

COMMON INTEREST COMMUNITY NO. 42

A PLANNED COMMUNITY

SUMMER HAVEN ON GULL

DECLARATION

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DECLARATION

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**COMMON INTEREST COMMUNITY NUMBER 42
A PLANNED COMMUNITY
SUMMER HAVEN ON GULL
DECLARATION**

THIS DECLARATION made on the date hereinafter set forth by DDMS PROPERTIES, LLC, a limited liability company under the laws of Minnesota (herein “Declarant”), pursuant to the provisions of the Minnesota Common Interest Ownership Act, Minnesota Statutes §§515B.1-101 through 515B.4-118 (the “Act”) as it may be amended from time to time.

RECITALS

WHEREAS, Declarant is the owner of certain property in Beltrami County, State of Minnesota, which is more particularly described in Exhibit A attached hereto and incorporated by reference herein, all of which real estate constitutes and is referenced to herein as the “Real Estate.”

NOW, THEREFORE, Declarant hereby declares that all of the Properties described above shall be held, transferred, sold, conveyed, occupied, and developed subject to the Act and subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described Properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I
DEFINITIONS**

Section 1.1 “Allocated Interests” are the common expense liability and votes in the Association.

Section 1.2 “Area of Common Elements” shall mean and refer to the common elements, together with those areas, if any, which by the terms of this Declaration or by contract or agreement become the responsibility of the Association. The office of any property Manager employed by or contracting with the Association, if located on the Properties, or any public rights of way within or adjacent to the Properties, may be part of the Area of Common Elements.

The Area of Common Elements shall include such emergency access easement areas dedicated for use of public agencies.

Section 1.3 “Articles of Incorporation” or “Articles” shall mean and refer to the Articles of Incorporation of Summer Haven Association, as filed with the Secretary of State of the State of Minnesota.

Section 1.4 “Association” shall mean and refer to Summer Haven Association, a Minnesota non-profit corporation, its successors and assigns. It is the Association of Unit Owners pursuant to the Act.

Section 1.5 “Board of Directors” or “Board” shall mean the Board of Directors of the Association.

Section 1.6 “Base Assessment” shall mean and refer to assessments levied against all units in the Properties to fund the Common Expenses.

Section 1.7 “By-Laws” shall mean and refer to the By-Laws of the Association, as adopted by the Directors of the Association and as they may be amended from time to time.

Section 1.8 “Common Elements” shall mean all portions of the Common Interest Community, other than a unit or limited common element, owned by the Association for the common benefit of the Owners. The Common Elements are shown on the attached Exhibit B.

Section 1.9 “Common Expenses” shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Unit Owners, including:

Section 1.9.1 Any reasonable reserve as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association;

Section 1.9.2 Expenses of administration, maintenance, repair or replacement of the Common Elements;

Section 1.9.3 Expenses declared to be Common Expenses by the Documents or by the Act; and

Section 1.9.4 Expenses agreed upon as Common Expenses by the Association.

In addition, the costs and expenses imposed on the Association, benefitting fewer than all of the units, shall be a Common Expense but assessed exclusively against those units benefitted.

Section 1.10 “Common Expense Assessments” are the funds required to be paid by each Unit Owner in payment of the Owner’s Common Expense liability.

Section 1.11 “Common Interest Community” is the real property described on the attached Exhibit A, subject to this Declaration of Summer Haven on Gull.

Section 1.12 “Community-Wide Standard” shall mean a standard of conduct, maintenance or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors.

Section 1.13 “Declaration” is this document, including any amendments.

Section 1.14 “Development Rights” are the rights reserved by the Declarant under Article VI of this Declaration.

Section 1.15 “Director” is a member of the Board.

Section 1.16 “Disclosure Statement” is the most current document prepared pursuant to Sections 4-101 and 4-102 of the Act as they may be amended from time to time and shall be provided to purchasers prior to the time of execution of a binding purchase agreement.

Section 1.17 “Documents” are this Declaration and the Plat recorded pursuant to the provisions of the Act, the By-Laws and the Rules as they may be amended from time to time. Any exhibit, schedule or certification accompanying a document is part of that document.

Section 1.18 “Eligible Insurer” is an insurer or guarantor of a first Security Interest in a unit. An Eligible Insurer must notify the Association in writing of its name and address and inform the Association that it has insured or guaranteed a first Security Interest in a unit. The Eligible Insurer must provide the Association with the unit number and address of the unit on which it is the insurer or guarantor of a Security Interest. Such notice shall be deemed to include a request that the Eligible Insurer be given the notices and other rights described in Article XXIII (Insurance, Casualty and Eminent Domain).

Section 1.19 “Improvements” are any construction, structure, fixture or facilities existing or to be constructed on the land which is included in the Common Interest Community including, but not limited to, buildings, trees and shrubbery planted by the Declarant or the Association, paving, utility wires, pipes, and light poles.

Section 1.20 “Limited Common Elements” are the portion of the Common Elements allocated for the exclusive use of one or more but fewer than all of the units by the Declaration

or by operations of Sections 2-102(d) or (f) of the Act. The Limited Common Elements in the Common Interest Community are described in Article IX et. seq. of this Declaration and shown on Exhibit B.

Section 1.21 “Majority” or “Majority of Unit Owners” means the Owners of more than fifty percent (50%) of the votes in the Association.

Section 1.22 “Manager” is a person, firm or corporation employed or engaged to perform management services for the Common Interest Community and the Association.

Section 1.23 “Member” shall mean and refer to a person entitled to membership in the Association, as provided herein.

Section 1.24 “Mortgage” shall mean and refer to a Mortgage or any other form of security deed.

Section 1.25 “Mortgagee” shall mean and refer to a beneficiary or holder of a Mortgage.

Section 1.26 “Mortgagor” shall mean and refer to any person who gives a Mortgage.

Section 1.27 “Notice and Hearing” is a right of a Unit Owner to receive notice of an action proposed to be taken by or on behalf of the Association and the right to be heard thereon.

Section 1.28 “Occupant” is any person or persons, other than an Owner, in possession of or residing in a unit.

Section 1.29 “Owner” shall mean and refer to one or more persons who hold the record title to any unit which is part of the Common Interest Community, including parcel developers, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a unit is sold under a recorded contract of sale or memorandum thereof, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner.

Section 1.30 “Person” means a natural person, corporation, partnership, trustee or other legal entity capable of holding title to real estate.

Section 1.31 “Plat” means the Plat of Summer Haven on Gull filed with this Declaration, as incorporated herein as part of this Declaration as Exhibit B.

Section 1.32 “Properties” shall mean and refer to the real property described in Exhibit A attached hereto.

Section 1.33 “Rules” means regulations for the use of Common Elements, Limited Common Elements, and for the conduct of Persons in connection therewith within the Common Interest Community, adopted by the Board pursuant to this Declaration.

Section 1.34 “Security Interest” is an interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a mortgagee’s interest in a mortgage, a vendor’s interest in a contract for deed, a land sales contract, a lessor’s interest in a lease intended as security, a holder’s interest in a sheriff’s certificate of sale during the period of redemption, an assignee’s interest in an assignment of the leases or rents intended as security, a pledgee’s interest in the pledge of an ownership interest, and any other interest intended as security for an obligation under a written agreement.

Section 1.35 “Special Assessment” shall mean and refer to assessments levied in accordance with Article XIII (Common Expenses) of this Declaration.

Section 1.36 “Trustee” is the entity which may be designated by the Board as the Trustee for the receipt, administration and disbursement of funds derived from insured losses, condemnation awards, Special Assessments for uninsured losses and other sources as defined in the By-Laws. If no Trustee has been designated, the Trustee will be the Board acting by Majority vote, as executed by the President and attested by the Secretary.

Section 1.37 “Unit” shall mean and refer to the real property which is legally described in the instrument of conveyance in favor of the owner. The Unit shall not be construed to include common areas as herein defined.

ARTICLE II IDENTITY OF REAL ESTATE AND COMMON INTEREST COMMUNITY

This Declaration establishes Common Interest Community Number 42, Beltrami County, Minnesota, under the name Summer Haven on Gull, a Common Interest Community (the “CIC”). It is a planned community and is not subject to a master association.

The entire CIC is situated on land described in Exhibit A. A CIC includes shoreland, as defined in Section 103F.205, and is subject to county ordinances or rules affecting the development and use of the shoreland area.

ARTICLE III COMMON INTEREST COMMUNITY PLAT

The CIC Plat for this Common Interest Community is being recorded simultaneously with and as a part of the this Declaration.

ARTICLE IV OWNERS ASSOCIATION

Summer Haven Association, a Minnesota non-profit corporation, has been incorporated under Minnesota Statutes, Chapter 317A to act as the Association of Unit Owners required by Section 515B.3-101 of the Act.

ARTICLE V
UNITS AND UNIT IDENTIFIERS

This CIC consists of one hundred sixty-eight (168) separate Units. The unit identifier of each Unit is shown on the CIC Plat. No more units may be created.

ARTICLE VI
DEVELOPMENT RIGHTS AND OTHER SPECIAL DECLARANT RIGHTS

Section 6.1 Reservation of Development Rights. The Declarant reserves the following Development Rights:

(a) The right to construct underground utility lines, pipes, wires, ducts, conduits and other facilities across the Plat for the purpose of furnishing utility and other services to buildings and Improvements to be constructed on the Property. The Declarant also reserves the right to withdraw and grant easements to public utility companies and to convey Improvements within those easements anywhere in the Common Interest Community not occupied by buildings, for the purposes mentioned above.

(b) Declarant will have the right to continue to operate the property as a seasonal recreational vehicle park while Declarant still owns any Units within the CIC.

(c) There shall be three (3) Units available for lease on a short-term or seasonal basis by Declarant or the Association, once the Association takes over the CIC.

Section 6.2 Limitations on Development Rights. The Development Rights reserved in Section 6.1 are limited as follows:

(a) The Development Rights may be exercised at any time, but not more than ten (10) years after the recording of this Declaration;

(b) The quality of construction, architectural style, principal materials employed in construction and size of any improvements to be created on the Property shall be consistent with those constructed pursuant to this Declaration as initially recorded; and

(c) All Units, Common Elements and Limited Common Elements created pursuant to the Development Rights will be restricted to recreational camping use in the same manner and to the same extent as the Units created under this Declaration as initially recorded.

Section 6.3 Phasing of Development Rights. No assurances are made by the Declarant as to whether the Declarant will exercise its Development Rights or the order in which such portions, or all of the areas, will be developed. The exercise of Development Rights as to some portions will not obligate the Declarant to exercise them as to other portions.

Section 6.4 Special Declarant Rights. The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Common Interest Community:

- (a) To complete Improvements indicated on the Plat filed with this Declaration;
- (b) To exercise a Development Right reserved in this Declaration;
- (c) To maintain sales offices, management offices, signs advertising the Common Interest Community and models;
- (d) To use easements through the Common Elements for the purpose of making Improvements within the Common Interest Community; and
- (e) To appoint or remove an officer of the Association or a Board member during a period of Declarant control subject to the provisions of Section 6.11 of this Declaration.
- (f) As long as the Declarant is an Owner, the Declarant, its duly authorized agents, representatives and employees may maintain any Unit owned by the Declarant or any portion of the Common Elements as a model Unit.

Section 6.5 Construction; Declarant's Easement. The Declarant reserves the right to perform warranty work, repairs and construction work in Units and Common Elements, to store materials in secure areas, and to control and have the right of access to work and repair until completion. All work may be performed by the Declarant without the consent or approval of the Board. The Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights, whether arising under the Act or reserved in this Declaration. This easement includes the right to convey utility and drainage easements to public utilities, municipalities, the State, riparian Owners or upland owners to fulfill the plan of development.

Section 6.6 Mobile Home Transition. The existing mobile homes parked upon the property and identified on Exhibit B will be allowed to remain located within the CIC for up to

two (2) years from the date the final CIC plat is recorded with the Beltrami County recorder. At the end of this time, the mobile homes must be removed from the CIC and replaced by an RV.

Section 6.7 Dock Transition. The existing docks will be allowed to remain for up to one (1) year from the date the final CIC documents are recorded at the Beltrami County recorder's office. At that time, the docking will be restricted to a centralized dock system only as shown on Exhibit B.

Section 6.8 Signs and Marketing. The Declarant reserves the right to post signs and displays in the Common Elements in order to promote sales of Units. Declarant also reserves the right to conduct general sales activities in a manner which will not unreasonably disturb the rights of Unit Owners.

Section 6.9 Declarant's Personal Property. The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the premises that has not been represented as property of the Association. The Declarant reserves the right to remove from the property promptly after the sale of the last Unit any and all goods and Improvements used in development, marketing and construction, whether or not they have become fixtures.

Section 6.10 Declarant Control of the Association.

(a) Subject to Subsection 6.11: There shall be a period of Declarant control of the Association, during which the Declarant, or Persons designated by the Declarant, may appoint and remove the officers and members of the Board. The period of Declarant control terminates no later than the earlier of:

- (i) Sixty (60) days after conveyance of seventy-five percent (75%) of the Units that may be created to Owners other than Declarant; or
- (ii) Two (2) years after Declarant has ceased to offer Units for sale in the ordinary course of business; or
- (iii) Five (5) years after the first Unit is conveyed to an Owner other than a Declarant.

A Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of that period. In that event, the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

(b) Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than a Declarant, not

less than thirty-three and one-third percent (33 1/3%) of the members of the Board must be elected by Owners other than the Declarant.

(c) Not later than the termination of any period of Declarant control, the Owners shall elect a Board of at least three (3) members, at least a Majority of whom shall be Owners. The Board shall elect the officers. The Board members and officers shall take office upon election.

(d) Notwithstanding any provision of this Declaration or the By-Laws to the contrary, and following notice, the Owners, by a two-thirds vote of all Persons present and entitled to vote at a meeting of the Owners at which a quorum is present, may remove a member of the Board with or without cause, other than a member appointed by the Declarant.

Section 6.11 Limitations on Special Declarant Rights. Unless terminated earlier by an amendment to this Declaration executed by the Declarant, any Special Declarant Right may be exercised by the Declarant until the earlier of the following: as long as the Declarant (a) is obligated under any warranty or obligation, (b) holds a Development Right to create additional Units or Common Elements, (c) owns any Unit, (d) owns any Security Interest in any Units, or (e) ten (10) years have elapsed after recording of this Declaration. Earlier termination of certain rights may occur by statute.

Section 6.12 Interference with Special Declarant Rights. Neither the Association nor any Unit Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

ARTICLE VII BOUNDARIES

Section 7.1 Unit Boundaries. The Unit Boundaries shall be as described in further detail in Section 515B.2-102 of the Act and as shown on the Plat, along with their identifying number. The units shall have no upper or lower boundaries.

Section 7.2 Relocation of Boundaries. Subject to approval of any structural changes and required permits, the boundaries between adjoining Units may be relocated by an amendment to the Declaration upon application to the Association by the Owners of the Units affected by the relocation. The amendment must be executed by those Unit Owners affected and contain words of conveyance between them. The approval of all holders of Security Interests in the affected Units shall be endorsed on the conveyance. On recordation, the amendment shall be indexed in the name of the grantor and the grantee, and in the grantee's index in the name of the Association.

Section 7.3 Recording Amendments. The Association shall prepare and record a Plat necessary to show the altered boundaries between adjoining Units, along with the Unit's dimensions and identifying numbers.

The applicants will pay for the cost of preparation of the amendment and its recording, as well as the reasonable consultant and/or legal fees incurred by the Association if the Board deems it necessary to employ a consultant or an attorney.

ARTICLE VIII

USE OF UNITS

Section 8.1 Recreational Camping Use. All units are restricted to seasonal, single-family, recreational camping use. Seasonal use shall commence on May 1st of each year and terminate on October 15th of each year. The following activities in any recreational unit shall not be considered a violation of this restriction:

The maintenance by the Association or its Manager of an office for purposes of management of this Common Interest Community.

This Common Interest Community shall, at no time, be converted to a residential Common Interest Community, and the individual parcels may not be used for residential purposes.

Section 8.2 Recreational Vehicle. All recreational vehicles located on the Units of the CIC must meet the Minnesota definition of recreational vehicle; recreational in that it provides temporary living quarters during recreation, camping, or travel. No recreational vehicle in the travel mode may exceed 400 square feet.

Section 8.3 Units Available for Lease. At all times, the Declarant or Association shall own at least three (3) Units, which will be available for lease on a weekly or seasonal basis. At all times, the CIC shall be licensed by the Minnesota Department of Health as a recreational camping area.

Section 8.4 Mobile Homes on Units. Units 34 and 35 are currently occupied by mobile homes.

**ARTICLE IX
COMMON ELEMENTS & LIMITED COMMON ELEMENTS**

The Common Elements and their characteristics are as follows:

Section 9.1 Common Elements. All of the property not included within the units constitutes Common Elements. The Common Elements include those parts of the property described on the CIC Plat. The Association owns the Common Elements for the benefit of the Owners and Occupants.

Section 9.2 Common Elements Subject to Easements. The Common Elements shall be subject to certain easements as described in Articles XI (Property Rights) and XII (Easements), and to the rights of Owners and Occupants in the Limited Common Elements appurtenant to their units.

Section 9.3 Maintenance of Common Elements. All maintenance, repairs, replacements, management and operation of the Common Elements shall be the responsibility of the Association, except as otherwise stated in this Declaration.

Section 9.4 Common Expenses. Common Expenses for the maintenance, repair, replacement, management and operation of the Common Elements shall be assessed and collected from the Owner in accordance with Article XIII (Common Expenses).

Section 9.5 Allocation of Common Elements. Common Elements shall be as identified and allocated on the CIC Plat.

Section 9.6 Limited Common Elements. Certain portions of the Common Elements designed to serve a single Unit are, by operation of §515B.2-102(d) and (f) of the Act, and Limited Common Elements allocated for the exclusive use by respective Units served thereby to the exclusion of other Units. The boundaries of the Limited Common Elements shall be shown as dashed lines on Exhibit B.

Section 9.7 Allocation of Limited Common Elements. Limited Common Elements shall be allocated as shown on the CIC Plat.

Section 9.8 Additional Limited Common Elements. A Common Element not previously allocated as a Limited Common Element may be so allocated only pursuant to the provisions of this section. All allocations will be made by amendments to this Declaration and the CIC Plat specifying to which Unit or Units the Limited Common Element is allocated.

Section 9.8.1 Amendments shall specify to which Unit or Units the Limited Common Element is allocated.

Section 9.8.2 No Limited Common Element depicted on the Plat may be reallocated by an amendment to this Declaration pursuant to this Article, except

as part of a relocation of boundaries of Units pursuant to Article VII (Boundaries) of this Declaration.

Section 9.8.3 Such amendment shall require the approval of all holders of Security Interests in the affected Unit. The person executing the amendment shall provide an executed copy of the amendment to the Association, record it, provided that the amendment complies with the provisions of this Declaration and the Act. The amendment shall contain words of conveyance and must be recorded and indexed in the names of the parties in the Common Interest Community.

Section 9.8.4 The parties executing the amendment shall be responsible for the preparation of the amendment and shall reimburse the Association for its reasonable attorney's fees in connection with the review of the amendment and for the recording costs.

ARTICLE X

ALLOCATED INTERESTS

Section 10.1 Allocation. Each of the one hundred sixty-eight (168) units in the planned community is hereby allocated an equal interest in the Common Elements and in the Common Expenses of the Association, and an equal portion of the votes in the Association (see Exhibit C). However, certain expenses may be assessed against a certain unit or units under Section 515B.3-115(e) of the Act, and certain expenses and certain decisions shall be allocated in the manner described in Section 10.2 below.

Section 10.2 Allocation of Limited Common Element Expenses. Common Expenses associated with a limited common element assigned to only one unit shall be assessed against that unit.

ARTICLE XI PROPERTY RIGHTS

Section 11.1 Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Elements described herein which shall be appurtenant to and shall pass with title to every Unit; subject to the following provisions:

Section 11.1.1 The right of the Association to adopt reasonable rules and regulations regarding the conduct and usage of any facility by any Member or guest of a Member;

Section 11.1.2 The right of the Association to suspend the voting rights and the right to use of any facilities by an Owner for any period during which any Assessment against their Unit remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

Section 11.1.3 Each Unit shall be subject to, and shall be the beneficiary of the appurtenant easements for encroachments as described in this Declaration.

Section 11.2 Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Elements and facilities to the members of his family or the contract purchasers who reside on a Unit.

Section 11.3 Parking Rights. Every Owner of a Unit shall be entitled to not more than two (2) automobile parking spaces (except for visitors), with the rights of ingress and egress in and upon said Common Area roads. Automobiles shall be located within Unit boundaries or on the Common Element lying between the owner's Unit and the nearest Common Area road. If automobiles are parked on the Common Element, they must be located within the projected side boundary lines of their Unit. Automobiles may not park next to any Unit which is not owned by the owner of the automobile without permission from the appropriate Unit owner. Any overflow parking must be in the overflow parking area shown on the Plat.

Section 11.4 Access Easement. Each unit shall be the beneficiary of an appurtenant easement for access to a public street or highway on or across the Common Elements as shown on the Plat, subject to any restrictions set forth in this Declaration.

Section 11.5 Utility and Maintenance Easements. Each unit shall be subject to and shall be the beneficiary of appurtenant easements for all services and utilities servicing the units and the Common Elements, and for maintenance, repair and replacement as described in this Declaration.

Section 11.6 Recorded Easements. The property shall be subject to such other easements as may be recorded against it or otherwise shown on the Plat.

Section 11.7 Easements are Appurtenant. All easements and similar rights burdening or benefitting a unit or any other part of the property shall be appurtenant thereto, and shall be permanent, subject only to termination in accordance with the Act or the terms of the easement. Any recorded easement benefitting or burdening the property shall be construed in a manner consistent with, not in conflict with, the easements created by this Declaration.

Section 11.8 Impairment Prohibited. No Person shall materially restrict or impair any easement benefitting or burdening the property; subject to this Declaration and the right of the Association to establish and enforce reasonable rules and regulations governing the use of the property.

ARTICLE XII EASEMENTS

Section 12.1 General. In addition to the specific easements referenced in this Article and Exhibit B, the Common Interest Community may be subject to other easements or licenses granted by the Declarant pursuant to his powers under Article VI (Development Rights and Other Special Declarant Rights) of this Declaration.

Section 12.2 Easement for Maintenance, Repair, Replacement and Reconstruction. Each unit, and the rights of the Owners and Occupants thereof, shall be subject to the rights of the Association to an exclusive, appurtenant easement on and over the units for the purposes of maintenance, repair, replacement and reconstruction of the units, and utilities serving the units, to the extent necessary to fulfill the Association's obligations under the governing Documents. Included in the easements for maintenance and repair, each Unit shall be subject to an easement for maintenance.

Section 12.3 Utility Easements. The property shall be subject to non-exclusive appurtenant easements for all utilities, water and sewer, and similar services, which exist from time to time, as constructed or referred to in the Plat, or as otherwise described in this Declaration or any other duly recorded instrument. Each unit, and the rights of the Owners and Occupants thereof, shall be subject to a non-exclusive easement in favor of the other units for all such services, including without limitation any septic or water lines servicing other units. Each unit shall also be subject to an exclusive easement in favor of the Association and all utility companies providing service to the units for the installation and maintenance of utilities and metering devices.

Section 12.4 Continuation and Scope of Easements. Notwithstanding anything in this Declaration to the contrary, in no event shall a Unit Owner or an Occupant be denied reasonable access to his/her unit or the right to utility services thereto. The easements set forth in this Article shall supplement and not limit any easements described elsewhere in this Declaration or recorded, and shall include reasonable access to the easement area through the units and the Common Elements for purposes of maintenance, repair, replacement and reconstruction.

ARTICLE XIII COMMON EXPENSES

Section 13.1 Apportionment. Except as provided in Section 13.2 and Article XIX (Covenant for Maintenance and Maintenance Assessments), all Common Expenses shall be assessed equally against all Units.

Section 13.2 Limited Common Expenses:

Section 13.2.1 Except for Association maintenance referred to at Article XIX (Covenant for Maintenance and Maintenance Assessments), any other Common Expense associated with the maintenance and repair or replacement of

components and elements attached to, planted on, or a part of yards, shall be assessed against the Unit or Units to which the Limited Common Element is assigned as a Common Expense assessment.

Section 13.2.2 Any common expense for services provided by the Association to an individual Unit at the request of the Owner shall be assessed against that Unit.

Section 13.2.3 Any insurance premium increase attributable to a particular Unit by virtue of activities in or construction on the Unit shall be assessed against that Unit.

Section 13.2.4 An assessment to pay a judgment against the Association may be made only against the Units in the Common Interest Community at the time the judgment was entered, in proportion to the common expense liabilities.

Section 13.2.5 If a common expense is caused by the misconduct of an Owner, the Association may assess that expense exclusively against that Owner's Unit.

Section 13.2.6 Fees, charges, taxes, impositions, late charges, fines, collection costs and interest charged against an Owner pursuant to this Declaration documents and the Act are enforceable as Common Expense Assessments.

Section 13.3 Common Expense Assessment Lien:

Section 13.3.1 When the Association has a lien on a Unit for a Common Expense Assessment levied against the Unit or fines imposed against its Owner from the time the Common Expense Assessment or fine becomes due, fees, charges, late charges, fines and interest charged pursuant to the Act and the Documents are enforceable as assessments under this Section. If a Common Expense Assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment becomes due.

Section 13.3.2 A lien under this Section is prior to all other liens and encumbrances on a Unit except:

(1) liens and encumbrances recorded before the recordation of this Declaration;

(2) a first Security Interest on the Unit recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent; and

(3) liens for real estate taxes and governmental assessments or charges against the unit.

A lien under this Section is also prior to all Security Interests described in subdivision 2 of this subsection, to the extent that the Common Expense Assessments are based on the periodic budget adopted by the Association pursuant to Section 13.3.1 of this Article that would have become due in the absence of acceleration during the six months immediately preceding institution of an action to enforce either the Association's lien or a Security Interest described in subdivision (2) of this subsection. This subsection does not affect the priority of mechanic's or materialmen's liens or the priority of a lien for other assessments made by the Association. A lien under this Section is not subject to any exemptions referenced at Section 3-116(b) of the Act.

Section 13.3.3 Recording of this Declaration constitutes record notice and perfection of the lien. Further recording of a claim of lien for a Common Expense Assessment under this Section is not required.

Section 13.3.4 A lien for an unpaid Common Expense Assessment is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the Common Expense Assessment becomes due, except that if an owner of a unit subject to a lien under this Section files a petition for relief under the United States Bankruptcy Code, the time period for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

Section 13.3.5 This Section does not prohibit an action to recover sums for which a lien is created or prohibits the Association from taking a deed in lieu of foreclosure.

Section 13.3.6 A judgment or decree in any action brought under this Section shall include costs and reasonable attorney's fees for the prevailing party, which shall be additional Common Expense Assessments.

Section 13.3.7 A judgment or decree in an action brought under this Section is enforceable by execution under the laws of the State of Minnesota.

Section 13.3.8 A lien for Common Expenses may be foreclosed against a unit under laws of the State of Minnesota:

(i) by action; or

(ii) by advertisement as a lien under a mortgage containing a power of sale.

The 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 Units 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 full authority to accomplish the foreclosure. The Association shall, in addition, have the right to pursue any remedy at law or an equity against the Owner who fails to pay any assessment or charge against the Unit.

Section 13.3.9 The Association's lien may be foreclosed in a like manner as a mortgage containing a power of sale pursuant to the Minnesota Statute §580, or by action pursuant to §581. The Association shall have the power of sale to foreclose the lien pursuant to Minnesota Statute §580.

Section 13.3.10 In any action by the Association to collect Common Expense Assessments or to foreclose a lien for unpaid Common Expense Assessments, the Court may appoint a receiver for the Owner to collect all sums alleged to be due from that Owner or a tenant of the Owner prior to or during the pendency of the action. The Court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense Assessments, based on a periodic budget adopted by the Association pursuant to this Declaration.

Section 13.3.11 If a holder of a first or second Security Interest in a Unit forecloses that Security Interest, the purchaser at the foreclosure sale is not liable for any unpaid Common Expense Assessments against that Unit which became due before the sale, other than the assessments which are prior to that Security Interest under subsection 13.3.2 of this Section of this Declaration. Any unpaid Common Expense Assessments not satisfied from the proceeds of sale become Common Expenses collectible from all the Owners, including the purchaser.

Section 13.3.12 In the case of foreclosure by action under applicable Minnesota law, the Association shall give reasonable notice of its action to each lien holder of a Unit whose interest would be affected.

Section 13.3.13 Any payments received by the Association in discharge of an Owner's obligation may be applied to the oldest balance due.

Section 13.4 Budget Adoption and Ratification. Within thirty (30) days after adoption of a proposed budget from the Common Interest Community, the Board shall provide a summary of the budget to each Owner and shall set a date for a meeting of the Owners to consider ratification of the budget. The meeting shall not be less than fourteen (14) or more than thirty (30) days after mailing of the summary. If a Majority of all Unit Owners do not reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Unit Owners continues until the Unit Owners ratify a new budget.

Section 13.5 Ratification of Non-Budgeted Common Expense Assessments. If the Board votes to levy Common Expense Assessments not included in the current budget, other than one numerated in Section 13.2 of this Declaration, in an amount greater than fifteen percent (15%) of the current annual operating budget, the Board shall submit this Common Expense to the Owners for ratification in the same manner as a budget under Section 13.4.

Section 13.6 Certificate of Payment of Common Expense Assessments. Upon written request, the Association shall furnish an Owner a copy of the statement, setting out the amount of unpaid Common Expense Assessments against the Unit. The statement must be furnished within ten (10) days after receipt of the request and must be in recordable form. The statement is binding on the Association, the Board and each Owner.

Section 13.7 Monthly Payment of Common Expenses. All Common Expenses assessed under Sections 13.1 and 13.2 of this Declaration shall be due and payable monthly.

Section 13.8 Acceleration of Common Expense Assessments. In the event of default in which any Owner does not make the payment of Common Expense Assessments levied against their Unit within ten (10) days of the date due, the Board shall have the right, at the notice and hearing, to declare all unpaid Common Expense Assessments for the appurtenant fiscal year immediately due and payable.

Section 13.9 Commencement of Common Expense Assessments. Common Expense Assessments shall begin on the first day of the month after the conveyance of the first Unit to an Owner other than the Declarant.

Section 13.10 No Waiver of Liability for Common Expenses. No Unit may become exempt from liability for a payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Elements or by abandonment of a Unit against which the Common Expense Assessments are made.

Section 13.11 Personal Liability of Owners. The Owner of a Unit, at the time a Common Expense Assessment or portion of the assessment is due and payable, is personally liable for the Common Expense Assessment. Personal liability for the Common Expense Assessment shall not pass to a successor in title to the Unit unless the successor agrees to assume the obligation. Multiple Owners of a Unit shall be liable, jointly and severally, for a Common Expense Assessment and any other charge otherwise imposed upon an Owner.

ARTICLE XIV MEMBERSHIP AND VOTING RIGHTS

Section 14.1 Membership. Every Owner, as defined in Article I (Definitions), shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit which is subject to any assessment.

Section 14.2 Classes. The Association shall have two classes of voting membership.

Class A. Class A Members shall be all Owners, with the exception of the Declarant, and said Owners shall be entitled to one (1) vote

for each Unit owned. When more than one Person holds an interest in any Unit, all such Persons shall be Members. The vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Unit.

Class B.

(a) The Class B Member(s) shall be the Declarant who shall be entitled to three (3) votes for each Unit owned. If the Declarant is more than one Person, each Person shall be a Member but they may not cast more than three (3) votes for each Unit jointly owned.

(b) The Class B membership shall cease and be converted to Class A membership when seventy-five percent (75%) of the Units have been sold or five (5) years after the first Unit has been sold to a party other than the Declarant.

Section 14.3 Appurtenant Rights and Obligations. The ownership of a Unit shall include the voting rights and Common Expense obligations described in Article XIII. Said rights, obligations and interests, and the title to the Units, shall not be separated or conveyed separately. The allocation of the rights and obligations described in this Section may not be changed, except in accordance with the Documents and the Act.

Section 14.4. 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 cancel the vote allocated to such Unit at meetings of the Association; provided that, there are multiple owners of the Unit, or the Owner or other Person designated pursuant to the provisions of the By-Laws may cast such vote. The voting rights of Owners are more fully described in the By-Laws.

ARTICLE XV**BOARD**

Section 15.1 Association Records and Minutes of Board Meetings. The Board shall permit any Owner, holder of a first mortgage, guarantor of a first mortgage secured by Unit(s), or the insurer of a Unit, to inspect the records of the Association and the Minutes of Board and committee meetings during normal business hours. The minutes shall be available for inspection within fifteen (15) days after any such meeting.

Section 15.2 Powers and Duties. All power and authority of the Association shall be vested in the Board except as provided in this Declaration, the By-Laws or the Act. The Board shall have, subject to the limitations contained in this Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and Common Interest Community, which shall include, but not be limited to, the following:

- (a) Adopt and amend By-Laws and Rules;
- (b) Adopt and amend budgets for revenues, expenditures and reserves;
- (c) Collect Common Expense Assessments from Owners;
- (d) Hire and discharge managing agents;
- (e) Hire and discharge independent contractors, employees and agents, other than managing agents;
- (f) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Association's Declaration, By-Laws or Rules in the Association's name on behalf of the Association or two or more Owners for matters affecting the Common Interest Community;
- (g) Make contracts and incur liabilities;
- (h) Regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (i) Cause additional Improvements to be made as part of the Common Elements;
- (j) Acquire, hold, encumber and convey, in the Association's name, any right, title or interest to real or personal property, where Common Elements may be conveyed subject to a Security Interest or pursuant to Section 3-112 of the Act;

(k) Grant temporary or permanent easements, leases, licenses and concessions through or over the Common Elements;

(l) Impose and receive a payment, fee or charge for the use, rental or operation of the Common Elements, other than Limited Common Elements described in the Act and for services provided to Owners;

(m) Impose a reasonable charge for late payment of assessments and after notice and hearing, levy reasonable fines for violations of this Declaration, the By-Laws, Rules and Regulations of the Association;

(n) Impose a reasonable charge for the preparation and recordation of amendments to this Declaration and for resale certificates required by the Act for a statement of unpaid assessments;

(o) Provide for the indemnification of the Association's officer and Board and maintain Directors and officer's liability insurance;

(p) Assign the Association's right to future income, including the right to receive Common Expense Assessments;

(q) Exercise any other powers conferred by this Declaration or the By-Laws;

(r) Exercise any other power allowed in this State by legal entities of the same type as the Association;

(s) Exercise any other power necessary and proper for the government and operation of the Association; and

(t) By resolution, establish permanent extended committees of directors to perform any of the above functions under specifically delegated administrative standards, as designated in the Resolution establishing a committee. All committees must maintain and publish notice of their actions to Owners and the Board. However, actions taken by a committee may be appealed to the Board by any Owner within forty-five (45) days of publication of the notice. If an appeal is made, the committee action must be ratified, modified or rejected by the Board at its next regular meeting.

Section 15.3 Board Limitations. The Board may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community or to elect members of

the Board or determine qualifications, powers and duties or terms of office or Board members, but the Board may fill vacancies in its membership for the unexpired portion of any term.

ARTICLE XVI OPEN MEETING

Section 16.1 Access. All meetings of the Board, at which action is to be taken by vote, will be open to the Unit Owners, except as hereafter provided.

Section 16.2 Notice. Each unit shall be provided notice of every such meeting at least twenty-four (24) hours prior to the time set for such meeting, except that such notice will not be required if an emergency situation requires that the meeting be held without delay.

Section 16.3 Executive Sessions. Meetings of the Board may be held in executive session, without giving notice and without the requirement that they be open to Owners, in any of the following situations only:

- (a) As provided by Section 3-103(g) of the Act;
- (b) When no action is taken at the executive session requiring the affirmative vote of Directors; or
- (c) When the action taken at the executive session involves personnel, pending litigation, arbitration or other potentially adversarial proceedings, contract negotiations, enforcement actions, matters involving the invasion of privacy of individual Unit Owners, or matters which are to remain confidential by request of the affected parties and agreement of the Board.

ARTICLE XVII NOTICE OF HEARING

Section 17.1 Right to Notice and Comment. Before the Board amends the By-Laws or the Rules, the Unit Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. The notice of the proposed action shall be given to each Unit Owner in writing, delivered personally or by mail to all Unit Owners as such address as appears in the records of the Association, or shall be published in a newsletter or similar publication which is routinely circulated to all Unit Owners. The notice shall be given not less than five (5) days before the proposed action is to be taken. It shall invite comment to the Board orally or in writing before the scheduled time of the meeting. The right to notice and comment does not entitle a Unit Owner to be heard at a formally constituted meeting.

Section 17.2 Right to Notice and Hearing. Whenever the Documents require that an action be taken after "Notice and Hearing," the following procedure shall be observed: The party proposing to take the action (e.g., the Board, Committee, and officer, Manager, etc.) shall give written notice of the proposed action to all Unit Owners or Occupants of units whose interest will be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time, and place of the hearing. At the hearing, the

affected Person shall have the right, personally or by a representative, to give testimony orally, in writing, or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to ensure a prompt and orderly resolution of the issues. Any evidence shall be duly considered but is not binding in making the decision. The affected Person shall be notified of the decision in the same manner in which notice of the meeting was given. 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 unless a formal request for an appeal is filed in accordance with the provisions of the following Section.

Section 17.3 Appeals. Any Person having the right to notice and hearing shall have the right to appeal to the Board from the decision of Persons other than the Board by filing a written notice of appeal with the Board within ten (10) days after being notified of the decision. The Board shall conduct a hearing within thirty (30) days, giving the same notice and observing the same procedures as were required for the original meeting.

ARTICLE XVIII PERSONS AND UNITS SUBJECT TO DOCUMENTS

Section 18.1 Compliance with Documents. All Owners, tenants, Managers, and Occupants of the units shall comply with the Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the occupancy of a unit constitutes agreement with the provisions of the Documents (as accepted and ratified by that Owner, tenant, Manager, or Occupant). All provisions recorded in the office of the Beltrami County Recorder are covenants running with the land and shall bind any Persons having at any time, any interest or any estate in any unit.

Section 18.2 Adoption of Rules. The Board may adopt Rules regarding the use and occupancy of units as it affects the Common Elements, the Limited Common Elements, and the activities of Occupants subject to notice and comment.

**ARTICLE XIX
COVENANT FOR MAINTENANCE
AND MAINTENANCE ASSESSMENTS**

Section 19.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Unit owned within the Properties, hereby covenants, and each Owner of any Unit by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association: (1) annual assessments or charges, and (2) Special Assessments for capital Improvements, such assessments to be established and collected as hereinafter provided. The annual and Special Assessments, together with interest, costs, and reasonable attorney's fees, shall be charged on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 19.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties for the improvement and maintenance of the Common Elements.

Section 19.3 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, repair, or replacement of the capital improvement upon the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of the votes of each class of Members who are voting in Person or by proxy at a meeting duly called for this purpose.

Section 19.4 Notice and Quorum for Any Action Authorized under Section 19.3. Written notice of any meeting called for the purpose of taking any action authorized under Section 19.3 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all of the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 19.5 Uniform Rate of Assessment. Both annual and Special Assessments must be fixed at a uniform rate for all Units and may be collected on a monthly basis.

Section 19.6 Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence, as to all Units, on the first day of the month following the conveyance of the Common Elements. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of

Directors shall fix the amount of the annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid. A properly executed certificate of the Association as to the status of assessments on a Unit is binding upon the Association as of the date of its issuance.

Section 19.7 Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Unit.

Section 19.8 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE XX

REDUCED ASSESSMENT PROGRAM

The Declarant does not hereby establish a reduced assessment program of the type described in Section 515B.3-115(a) (2) of the Act.

ARTICLE XXI

ASSOCIATION MAINTENANCE RESPONSIBILITY

Section 21.1 Common Elements. The Association shall be responsible for the maintenance and repair of the Common Elements, including Limited Common Elements, the expense of which shall be allocated as described in the Act and this Declaration. The Association shall have the exclusive right to manage, maintain and alter the Common Elements.

Section 21.2 Services. The Association may obtain and pay for the services of any Persons or entities, to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Real Estate, whether such personnel are furnished or employed directly by the Association or by any Person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Real Estate or the enforcement of this Declaration. The Association may arrange with others to furnish trash collection and other common services to each unit.

Section 21.3 Personal Property and Real Estate for Common Use. The Association may acquire and hold for the use and benefit of all of the Owners tangible and intangible personal property and real estate and may dispose of the same by sale or otherwise. Such beneficial interest shall not be transferable except with the transfer of title to a unit, provided that an Owner may delegate his right of enjoyment of such property to residents of his unit. A transfer of title to a unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of the Owners. The transfer of title to a unit under foreclosure shall entitle the purchaser to the beneficial interest in such property associated with the foreclosed unit.

Section 21.4 Utility Maintenance. Any repairs or maintenance to utilities located below the ground are the responsibility of the Association.

ARTICLE XXII

OWNER'S MAINTENANCE

Section 22.1 Upkeep and Maintenance. Each Owner shall be responsible for the upkeep and maintenance of his unit, and to the extent not otherwise maintained by the Association, the assigned Limited Common Elements, and each Owner shall maintain the same free to hazardous substances, vermin, cockroaches, pests and debris which may pose a threat to the health or safety of Occupants of other units. Every Owner must perform promptly all cleaning, maintenance and repair work within his unit, which, if omitted, would affect another unit or units, being expressly responsible for the damages and liabilities that his failure to do so may engender.

Section 22.2 Utility Maintenance. Any repairs or maintenance to the utilities located above ground within any unit are the responsibility of the Unit Owner.

Section 22.3 Tree Maintenance. All maintenance and removal of trees within the Unit are the responsibility of the Unit Owner. No trees may be pruned or cut within the Unit or the common area without approval of the Association.

Section 22.4 Maintenance of Grounds. Any repairs or maintenance to the grounds with any Unit are the responsibility of the Unit Owner.

ARTICLE XXIII

INSURANCE, CASUALTY AND EMINENT DOMAIN

Section 23.1 Coverage. To the extent reasonably available, the Board shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Board determines that any insurance described in this Article will not be maintained, the Board shall cause notice of that fact to be hand delivered or sent pre-paid by United States mail to all Owners and eligible mortgagees at their respective last known addresses.

Section 23.2 Property Insurance Coverage.

(a) Property insurance will cover:

(i) The project facilities under the control of the Association.

(ii) All personal property owned by the Association.

(b) Amounts. The project insurance will be for an amount, after application of any deductions, equal to no less than 100% of the project facility's actual cash value at the time the insurance is purchased and at each renewal date. Personal property owned by the Association will be insured for an amount equal to its actual cash value.

The Board is authorized to obtain appraisals periodically for the purpose of establishing replacement cost of the project facilities and the actual cash value of the personal property, and the cost of such appraisals shall be a common expense.

The maximum deductible for insurance policies shall be established by Board resolution.

(c) Risks Insured Against. The insurance shall afford protection or a special cause of loss policy form.

(d) Other Provisions. Insurance policies required by this Section shall provide that:

(i) The insurer waives the right to subrogation under the policy against an Owner or member of the household of an Owner.

(ii) An act or omission by an Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will not void the policy or be a condition of recovery under the policy.

(iii) If at the time of a loss under the policy, there is other insurance in the name of an Owner which covers the same risk covered by the policy, the Association's policy provides primary insurance.

(iv) Losses may be adjusted with the Association.

(v) Insurance proceeds shall be paid to any insurance trustee designated in the policy for that purpose, and otherwise to the Association, but, in any case, it is to be held in trust for each Owner and the Owner's mortgagee.

(vi) The insurer may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner and each secured party to whom certificates of insurance have been issued.

(vii) The name of the insured shall be substantially as follows:

“Summer Haven Association for the use and benefit of the individual Owners”

Section 23.3 Liability Insurance. Liability insurance, including medical payments insurance, will be maintained in an amount determined by the Board but in no event shall be less than \$1,000,000.00. This insurance shall cover all occurrences commonly insured against for death, bodily injury or property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements and the activities of the Association.

Section 23.4 Other Provisions. The insurance policies carried pursuant to this Section shall provide that:

(i) Each Owner is an insured Person under the policy with respect to liability arising out of the Owner's interest in Common Elements or ownership in the Association.

(ii) The insurer waives the right to subrogation under the policy against an Owner or member of the household of an Owner.

(iii) An act or omission by an Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy.

(iv) If at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance.

(v) The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Owner and secured party to whom certificates of insurance have been issued.

Section 23.5 Fidelity Bonds. Blanket fidelity bond or dishonesty insurance coverage may be provided for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The bond or insurance shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or Manager at any time while the bond is in force. In no event shall the bond or coverage be for an amount less than the sum of three months assessments plus reserve funds. The bond or coverage shall include a provision that calls for ten (10) days written notice to the Association, each holder of a Security Interest in a Unit, each servicer that services a FNMA (Fannie Mae)-owned or FHLMC (Fannie Mac)-owned mortgage on a Unit and the insurer's trustee, if any, before the bond can be canceled or substantially modified for any reason. The bond or coverage shall be in an amount equal to the maximum amount of funds in the custody and control of the Association when the bond or insurance is in effect. When either:

- (a) Separate banking accounts for working funds and reserves are maintained and monthly checks are sent directly to the Association;
- (b) A management company maintains separate records and bank accounts for each Association's reserve account; or
- (c) Two Directors must sign any check written on the reserve account, then fidelity bond or coverage may be in an amount equal to three (3) months Common Expense Assessments on all Units.

Section 23.6 Owner's Individual Policies. Each Owner shall carry insurance for his own benefit insuring his personal liability and his RV and or storage building and his own personal real estate, and fixtures and other real estate supplied or installed by him or a previous Owner or tenant, provided that all such policies shall contain waivers of subrogation, and further provided that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any such additional insurance carried by any Owner.

Section 23.7 Worker's Compensation Insurance. The Association shall obtain and maintain worker's compensation to meet the requirements of the laws of the State of Minnesota whenever it has eligible employees.

Section 23.8 Other Insurance. The Association may carry other insurance which the Board considers appropriate to protect the Association or the Owners.

Section 23.9 Premiums. All insurance premiums shall be assessed and paid as a common expense. The insurance need not cover Improvements and betterments to the Units installed by Owners, but if Improvements and betterments are covered, any increased cost may be assessed against the Units affected. The Association may, in the case of a claim for damage to the Unit:

- (i) Pay the deductible amount as a common expense;
- (ii) Assess the deductible amount against the Units affected in any reasonable manner; or
- (iii) Require the Owners of the Units affected to pay the deductible amount directly.

ARTICLE XXIV ARCHITECTURAL RESTRICTIONS

Section 24.1 Association Control. The Association shall have the exclusive control of the Common Elements (including Limited Common Elements) and no change shall be made to the Common Elements, except by the Association or with the authorization of the Association.

Section 24.2 Structures on the Common Elements. No building, fencing or other structures shall be erected or maintained on the Common Elements except structures for common use (including leasing or assignment to Owners) authorized by the Association.

Section 24.3 Antennae. Except with prior written approval of the Association, no exterior television, radio, satellite, or microwave antenna of any sort shall be erected or maintained upon the Common Elements.

**ARTICLE XXV
RENTAL RESTRICTIONS**

Leasing of units shall be allowed, subject to reasonable regulation by the Association, and subject to the following conditions:

- (i) That no Unit shall be leased for transient or hotel purposes, except by the Association as allowed in the governing documents of the CIC;
- (ii) That no Unit may be subleased, except by the Association as allowed in the governing documents of the CIC;
- (iii) That all leases shall be in writing; and
- (iv) That all leases shall provide that they are subordinate and subject to the provisions of the governing Documents, the Rules and Regulations and the Act; and
- (v) That any failure of lessee to comply with the terms of such Documents shall be a default under the lease. The Association may impose such reasonable rules and regulations as may be necessary to implement procedures for the leasing of Units consistent with this Section.

**ARTICLE XXVI
GENERAL RESTRICTIONS**

Section 26.1 Prohibition of Damage and Certain Activities. Nothing shall be done or kept on any unit or any part thereof which would increase the rate of insurance on the Real Estate or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association. Nothing shall be done or kept on any unit or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the exterior of the Real Estate and building shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Association and other Owners harmless against all loss resulting from any such damage or wastes caused to the Association or other Owners by such Owner or the Owner's invitees. No noxious, destructive or offensive activity shall be allowed on any units or any part thereof, nor shall anything be done thereon which may be or may become a nuisance to any other Owner or to any other Person at any time lawfully residing on the Real Estate. No heating devices, refrigeration equipment, or other machinery which causes vibrations detectable from outside the unit, is fuel-fired, or is otherwise inherently dangerous, noxious, or noisy, shall be installed or operated within any unit.

Section 26.2 No Unsightly Uses. Except for the occasional drying of swimwear or swim towels, clothing, sheets, blankets, laundry of any kind, and other articles shall not be hung out on any portion of a Unit so as to be visible from outside the Unit. A retractable clothesline

may be installed for short-term use outside of the Unit. A clothesline or any kind may not be used or maintained on the Common Elements.

Section 26.3 Pets. The Board may adopt reasonable regulations governing the allowance, behavior or wastes of pets by Owners or their guests or visitors. No pet(s) shall be allowed to be a source of annoyance to the other Owners or to interfere with the peaceful possession or proper use of the Unit by all Owners.

Section 26.4 Signs. No Unit Owner or Occupant shall post any advertisements, posters or signs of any kind in or on the CIC, except as authorized by the Association, nor shall signs, billboards, notices for other advertising matter of any kind be placed on the exterior of any unit, or on the common elements, or in the interior of any unit so as to be visible from the outside of the unit.

Section 26.5 Noises. Unit Owners and Occupants shall not make noises, play instruments or operate radios, televisions, or amplifiers in a way that may disturb other residents, or otherwise create disturbances to the peace and tranquility of the other Units. No nuisance shall be allowed which is a source of annoyance to the other Owners or which interferes with the peaceful possession or proper use of the CIC by all Unit Owners.

Section 26.6 Outside Storage. Storage of any items, including but without limiting the generality of the foregoing, sporting equipment, larger toys, outdoor cooking equipment (except seasonal furniture and one gas or charcoal grill per Unit if allowable by applicable ordinance), power yard and gardening tools and equipment, and trash and garbage containers shall be allowed only if stored in a shed which shall be no larger than 10 feet x 12 feet. Small toys and hand garden tools may be stored under the RV or deck if totally blocked from view by a removable lattice enclosure.

Section 26.7 Repairs to Vehicles. Save for emergency repairs, no repairs or adjustments to motor vehicles may be carried out on the Common Elements or Limited Common Elements including garage spaces.

Section 26.8 Landscaping. No one shall harm, mutilate, destroy, alter or litter any of the landscaping work or Improvements on the Common Elements, including grass, trees and flower beds.

Section 26.9 Designated Areas for Vehicles. No motor vehicle shall be driven or parked on any part of the Common Elements, other than on the locations previously described in this Declaration.

Section 26.10 No Obstructions. The sidewalks, walkways, entrances, and driveways shall not be obstructed or used for any other purpose than ingress to and egress from the units and parking areas within the Common Elements.

Section 26.11 Flammable or Hazardous Materials. No stores of coal or any combustibles, flammable or hazardous goods, provisions or materials shall be kept on any part of

the Real Estate except for reasonable quantities and kinds of usual household materials and reasonable quantities of fireplace wood.

Section 26.12 Non-Interference. No part of the Common Elements shall be used by anyone in such a manner so as to interfere with the use and enjoyment of the units or the Common Elements. No part of the Common Elements shall be used by the Owners for the erection, placing or maintenance of clotheslines, incinerators, garbage disposal equipment, recreation or athletic equipment, tents, fences or other barriers or for the placing or disposal of rubbish, garbage or waste without the prior written consent of the Board of Directors.

Section 26.13 Cable System Access. In the event the Board of Directors authorizes any sort of master, able or community television or data system, each owner hereby authorizes access to his Unit upon reasonable notice for the purpose of installing the conduits and fixtures necessary to serve such Unit, without regard to whether the Owner then elects to subscribe to, or use such system.

Section 26.14 Rules and Regulations. The Board of Directors may from time to time adopt, promulgate and publish other Rules of conduct reasonably relating to the enjoyment of the CIC by Owners and Occupants, provided that: (a) all such Rules and Regulations may have the effect of contradicting a provision of this Declaration or the By-Laws, and (b) no rule or regulation may discriminate against any Owners, tenants, or invitees.

Section 26.15 No Additional Units. Neither the Declarant nor any other Unit Owner is permitted to create any additional units by subdivision or conversion under Section 515B.2-112 of the Act.

Section 26.16 No Time Shares. Time shares, as defined in the Act, are not permitted in this CIC.

Section 26.17 Setback. No RV or deck shall be less than ten (10) feet from any boundary line of a unit. No storage shed or any other non-permanent improvement shall be less than ten (10) feet from any boundary line of the unit. All structures, including decks, patios, or recreational vehicles, are subject to a 100 foot setback from the ordinary high water mark of Gull Lake in accordance with the Beltrami County shoreline management ordinance. A patio may be located within the 100-foot setback as long as said patio does not exceed three (3) feet in height.

Section 26.18 Decks. Decks shall be allowed to be constructed which will be attached to the RV located upon each unit. The deck shall be no wider than ten (10) feet from any point on the RV.

Section 26.19 Age of RV. Any RV brought into the CIC must be less than twenty (20) years old. Once the RV is twenty-five (25) years old or more, it must be removed from the CIC.

Section 26.20 Maximum Occupancy of Unit. General occupancy rules for overnight use of any Unit at any one time is four adults, plus minor children of the Owner or immediate

family. The Board may adapt regulations regarding changes to this restriction or fees for occupancy over these limits.

Section 26.21 Self Contained. All RVs on any unit more than two (2) days must be self contained.

Section 26.22 Lighting. Each Unit may have one yard light that does not exceed 100 watts.

Section 26.23 Buffer. A 10-foot vegetative buffer must at all times be preserved around the perimeter of wetland areas. In cases where portions of the Unit boundaries lie within the 10-foot vegetative buffer, the buffer area must be preserved as long as it does not extend beyond the 10-foot sideyard setback into the interior of the Unit.

Section 26.24 Pervious Nature of Units. To ensure that the Units maintain a pervious nature, there shall be no concrete, gravel, and/or bituminous surfaces allowed to serve as pads for the vehicles located on the Units. Pervious materials such as grass, pea rock, or other permeable materials that do not restrict or retard the entry of water into the soil will be permitted.

Section 26.25 Sheet Skirting. Use of sheet skirting or other forms of skirting that would restrict or divert water runoff from infiltrating the areas lying below a recreational vehicle is not permitted. The use of lattice or other materials that would allow for the flow and infiltration of water runoff below a recreational vehicle is allowed.

Section 26.26 Decks and Patios. All decks and patios must be constructed so that they allow water and/or rainfall to pass through the surface creating the deck and/or patio platform. Solid sheet decking is not allowed. Additionally, decks and patios must be elevated by post or blocks to allow water to infiltrate below the surface of the structures.

Section 26.27 Fertilizers. Use of Phosphorous Fertilizers is prohibited, with exception to new growth establishment.

Section 26.28 Animal Solid Waste. Owner shall be responsible for picking up and disposal of animal solid waste. Proper disposal may be done with other domestic waste or by flushing the material into the septic system along with human waste.

Section 26.29 Swimming Pool Maintenance. The swimming pool must be drained annually for cleaning and maintenance. Chlorinated water may not be discharged directly into the storm water system or directly into any body of water. Disposal may be handled by directly discharging the water into the environment. Before doing so, water must be tested and comply with the following applicable criteria:

- (a) Pool water must sit for at least two days after the last addition of chlorine or until the level of chlorine is below 0.1 mg/l.

- (b) The Ph must be between 6.5 and 8.5 before it is discharged.
- (c) Algaecides, such as copper or silver, can interrupt normal algae and plant growth in streams where it should not be used.
- (d) Total suspended solids must be below 60 mg/l. Suspended particles should be allowed to settle, and the water should not appear murky. Settled materials shall not be discharged to the environment.
- (e) Discharges to the environment should be directed over a vegetative surface so that some level of filtration can occur.
- (f) Discharges shall not be allowed to create any erosion.
- (g) Draining of the pool shall not coincide with any significant rain event.

ARTICLE XXVII

FIRST MORTGAGEES

Section 27.1 Precedence. The provisions of this Article take precedence over any other conflicting provisions of this Declaration.

Section 27.2 Notice of Action. Any mortgagee and any insurer or guarantor of a first mortgage on a unit who has advised the Association in writing of its name and address and the address of the unit covered by such mortgage, and in said writing has requested the Association to notify it of any of the following, will be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the project or any unit on which there is a first mortgage held, insured, or guaranteed by such mortgage holder or insurer or guarantor, as applicable;
- (b) Any delinquency in the payment of assessments or charges owed, or any other default in the performance of any obligation under this Declaration, the By-Laws, or Articles of Incorporation by an Owner of a unit subject to a first mortgage held, insured, or guaranteed by such holder or insurer or guarantor, which remains uncured for a period of 60 days;
- (c) Any lapse, cancellation or material modification of any insurance policy maintained by the Association;
- (d) Any proposed action which would require the consent of a specified percentage of mortgage holders as specified in this Declaration.

Section 27.3 Examination of Books and Records. First mortgagees and holders, insurers and guarantors of first mortgages shall have the right to examine the books and records of the Association, as set forth more fully in the By-Laws.

Section 27.4 Designation of Representative. Any holder of a first mortgage on a unit may designate a representative to attend meetings of members.

ARTICLE XXVIII

AMENDMENTS

The Act specifies the requirements for amending the Declaration. In addition to those requirements:

Section 28.1 Declarant's Joinder. In addition to the other requirements for amendment of this Declaration, the written joinder and consent of the Declarant shall be required for any amendment of either this Declaration which shall abolish, diminish or restrict Declarant's rights hereunder to complete Improvements, to maintain sales and management offices and models or to maintain signs and advertise the project, until the last conveyance of a unit to an Owner other than Declarant. This right may be waived in whole or part at any time by recording a written waiver executed and acknowledged by Declarant.

Section 28.2 Mortgagee Approval. In addition to all other requirements set forth herein and except when a higher percentage is required by law or this Declaration, amendments to this Declaration of a material nature must be agreed to by Unit Owners who represent at least 67% of the total allocated votes in the Association and by mortgage holders who have submitted a written request to the Association to be notified of any proposed action requiring consent of mortgage holders, who represent at least 51% of the votes ascribed to units that are subject to mortgages held by such mortgage holders. A change to any of the provisions governing the following matters would be considered material:

- (a) voting rights;
- (b) increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
- (c) reductions in reserves for maintenance, repair, and replacement of Common Elements;
- (d) responsibility for maintenance and repairs;
- (e) reallocation of interests in the general or Limited Common Elements, or rights to their use;
- (f) redefinition of any unit boundaries;
- (g) convertibility of units into Common Elements or vice versa;

- (h) expansion or contraction of the project, or the addition, annexation, or withdrawal or property to or from the project;
- (i) hazard or fidelity insurance requirements;
- (j) imposition of any restrictions on the leasing of units;
- (k) imposition of any restrictions on a Unit Owner's right to sell or transfer his or her unit;
- (l) a decision by the Association to establish self management if professional management had been required previously by the holder of a first mortgage on a unit;
- (m) restoration or repair of the project (after damage or partial condemnation) in a manner other than that specified in this Declaration; or
- (n) any provisions that expressly benefit mortgage holders, insurers, or guarantors.

ARTICLE XIX

WORKING CAPITAL FUND

Section 29.1 Establishment. The Declarant shall establish a working capital fund intended to meet unforeseen expenditures or to purchase any additional equipment or services. At the time control of the Association is transferred to Owners, the working capital fund shall be transferred to the Association for deposit in a segregated fund. The fund shall be initially established at an amount equal to two months' assessments on all units. The amount attributable to a particular unit will be collected and deposited in the fund at the time of closing of Declarant's sale of the unit, provided that when control of the project is transferred to Owners, the amounts attributable to all units which have not then closed shall be collected. A contribution from each unit to the working capital fund is measured by two months' assessments, but amounts paid into the fund are not advance payments of regular assessments.

Section 29.2 Declarant's Accounting. The Declarant may not use working capital contributions to defray any of its expenses, reserve contributions or construction costs or to make up any budget deficits while it is in control of the Association. When unsold units are sold, however, the Declarant may reimburse itself from proceeds collected at a unit closing for money it paid the Association for that unit's share of the working capital fund.

ARTICLE XXX

MISCELLANEOUS

Section 30.1 Right To Cure. In the event that any Owner violates any covenant or fails to perform any condition contained in this Declaration, the Association may perform the act, remove the defect or correct the violation upon thirty (30) days written notice to the Owner. If

the Association so acts on behalf of an Owner, the Association may levy an assessment against the Owner's unit for the cost of the performance or correction.

Section 30.2 Association Acts through Board. The power and authority of the Association as provided in the applicable Statutes, this Declaration, the By-Laws, and Rules and Regulations shall vest in a Board of Directors elected by the Owners in accordance with the By-Laws of the Association. The Association shall act through the Board of Directors and the officers elected by the Board. All references in this Declaration and the By-Laws to action by the Association shall mean the Board of Directors acting for the Association, unless action by the vote of the Owners, members or mortgagees is expressly required by this Declaration or the By-Laws.

Section 30.3 Notices. Any notice required to be sent to any member of the Association (or Owner) under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such member appearing on the records of the Association at the time of such mailing. In the case of multiple Owners of a unit, notice to any one of such Owners shall be deemed notice to all.

Section 30.4 Captions. The headings in this Declaration are intended for convenience only and shall not be given any substantive effect.

Section 30.5 Construction. In the event of any apparent conflict between this Declaration and the By-Laws, the provisions of this Declaration shall govern. The use of pronouns such as "his," "he," and "him" are for literary purposes and mean whenever applicable the plural and female forms.

Section 30.6 Ordinance Compliance. This Common Interest Community has been established in compliance with all conditions required under all applicable ordinances.

Section 30.7 Rights of Action. In addition to all other remedies and rights set forth in the Act, the Association, and any one or more aggrieved Unit Owners, shall have the right of action against Unit Owners who fail to comply with the provisions of this Declaration and the By-Laws or the decisions of the Association, and one or more Unit Owners shall also have such rights of action against the Association for any failure to comply with or enforce such provision.

Section 30.8 Declarant's Rights and Obligations. The Declarant shall enjoy the same rights and shall be deemed to have assumed the same duties with respect to its unsold units in the CIC as any other Owner, except as modified or extended by the reduced assessment program and the special Declarant rights described in this Declaration.

ARTICLE XXXI GENERAL PROVISIONS

Section 31.1 Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration.

Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 31.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 31.3 Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall automatically extend for successive periods of ten (10) years. This Declaration may be amended during the first thirty-year period by an instrument signed by not less than eighty percent (80%) of the Unit Owners and thereafter by an instrument signed by not less than two-thirds of the Unit Owners. Any amendment must be recorded.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set his hand this _____ day of February, 2007.

DDMS PROPERTIES, LLC

By _____ Steven Fangmeier, Its President

By _____ Duane Hoversten, Its Secretary/Treasurer

STATE OF MINNESOTA

ss.

COUNTY OF BELTRAMI

The foregoing was acknowledged before me this _____ day of February, 2007, by Steven Fangmeier and Duane Hoversten, the President and Secretary/Treasurer of DDMS Properties, LLC, a limited liability company under the laws of Minnesota, Declarant, on behalf of the company.

Notary Public

THIS INSTRUMENT DRAFTED BY:
DRAHOS YOUNG & KIESON, P.A.
Attorneys at Law
1005 Paul Bunyan Drive N.W.
Bemidji, MN 56601
(218) 444-1750

F:\D Y K\SAVEDOC\INC\SummerHaven-DEC.wpd (ajp)

SUMMER HAVEN ON GULL**EXHIBIT A
REAL ESTATE DESCRIPTION**

Government Lots Two (2) and Three (3), and that part of the Southwest Quarter of the Northwest Quarter (SW¹/₄ of NW¹/₄) lying easterly of the easterly right-of-way line of C.S.A.H. No. 23, as described in microfilm no. 233139, all in Section Thirty-four (34), Township One Hundred Forty-nine (149), Range Thirty-two (32).

SUMMER HAVEN ON GULL

EXHIBIT B

PLAT

SUMMER HAVEN ON GULL

EXHIBIT C

TABLE OF VOTES

<u>Unit Number</u>	<u>Vote in the Affairs of Association</u>
1	1
2	1
3	1
4	1
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