursuant to Section 16.1.

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

**SECTION 17**  
**DECLARANT RIGHTS**

Declarant hereby reserves exclusive and unconditional authority to exercise the following Declarant Rights for as long as it owns a Unit or has an unexpired right to add Additional Real Estate, or for such shorter period as may be specifically indicated:

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

17.2 Relocate Boundaries and Alter Units. To relocate boundaries between Units and to otherwise alter Units owned by it, to the extent permitted by the City.

17.3 Leasing, Sales and Rental Facilities. To engage in the sale and leasing of Units, and to construct, operate and maintain a sales office, management office, model Dwellings, and other development, sales and rental facilities within the Common Elements and/or any of the Units owned or leased by Declarant or authorized Builders from time to time, located anywhere on the Property or the Additional Estate.

17.4 Signs. To erect and maintain signs and other sales displays offering the Units for sale or lease, and for other business and/or construction related purposes, on any Unit owned by Declarant and on the Common Elements.

17.5 Easements. To have and use easements, for itself, its employees, contractors, representatives, agents and prospective purchasers through and over the Common Elements and the yard areas of the Units for the purpose of exercising its special rights.

17.6 Control of Association. To control the operation and administration of the Association, including without limitation the power to appoint and remove the members of the Board until the earliest of: (i) voluntary surrender of control by Declarant, or (ii) the first date when Declarant no longer owns a Unit for sale and no longer has the right to add Additional Real Estate to the Property.

17.7 Consent to Certain Amendments. To approve or withhold approval of any amendment to the Governing Documents or Rules which affect Declarant's rights or the rights of a builder under the Governing Documents. The consent of Master Developer shall also be required as to certain matters referred to in the Master Declaration or as to any amendment which affects Master Developer's rights or obligations.

17.8 Additional Real Estate. Declarant may unilaterally add part or all of the Additional Real Estate to the Property pursuant to Section 18, subject to the consent of any other owner thereof.

17.9 Declarant's Liability for Assessments. To have the benefit of the exemption from Assessments as provided in Section 6.7

17.10 Other Rights. To have the exclusive right and authority to have and exercise such other rights as are afforded Declarant under the terms of this Declaration.

Declarant may assign or license, in whole or in part, the Declarant Rights described herein to other developers or to builders by an agreement signed by Declarant and the other party

**SECTION 18**  
**RIGHTS TO ADD ADDITIONAL REAL ESTATE,**  
**RELOCATE BOUNDARIES AND SUBDIVIDE UNITS**

18.1 Declarant's Rights to Add Additional Real Estate. Declarant reserves the exclusive authority to add the Additional Real Estate to the Property, by executing (together with any other owner of the parcel) and recording an amendment to this Declaration adding such property, subject to the following conditions:

18.1.1 The right of Declarant to add the Additional Real Estate to Property shall terminate twenty (20) years after the date of recording of this Declaration or upon earlier express written withdrawal of such right by Declarant or a successor Declarant, unless extended by a vote of the Owners. There are no other limitations on Declarant's rights hereunder, except as may be imposed by law.

18.1.2 The Additional Real Estate may be added to the Property in parcels consisting of one or more platted lots, or portions thereof, with or without Common Elements.

18.1.3 There are no assurances as to the times at which any part of the Additional Real Estate will be added to the Property, the order in which it will be added, the number of parcels per phase nor the size of the parcels. Declarant has no obligation to add the Additional Real Estate to the Property. The Additional Real Estate may be developed by Declarant or its affiliates or successors in interest for other purposes, subject only to approval by the appropriate governmental authorities.

18.1.4 All Units created on the Additional Real Estate shall be restricted exclusively to residential use.

18.1.5 The provisions of this Declaration affecting the use, occupancy and alienation of Units shall apply to all Units created on the Additional Real Estate.

18.1.6 An amendment to the Master Declaration subjecting the Additional Real Estate to the Master Declaration shall be recorded upon or before the recording of the amendment to this Declaration adding said Additional Real Estate.

18.2 Rights to Relocate Boundaries and Subdivide Units. Unit boundaries may be relocated and additional Units may be created by the subdivision of a Unit into two or more Units, by Declarant, subject (i) to approval required by the City, and (ii) to the requirements of the Master Declaration. The Declarant shall have the right and authority to unilaterally execute and record an amendment to this Declaration for the purpose of relocating the boundaries between Units and/or subdividing Units.

**SECTION 19  
MISCELLANEOUS**

19.1 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.

19.2 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.

19.3 Tender of Claims. In the event that any incident occurs which could reasonably give rise to a demand by the Association against Declarant for indemnification, the Association shall promptly tender the defense of the action to its insurance carrier, and give Declarant (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.

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

19.5 Conflicts Among Documents. In the event of any conflict among the provisions of the Master Governing Documents, the Declaration, the Bylaws or the Rules, the Master Governing Documents shall control. As among the Declaration, the Bylaws or the Rules, the Declaration shall control. As between the Bylaws and the Rules, the Bylaws shall control. In the event of any conflict between the Master Rules and the Rules, the more restrictive shall control.

19.6 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.

19.7 Agreement with the City. The Declarant and/or Association may enter into certain agreements with the City with respect to the Property. Notwithstanding anything to the contrary herein, the Association and Declarant shall perform all of their respective obligations under any agreement either or both may have (at any time) entered into with the City, and to the extent there are any inconsistencies between any such agreement with the City and this Declaration, such agreement with the City shall control. The Declarant's and/or the Association's obligations under agreements with the City may include obligations that involve Common Expenses.



**OAK HILL TWINHOMES**

**EXHIBIT A TO DECLARATION OF COVENANTS**

**LEGAL DESCRIPTION OF THE PROPERTY**

Lots 19 through 34, inclusive; Oak Hill, according to the recorded plat thereof, Pierce County, Wisconsin.

**OAK HILL TWINHOMES**  
**EXHIBIT B TO DECLARATION OF COVENANTS**  
**LEGAL DESCRIPTION OF COMMON ELEMENTS**

None.

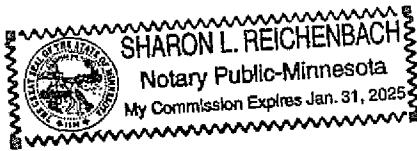
**OAK HILL TWINHOMES**  
**EXHIBIT C TO DECLARATION OF COVENANTS**  
**ADDITIONAL REAL ESTATE**

Outlots 6 and 9; Oak Hill, according to the recorded plat thereof, Pierce County, Wisconsin.

**OAK HILL TWINHOMES**  
**CONSENT AND JOINDER BY MORTGAGEE**

First Bank & Trust, a South Dakota banking corporation (the "Mortgagee"), is a mortgagee of portions of real property described in the Declaration of Covenants of Oak Hill Twinhomes (the "Declaration") by at least one Mortgage recorded in the office of the Pierce County Recorder (the "Mortgages"). Mortgagee hereby consents to and joins in this Declaration; provided, that by consenting to and joining in this Declaration, the Mortgagee does not in any manner constitute itself or obligate itself as a Declarant as defined in the Declaration nor does such consent and joinder modify or amend the terms and conditions of the Mortgage and other loan documents executed and delivered by Declarant to Mortgagee; and provided further that the Mortgage shall be and remain a lien on the property described therein, prior to any Assessment liens or other liens imposed under the Declaration, until released or satisfied.

IN WITNESS WHEREOF, the Mortgagee has caused this Consent and Joinder to be executed on the 29 day of February, 2024.



FIRST BANK & TRUST,  
a South Dakota banking corporation

By: Ross Dahlin  
Its: VP - Business Banking

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF Ramsey    )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of February, 2024, by Ross Dahlin, the Vice President of First Bank & Trust, a South Dakota banking corporation, on behalf of said corporation.

Sharon L. Reichenbach  
Notary Public