

**COMMON INTEREST COMMUNITY NUMBER 46**

**PLANNED COMMUNITY**

**///ASSOCIATION NAME///**

**DECLARATION**

This Declaration is made in the County of Cook, State of Minnesota, on this \_\_\_\_ day of \_\_\_\_\_, 2025, by **///DECLARANT NAME///** (the “**Declarant**”), pursuant to the provisions of Minnesota Statutes Chapter 515B, known as the Minnesota Common Interest Ownership Act (the “**Act**”), for the purpose of creating **///ASSOCIATION NAME///** as a planned community under the Act.

**RECITALS**

**WHEREAS**, the Declarant is the owner of certain real property located in Cook County, Minnesota legally described in Exhibit A, attached hereto, and Declarant desires to submit said real property and all improvements thereon (collectively the “**Property**”) to the Act as a planned community, and

***WHEREAS**, Declarant also owns the real property legally described in Exhibit D attached hereto (the “**Additional Real Estate**”), and has the option to add all or a part of the Additional Real Estate to the Property, and*

**WHEREAS**, the Declarant desires to establish on the Property, and any Additional Real Estate added thereto, a plan for a permanent residential community to be owned, occupied and operated for the use, health, safety and welfare of its resident Owners and Occupants, and for the purpose of preserving the value, the structural quality, and the original architectural character of the Property, and

**WHEREAS**, the Property is not subject to an ordinance referred to in Section 515B.1-106 of the Act, governing conversions to common interest ownership; is not subject to a master association as defined in the Act; and

**THEREFORE**, the Declarant makes this Declaration and submits the Property to the Act as a planned community under the name “**///ASSOCIATION NAME///**” initially consisting of the Units referred to in Section 2, declaring that this Declaration shall constitute covenants to run with the Property and that the Property, and all Additional Real Estate added thereto, shall be owned, used, occupied and conveyed subject to the covenants, restrictions, easements, charges and liens set forth herein, all of which shall be binding upon all Persons owning or acquiring any right, title or interest therein, and their heirs, personal representatives, successors and assigns.

## **SECTION 1 DEFINITIONS**

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

**1.1 “Additional Real Estate”** shall mean the real property legally described in Exhibit D attached hereto, including all improvements located thereon now or in the future, and all easements and rights appurtenant thereto, which property Declarant has the right to add to the common interest community.

**1.2 “Assessments”** shall mean and refer to all assessments levied by the Association pursuant to Section 6 of this Declaration, including annual assessments, special assessments and limited allocation assessments.

**1.3 “Association”** shall mean the ///ASSOCIATION NAME/// Owners’ Association, a nonprofit corporation which has been created pursuant to Chapter 317A of the laws of the state of Minnesota and Section 515B.3-101 of the Act, whose members consist of all Owners.

**1.4 “Board”** shall mean the Board of Directors of the Association as provided for in the Bylaws.

**1.5 “Bylaws”** shall mean the Bylaws governing the operation of the Association, as amended from time to time.

**1.6 “Common Elements”** shall mean all parts of the Property except the Units and the Additional Real Estate, and including all improvements thereon, owned by the Association for the common benefit of the Owners and Occupants. The Common Elements are legally described in Exhibit C attached hereto and include ///ASSOCIATION NAME/// Drive, a public way dedicated to the public by the Plat. The Common elements also include the appurtenant easements benefitting the Property described in Section 2.6 below.

**1.7 “Common Expenses”** shall mean and include all expenditures made or liabilities incurred by or on behalf of the Association and incident to its operation, including Assessments and items otherwise identified as Common Expenses in the Declaration or Bylaws.

**1.8 “Dwelling”** shall mean a part of a building consisting of one or more floors, designed and intended for occupancy as a single family residence, and located within the boundaries of a Unit. The Dwelling includes any garage attached thereto or otherwise included within the boundaries of the Unit in which the Dwelling is located.

**1.9 “Eligible Mortgagee”** shall mean any Person owning a mortgage on any Unit, which mortgage is first in priority upon foreclosure to all other mortgages that encumber such Unit, and which has requested the Association, in writing, to notify it regarding any proposed action which requires approval by a specified percentage of Eligible Mortgagees.

**1.10 “Governing Documents”** shall mean this Declaration, and the Articles of Incorporation and Bylaws of the Association, as amended from time to time, all of which shall govern the use and operation of the Property.

**1.11 “Member”** shall mean all persons who are members of the Association by virtue of being Owners as defined in this Declaration. The words “Owner” and “Member” may be used interchangeably in the Governing Documents.

**1.12 “Occupant”** shall mean any person or persons, other than an Owner, in possession of or residing in a Unit.

**1.13 “Owner”** shall mean a Person who owns a Unit, but excluding contract for deed vendors, mortgagees and other secured parties within the meaning of Section 515B.1-103(31) of the Act. The term “Owner” includes, without limitation, contract for deed vendees and holders of a life estate.

**1.14 “Person”** shall mean a natural individual, corporation, limited liability company, partnership, trustee, or other legal entity capable of holding title to real property.

**1.15 “Plat”** shall mean the recorded Plat depicting the Property pursuant to the requirements of Chapter 505 of the Minnesota statutes and Section 515B.2-1101(d) of the Act, including any amended or supplemental Plat recorded from time to time in accordance with the Act.

**1.16 “Property”** shall mean all of the real property submitted to this Declaration, now or in the future, including the Units and Common Elements and all structures and improvements located thereon. The Property is legally described in Exhibit A attached hereto.

**1.17 “Rules and Regulations”** shall mean the Rules and Regulations of the Association as may be approved from time to time pursuant to Section 5.6.

**1.18 “Unit” or “Lot”** means any platted lot subject to this Declaration upon which a Dwelling is located or intended to be located as shown on the Plat, including all improvements thereon, but excluding the Common Elements.

Any terms used in the Governing Documents, and defined in the Act and not in this Section, shall have the meaning set forth in the Act.

## **SECTION 2 DESCRIPTION OF UNITS, BOUNDARIES AND RELATED EASEMENTS**

**2.1 Units.** There are ///Number/// (##) Units, subject to the right of the Declarant to add additional Units in accordance with Section 18. Each Unit constitutes a separate parcel of real estate. No additional Units may be created by the subdivision or conversion of Units pursuant to Section 515B.2-112 of the Act. The Unit identifiers and locations of the Units are as shown on the Plat.

**2.2 Unit Boundaries.** The boundaries of each Unit shall be the boundary lines of the platted lot upon which a Dwelling is located or intended to be located as shown on the Plat. The Units shall have no upper or lower boundaries. Subject to this Section 2 and to Section 3 of this Declaration, all spaces, walls, and other improvements within the boundaries of a Unit are part of the Unit.

**2.3 Access Easements.** *Each Unit shall be the beneficiary of a perpetual and appurtenant easement for access to a public street, road, highway, or access easement appurtenant to the Property, on or across the ///ASSOCIATION NAME/// Drive as shown on the Plat, subject to any restrictions set forth in the Declaration.*

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

**2.5 Public Utility and Maintenance Easements.** *Public municipal utility easements running in favor of the City of Grand Marais, benefitting and burdening the Property are as shown on the Plat. 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.*

**2.6 Appurtenant Easements.** *The Property is benefitted by // insert if applicable*

**2.7 Drainage and Utility Easements.** *Each Unit shall be subject to and shall be the beneficiary of appurtenant drainage and utility easements as shown on the Plat and hereby declared and conveyed from the Declarant to the Association.*

**2.8 Recorded Easements.** The Property shall be or is subject to such other easements as may exist of record or otherwise shown on the Plat.

**2.9 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, and not in conflict with, the easements created by this Declaration.

**2.10 Impairment Prohibited.** No person shall materially restrict or impair any easement benefitting or burdening the Property, subject to the Declaration and the right of the Association to establish and enforce reasonable Rules and Regulations governing the use of the Property.

### SECTION 3 COMMON ELEMENTS AND OTHER PROPERTY

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

- a. All of the Property not included within the Lots constitutes Common Elements. The Common Elements include those parts of the Property designated as Common Elements

on the Plat or in the Act. The Common Elements are owned by the Association for the benefit of the Owners and Occupants and are hereby granted and conveyed to the Association without the need for any other act by or instrument from Declarant.

- b. The Common Elements shall be subject to certain easements as described in Sections 2, 12 and 16; and the right of the Association to establish reasonable Rules and Regulations governing the use of the Property.
- c. Except as otherwise expressly provided in the Governing Documents, all maintenance, repair, replacement, management and operation of the Common Elements shall be the responsibility of the Association.
- d. Common Expenses for the maintenance, repair, replacement, management and operation of the Common Elements shall be assessed and collected from the Owners in accordance with Section 6.

**3.2 Annexation of Other Property.** Other real property may be annexed to the common interest community as Units or Common Elements, or any combination thereof, and subjected to this Declaration, with the approval of (i) Owners (other than Declarant) of Units to which are allocated at least sixty-seven percent (67%) of the votes in the Association and (ii) Declarant so long as Declarant owns any unsold Unit for sale.

**3.3 Utility Maintenance Outside the Property.** Maintenance expenses for the easements lying outside the Property, including the easements identified at Sections 2.6 and 2.9 above, shall be designated as a Common Expense obligation and allocated among the Owners in accordance with Section 4.2 of this Declaration.

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

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

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

**4.2 Voting.** Voting rights are allocated equally among the Units and each Unit is allocated one vote. The schedule of the voting rights of each Unit is set forth on Exhibit B.

**4.3 Common Expenses.** Common Expense obligations are allocated equally among the Units; except that special allocations of Common Expenses shall be permitted as provided in Section 6.4.

The schedule of the fractional share of the common expense obligation allocation of each Unit is set forth on Exhibit B.

**4.4 Appurtenant Rights and Obligations.** The ownership of a Unit shall include the voting rights and Common Expense obligations described in this Section 4. Said rights, obligations and interests, and the title to the Units, shall not be separated or conveyed separately, and any conveyance, encumbrance, judicial sale or other transfer of any allocated interest in a Unit, separate from the title to the Unit shall be void. The allocation of the rights, obligations and interests described in this Section may not be changed, except in accordance with the Governing Documents and the Act.

**4.5 Authority to Vote.** The Owner, or some natural person designated to act as proxy on behalf of the Owner, and who must be an Owner, may cast the vote allocated to such Unit at meetings of the Association. However, if there are multiple Owners of a Unit, only the Owner or other Person designated pursuant to the provisions of the Bylaws may cast such vote.

## **SECTION 5 ADMINISTRATION**

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

**5.1 General.** The operation and administration of the Association and the Property shall be governed by the Governing Documents, the Rules and Regulations, and the Act. The Association shall, subject to the rights of the Owners set forth in the Governing Documents and the Act, be responsible for the operation, management and control of the Property. The Association shall have all powers described in the Governing Documents, the Act and the statute under which the Association is incorporated. All power and authority of the Association shall be vested in the Board, unless action or approval by the individual Owners is specifically required by the Governing Documents or the Act. All references to the Association shall mean the Association acting through the Board unless specifically stated to the contrary.

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

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

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

**5.5 Management.** The Board may delegate to a manager or managing agent the management duties imposed upon the Association's officers and directors by the Governing Documents and the Act. However, such delegation shall not relieve the officers and directors of the ultimate responsibility for the performance of their duties as prescribed by the Governing Documents and by law.

**5.6 Rules and Regulations.** The Board shall have exclusive authority to approve and implement such reasonable Rules and Regulations as it deems necessary from time to time for the purpose of operating and administering the affairs of the Association and regulating the use of the Property; provided that the Rules and Regulations shall not be inconsistent with the Governing Documents or the Act. The inclusion in other parts of the Governing Documents of authority to approve Rules and Regulations shall be deemed to be in furtherance, and not in limitation, of the authority granted by this Section. New or amended Rules and Regulations shall be effective only after 30 days' notice thereof has been given to the Owners.

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

## **SECTION 6 ASSESSMENTS**

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

**6.2 Annual Assessments.** Annual Assessments shall be established and levied by the Board, subject to the limitations set forth hereafter. Each annual Assessment shall cover all of the anticipated Common Expenses of the Association for that year. Annual Assessments shall be payable in equal monthly or quarterly installments, as established by the Board. Annual Assessments shall provide, among other things, for an adequate reserve fund for the maintenance, repair and replacement of the Common Elements and those parts of the Units for which the Association is responsible.

**6.3 Special Assessments.** In addition to annual Assessments, and subject to the limitations set forth hereafter, the Board may levy in any Assessment year a special Assessment against all Units in accordance with the allocation formula set forth in Section 4.3. Special assessments shall be used for the purpose of defraying in whole or in part the cost of any unforeseen or unbudgeted Common Expense.

**6.4 Limited Allocation Assessments.** In addition to annual Assessments and special Assessments, the Board may, at its discretion, levy and allocate limited allocation Assessments among only certain Units in accordance with the following requirements and procedures:

- a. Any Assessment or portion thereof benefitting fewer than all of the Units may be assessed exclusively against the Unit or Units benefitted.
- b. Reasonable attorneys' fees and other costs incurred by the Association in connection with (i) the collection of Assessments and (ii) the enforcement of the Governing Documents, the Act, or the Rules and Regulations, against an Owner or Occupant or their guests, may be assessed against the Owner's Unit.
- c. Late charges, fines and interest may be assessed as provided in Section 13.
- d. Assessments levied under Section 515B.3-116(a) of the Act to pay a judgment against the Association may be levied only against the Units existing at the time the judgment was entered, in proportion to their Common Expense liabilities.
- g. If any damage to the Common Elements or another Unit is caused by the act or omission of any Owner or Occupant, or their guests, the Association may assess the costs of repairing the damage exclusively against the Owner's Unit to the extent not covered by insurance.
- h. If any Assessment or installment of an Assessment becomes more than thirty (30) days past due, then the Association may, upon ten (10) days written notice to the Owner, declare the entire amount of the Assessment immediately due and payable in full.
- i. If Common Expense liabilities are reallocated for any purpose authorized by the Act, Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

Assessments levied under Sections 6.4 a. through g. may, at the Board's discretion, be assessed as a part of, or in addition to, the Assessments levied under Section 6.

**6.5 Liability of Owners for Assessments.** The obligation of an Owner to pay Assessments shall commence at the later of (i) the time at which the Owner acquires title to the Unit, or (ii) the due date of the first Assessment levied by the Board. The Owner at the time an Assessment is payable with respect to the Unit shall be personally liable for the share of the Common Expenses assessed against such Unit. Such liability shall be joint and several where there are multiple Owners of the Unit. The liability is absolute and unconditional. No Owner is exempt from liability for payment of Assessments by right of set-off, by waiver of use or enjoyment of any part of the Property, by absence from or abandonment of the Unit, by the waiver of any other rights, or by reason of any claim against the Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents or the Act. The Association may invoke the charges, sanctions and remedies set forth in Section 13, in addition to any remedies provided elsewhere in



the Governing Documents, the Rules and Regulations, or by law, for the purpose of enforcing its rights hereunder.

**6.6 Declarant's Assessment Program.** The Declarant elects not to establish an alternate common expense plan under Minn. Stat. §515B.3-1151(a)(2).

**6.7 Assessment Lien.** The Association has a lien on a Unit for any Assessment levied against that Unit from the time the Assessment becomes due. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment thereof becomes due. Fees, charges, late charges, fines and interest charges imposed by the Association pursuant to Section 515B.3- 102(a)(10), (11) and (12) of the Act are liens, and are enforceable as Assessments, under this Section 6. Recording of the Declaration constitutes record notice and perfection of any lien under this Section 6, and no further recordation of any notice of or claim for the lien is required. The release of the lien shall not release the Owner from personal liability unless agreed to in writing by the Association.

**6.8 Foreclosure of Lien; Remedies.** A lien for Assessments may be foreclosed against a Unit under the laws of the state of Minnesota (i) by action, or (ii) by advertisement in a like manner as a mortgage containing a power of sale. The Association, or its authorized representative, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey any Unit so acquired. The Owner and any other Person claiming an interest in the Unit, by the acceptance or assertion of any interest in the Unit, grants to the Association a power of sale and full authority to accomplish the foreclosure. The Association shall, in addition to its other remedies, have the right to pursue any other remedy at law or in equity against the Owner who fails to pay any Assessment or charge against the Unit.

**6.9 Lien Priority; Foreclosure.** A lien for Assessments is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before the Declaration, (ii) any first mortgage encumbering the fee simple interest in the Unit, and (iii) liens for real estate taxes and other governmental Assessments or charges against the Unit. Notwithstanding the foregoing, if (1) a first mortgage on a Unit is foreclosed, (2) the first mortgage was recorded on or after the date of recording of this Declaration, and (3) no Owner redeems during the Owner's period of redemption provided by Minnesota Statutes Chapters 580, 581, or 582, then the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the Unit subject to unpaid Assessments for Common Expenses levied pursuant to Sections 515B.3-115(a), (e)(l) to (3), (f), and (i) of the Act which became due, without acceleration, during the six (6) months immediately preceding the first day following the end of the Owner's period of redemption.

**6.10 Voluntary Conveyances, Statement of Assessments.** In a voluntary conveyance of a Unit, the buyer shall not be personally liable for any unpaid Assessments and other charges made by the Association against the seller or the seller's Unit prior to the time of conveyance to the buyer, unless expressly assumed by the buyer. However, the lien of such Assessments shall remain against the Unit until released. Any seller or buyer shall be entitled to a statement, in recordable form, from the Association setting forth the amount of the unpaid Assessments against the Unit,

including all Assessments payable in the Association's current fiscal year, which statement shall be binding on the Association, seller and buyer.

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

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

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

**7.2 Subdivision Prohibited.** Except as permitted by the Act, no Unit nor any part of the Common Elements may be subdivided or partitioned without the prior written approval of all Owners and all secured parties holding first mortgages on the Units.

**7.3 Residential Use.** The Units shall be used by Owners and Occupants and their guests exclusively as private, single family, duplex, or multi-family residential dwellings, and not for transient, short term vacation rental, hotel, commercial, business or other non-residential purposes, except as provided in Section 7.4.

**7.4 Business Use Restricted.** No business, trade, occupation or profession of any kind, whether carried on for profit or otherwise, shall be conducted, maintained or permitted in any Unit or the Common Elements except that an Owner or Occupant residing in a Unit may maintain a home occupation in such Unit and handle matters relating to such home occupation by telecommunications or correspondence therefrom; provided, that such uses are incidental to the residential use; do not involve physical alteration of the Unit visible from the exterior; and are in compliance with all governmental laws, ordinances and regulations.

**7.5 Leasing.** Leasing of Units and the Dwellings thereon 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, short term vacation rental, or hotel purposes; (ii) any lease must be for a minimum term of three (3) months (subject to waiver by the Board for emergencies or highly extenuating circumstances); (iii) that no Unit may be subleased; (iv) that all leases shall be in writing; and (v) that all leases shall provide that they are subject to the Governing Documents, the Rules and Regulations and the Act, and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. The Association may impose such reasonable Rules and Regulations as may be necessary to implement procedures for the leasing of Units, consistent with this Section.

**7.6 Vacation Rental Prohibited.** Short term vacation rental, or any rental of a Unit or portion thereof, for rental terms of less than three (3) months is prohibited.

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

**7.8 Compliance with Law.** No use shall be made of the Property which would violate any then-existing municipal codes or ordinances, or state or federal laws, nor shall any act or use be permitted which could cause waste to the Property, cause a material increase in insurance rates on the Property, or otherwise cause any unusual liability, health or safety risk, or expense, for the Association or any Owner or Occupant.

**7.9 Rubbish, Trash and Garbage.** No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, rubbish, brush, cuttings and other waste shall be kept only in covered sanitary containers shielded from view from the Common Elements, other Units and any other portions of the Property. All garbage and trash shall be regularly removed from the Property and shall not be allowed to accumulate thereon. Usual trash and garbage shall be kept in sanitary containers in a neat and clean condition and shall be regularly collected in accordance with existing county or municipal codes and ordinances.

**7.10 Outdoor Storage.** There shall be no outdoor storage on the Property, with the exception of operational automobiles, watercraft, trailer or pieces of recreational equipment, including but not limited to camping trailers, other trailers, motor homes, snowmobiles, all-terrain vehicles, golf cars, lawn mowers, motorcycles, motorbikes, boats and canoes.

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

**7.13 Setbacks.** All Units shall be subject to a prohibition on construction of improvements within 8.0 feet of the side lot boundaries of that Unit, and 25.0 feet of the front and rear yard boundaries of that Unit, subject to the right of the Association to modify setbacks.

## **SECTION 8 IMPROVEMENTS**

**8.1 Improvements.** Except as permitted under applicable state or federal law or as otherwise provided in this Declaration, no alterations, improvements, repairs or replacements of any type, temporary or permanent, structural, aesthetic or otherwise (collectively referred to herein as "Improvements"), including but not limited to, any structure, building, addition, deck, patio, fence, wall, enclosure, window, exterior door, antenna or other type of sending or receiving apparatus, sign, flag, display, decoration, color change, shrubbery, material topographical or landscaping change, shall be made, or caused or allowed to be made, by any Owner or Occupant, or their

invitees, in any part of the Common Elements or in any part of the Unit which affects the Common Elements or another Unit, or which is visible from the exterior of the Unit, without the prior written authorization of the Board, and compliance with the requirements of this Section.

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

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

## **SECTION 9 MAINTENANCE**

**9.1 Maintenance by Association.** The Association shall provide for all maintenance, repair or replacement (collectively referred to as “Maintenance”) of the Common Elements and all improvements thereon. The Association shall also provide for all plowing and snow removal of the roadways within the Common Elements

**9.2 Maintenance by Owner.** All maintenance of the Dwellings and Units shall be the sole responsibility and expense of the Owners thereof. However, the Owners and Occupants shall have a duty to promptly notify the Association of defects in or damage to those parts of the Property which the Association is obligated to maintain. The Association may require that any exterior maintenance to be performed by the Owner be accomplished pursuant to specific uniform criteria established by the Association. The Association may also undertake any exterior maintenance which the responsible Owner fails to or improperly performs, and charge and assess the Unit for the cost thereof. Such cost shall be a personal obligation of the Owner and a lien against the Owner’s Unit.

**9.3 Damage Caused by Owner.** Notwithstanding any provision to the contrary in this Section, if, in the judgment of the Association, the need for maintenance of any part of the Property is caused by the willful or negligent act or omission of an Owner or Occupant, or their guests, or by a condition in a Unit which the Owner or Occupant has willfully or negligently allowed to exist, the Association may cause such damage or condition to be repaired or corrected (and enter the yard area of upon any Unit to do so), and the cost thereof may be charged and assessed against the Unit

of the Owner responsible for the damage. Such cost shall be a personal obligation of the Owner and a lien against the Owner's Unit.

## **SECTION 10 INSURANCE**

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

- a. Comprehensive public liability insurance covering the use, operation and maintenance of the Common Elements, with minimum limits of one million dollars (\$1,000,000) per occurrence, against claims for death, bodily injury and property damage, and such other risks as are customarily covered by such policies for projects similar in construction, location and use to the Property. The policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or Occupant because of negligent acts of the Association or other Owners or Occupants. The policy shall include such additional endorsements, coverages and limits with respect to such hazards as may be required by the regulations of the FHA, VA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit.
- b. Fidelity insurance coverage against dishonest acts on the part of directors, officers, managers, trustees, employees or other persons responsible for handling funds belonging to or administered by the Association if deemed to be advisable by the Board or required by the regulations of the FHA or FNMA as a precondition to the purchase or financing of a mortgage on a Unit. The fidelity bond or insurance shall name the Association as the named insured and shall, if required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing of a mortgage on a Unit, be written in an amount equal to the greater of (i) the estimated maximum of Association funds, including reserves, in the custody of the Association or management agent at any given time while the bond is in force, or (ii) a sum equal to three (3) months aggregate Assessments on all Units plus reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.
- c. Such other insurance as the Board may determine from time to time to be in the best interests of the Association and the Owners.

**10.2 Premiums; Improvements; Deductibles.** All insurance premiums shall be assessed and paid as annual Assessments, and allocated among the Units as determined by the Board consistent with the Governing Documents. The 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 a Unit or Units, (i) pay the deductible amount as a Common Expense, (ii) assess the deductible amount against the Units affected in any reasonable manner, or (iii) require the Owners of the Units affected to pay the deductible amount directly.

**10.3 Loss Payee; Insurance Trustee.** All insurance coverage maintained by the Association shall be written in the name of, and the proceeds thereof shall be payable to, the Association (or a qualified insurance trustee selected by it) as trustee for the benefit of the Owners and secured parties, including Eligible Mortgagees, which suffer loss. The Association, or any insurance trustee selected by it, shall have exclusive authority to negotiate, settle and collect upon any claims or losses under any insurance policy maintained by the Association.

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

- a. Each Owner and secured party is an insured Person under the policy with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Association.
- b. The insurer waives its right to subrogation under the policy against any Owner or member of the Owner's household and against the Association and members of the Board.
- c. No act or omission by any Owner or secured party, unless acting within the scope of authority on behalf of the Association, shall void the policy or be a condition to recovery under the policy.
- d. If at the time of a loss under the policy there is other insurance in the name of an Owner covering the same property covered by the policy, the Association's policy is primary insurance.

**10.5 Cancellation; Notice of Loss.** All policies of property insurance and comprehensive liability insurance maintained by the Association shall provide that the policies shall not be cancelled or substantially modified, for any reason, without at least thirty (30) days' prior written notice to the Association, to the FHA, VA or FNMA (if applicable), all of the insureds and all Eligible Mortgagees.

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

**10.7 Effect of Acts Not Within Association's Control.** All policies of insurance maintained by the Association shall provide that the coverage shall not be voided by or conditioned upon (i) any act or omission of an Owner or Eligible Mortgagee, unless acting within the scope of authority on behalf of the Association, or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

**10.8 Owner's Personal Insurance.** Each Owner may obtain additional personal insurance coverage at his or her own expense covering fire and other casualty to the Unit, personal property

and personal liability. All insurance policies maintained by Owners shall provide that they are without contribution as against the insurance purchased by the Association.

## **SECTION 11 RECONSTRUCTION, CONDEMNATION AND EMINENT DOMAIN**

**11.1 Reconstruction.** The obligations and procedures for the repair, reconstruction or disposition of the Property following damage or destruction thereof shall be governed by the Act. Any repair or reconstruction shall be substantially in accordance with the plans and specifications of the Property as initially constructed and subsequently improved. Notice of substantial damage or destruction shall be given as provided in Section 15.10.

**11.2 Condemnation and Eminent Domain.** In the event of a taking of any part of the Property by condemnation or eminent domain, the provisions of the Act shall govern; provided, (i) that notice shall be given as provided in Section 15.10, (ii) that the Association shall be the attorney-in-fact to represent the Owners in any related proceedings, negotiations, settlements or agreements and (iii) that any awards or proceeds shall be payable to the Association for the benefit of the Owners and the mortgagees of their Units. Eligible Mortgagees shall be entitled to priority for condemnation awards in accordance with the priorities established by the Act and the Governing Documents, as their interests may appear.

**11.3 Notice.** The Association shall give written notice of any condemnation proceedings or substantial destruction of the Property to the Eligible Mortgagees entitled to notice under Section 15.10.

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

## **SECTION 12 EASEMENTS**

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

**12.2 Project Sign Easements.** Declarant shall have the right to erect and maintain monument signs identifying the common interest community and related decorative improvements on the Common Elements. Those parts of the Property on which monument signs or related decorative improvements are located shall be subject to appurtenant, exclusive easements in favor of the Association for the continuing use, maintenance, repair and replacement of said signs and improvements. In exercising its rights under said easements, the Association shall take reasonable care to avoid damaging the improvements to the Property.

**12.3 Continuation and Scope of Easements.** Notwithstanding anything in this Declaration to the contrary, in no event shall an Owner or Occupant be denied reasonable access to his or her Unit or the right to utility services thereto. The easements set forth in this Section 12 shall supplement and not limit any easements described elsewhere in this Declaration or recorded, and shall include reasonable access to the easement areas through the Units and the Common Elements for purposes of maintenance, repair, replacement and reconstruction. All easement rights shall include a right of reasonable access to maintain, repair and replace the utility lines and related equipment.

**12.4 Roadway Access Easements.** ///ASSOCIATION NAME/// Drive shall be subject to an appurtenant easement for roadway access in favor of the Owners and Occupants of any part of the Additional Real Estate which is not added to the Property.

**12.5 Reservation of Easements.** Declarant hereby reserves the right, in the event that the Additional Real Estate is not added to the common interest community (whether due to lapse of time or otherwise) to exercise the following rights and create the following perpetual, nonexclusive easements appurtenant to the Additional Real Estate over, upon, and under portions of the Common Elements, all in accordance with the following authority and conditions:

- a. To connect any improvements constructed on the Additional Real Estate which is not added to the Property (hereinafter referred to as the “**Excluded Parcel**”) to any natural gas, storm sewer, sanitary sewer, electrical, telephone or other utility line, cable TV line, pipe, wire or other facilities which are or may be located within or serve the Property, including the right to connect any improvements constructed on the Excluded Parcel into, and the right to utilize, such lines, pipes, wires or other facilities.
- b. To obtain natural gas, water, electricity, telephone, cable TV and other utility services from, and to discharge storm and sanitary waste into, all such lines, pipes, wires or other common utility facilities which are or may be located within or serve the Property.
- c. To install, repair, maintain, operate and replace all such natural gas, storm sewer, water sanitary sewer, electrical, telephone or other utility lines, pipes, wires or other facilities which are or may be located within or serve the Property.
- d. To do such other acts as are necessary in order to connect into and/or to utilize such utility facilities to serve any improvement constructed or to be constructed on the Excluded Parcel; provided, however, that the owner or owners of the Excluded Parcel benefited by any



reserved easements shall be responsible for the restoration of any damage done in connection with or use of such easements.

- e. Non-exclusive easements for the purposes of: (i) affording the Excluded Parcel and any improvements constructed or to be constructed thereon with access to and from a public road; (ii) installing, repairing, maintaining, surfacing, resurfacing, grading, replacing and extending any private drives, streets, roads, or rights of way over which the easements hereby reserved are or may be located; and (iii) performing such other acts as are necessary in order to afford any improvement constructed or to be constructed on the Excluded Parcel with access to a public road; provided, that Declarant, its successors or assigns, as the owner or owners of the Excluded Parcel, shall be responsible for the restoration of any land, driveways, streets, roads or rights-of-way which are disturbed in connection with the use of such easements, and provided further, that the location of the easements hereby reserved shall, to the extent practicable, be limited to the location of the private driveways, streets, roads, easement areas and rights-of-way existing within the Common Elements at the time or times that said easements are created.

**12.6 Documentation of Easements.** The reserved easements may be created from time to time as required to provide the necessary access and utility services to the Property and any Excluded Parcel. As evidence of the creation of one or more of the reserved easements, the then owner or owners of the Excluded Parcel for whose benefit the easement is created shall execute and cause to be filed for record a Declaration of Easement or comparable instrument setting forth a description of the easements created and a description of the Excluded Parcel benefited by the easements. No consent or joinder of the Association or any Owner or any mortgagee or other secured party in any Unit or the Excluded Parcel, nor any release therefrom, shall be required to create the easements. In addition, the owner of the Excluded Parcel or of a platted lot within the Excluded Parcel may at any time waive or terminate its easement rights by the execution and recording of an instrument specifying such waiver or termination, and without the necessity of any consent or joinder by the Association, any Owner, or any mortgagee or other secured party in any Unit or any part of the Excluded Parcel. Such waiver or termination shall not affect any obligations incurred by any owner of the Excluded Parcel arising out of its acts or omissions prior to such determination.

**12.7 Maintenance of Easements.** In the event that the reserved easements are opened, the Unit Owners and the owner of the Excluded Parcel benefited by such easements shall, so long as the easements are in existence, share all expenses of maintaining, repairing and replacing the private drives, lanes, streets, roads, or rights-of-way, and the utility lines, pipes, wires and other facilities, which may be commonly used pursuant to the easements in the following manner. A portion of any such expenses equal to a fraction, the numerator of which is the number of Units, and the denominator of which is the total number of Units plus the total number of dwellings, lots or other individual parcels within the Excluded Parcel benefited by such easements, shall be paid by the Unit Owners. The balance of any such expenses shall be paid by the owner or owners of the Excluded Parcel benefited by such easements. Any portion of the expenses to be paid by the Owners shall be paid by the Association as a Common Expense. Notwithstanding the foregoing, if the Excluded Parcel benefited by such easements is used for other than residential purposes, then such costs and expenses shall be apportioned to, and shared by the Owners and the owner or owners

of the Excluded Parcel on a fair and equitable basis as agreed upon by the Association and such other owner or owners.

### **SECTION 13 COMPLIANCE AND REMEDIES**

Each Owner and Occupant, and any other Person owning or acquiring any interest in the Property, shall be governed by and comply with the provisions of the Act, the Governing Documents, the Rules and Regulations, and such amendments thereto as may be made from time to time, and the decisions of the Association. A failure to comply shall entitle the Association to the relief set forth in this Section, in addition to the rights and remedies authorized elsewhere by the Governing Documents and the Act.

**13.1 Entitlement to Relief.** The Association may commence legal action to recover sums due, for damages, for injunctive relief or to foreclose a lien owned by it, or any combination thereof, or an action for any other relief authorized by the Governing Documents or available at law or in equity. Legal relief may be sought by the Association against any Owner to enforce compliance with the Governing Documents, the Rules and Regulations, the Act or the decisions of the Association. Owners may also enforce compliance with the Governing Documents, the Rules and Regulations, or the Act by a private legal action, independent of this Section. No Owner may withhold any Assessments payable to the Association, or take or omit other action in violation of the Governing Documents, the Rules and Regulations or the Act, as a measure to enforce such Owner's position, or for any other reason.

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

- a. Commence legal action for damages or equitable relief in any court of competent jurisdiction.
- b. Impose late charges of fifteen dollars (\$15), or such other amount as may from time to time be determined by the Association, for each past due Assessment or installment thereof, and impose interest at the highest rate permitted by law accruing beginning on the first day of the month after the Assessment or installment was due.
- c. In the event of default of more than thirty (30) days in the payment of any Assessment or installment thereof, all remaining installments of Assessments assessed against the Unit owned by the defaulting Owner may be accelerated and shall then be payable in full if all delinquent Assessments or installments thereof, together with all attorneys' fees, costs of collection and late charges, are not paid in full prior to the effective date of the acceleration. Not less than ten (10) days advance written notice of the effective date of the acceleration shall be given to the defaulting Owner.

- d. Impose reasonable fines, penalties or charges for each violation of the Act, the Governing Documents or the Rules and Regulations of the Association.
- e. Suspend the rights of any Owner to vote when the Assessments due with respect to the Owner's Unit are past due. Such suspensions shall be limited to periods of default by such Owners and Occupants in their obligations under the Governing Documents, and for up to thirty (30) days thereafter, for each violation.
- f. Restore any portions of the Common Elements damaged or altered, or allowed to be damaged or altered, by any Owner or Occupant or their guests in violation of the Governing Documents, and to assess the cost of such restoration against the responsible Owners and their Units.
- g. Enter any Unit in which, or as to which, a violation or breach of the Governing Documents exists which is likely to materially affect the health or safety of the other Owners or Occupants, or their guests, or the safety or soundness of any Dwelling, Garage, or other part of the Property or the property of the Owners or Occupants, and to summarily abate and remove, at the expense of the offending Owner or Occupant, any structure, thing or condition in the Unit which is causing the violation; provided, that any improvements which are a part of a Dwelling or garage may be altered or demolished only pursuant to a court order or with the agreement of the Owner.
- h. Foreclose any lien arising under the provisions of the Governing Documents or under law, in the manner provided by the Act.

**13.3 Rights to Hearing.** Before the imposition of any of the remedies authorized by Section 13.2 d., e., f. or g., the Board shall, upon written request of the offender, grant to the offender an opportunity for a fair and equitable hearing as contemplated by the Act. The offender shall be given notice of the nature of the violation and the right to a hearing, and at least ten (10) days within which to request a hearing. The hearing shall be scheduled by the Board and held within thirty (30) days of receipt of the hearing request by the Board, and with at least ten (10) days prior written notice to the offender. If the offender fails to timely request a hearing or to appear at the hearing, then the right to a hearing shall be deemed waived and the Board may take such action as it deems appropriate. The decision of the Board and the rules for the conduct of hearings established by the Board shall be final and binding on all parties. The Board's decision shall be delivered in writing to the offender within ten (10) days following the hearing, if not delivered to the offender at the hearing. The Board may delegate the foregoing hearing authority to a committee of three or more disinterested Owners, who shall conduct the hearing and make a recommendation to the Board regarding the disposition of the matter.

**13.4 Lien for Charges, Penalties, Etc.** Any Assessments, charges, fines, expenses, penalties or interest imposed under this Section shall be a lien against the Unit of the Owner or Occupant against whom the same are imposed and the personal obligation of such Owner in the same manner and with the same priority and effect as Assessments under Section 6. The lien shall attach as of the date of imposition of the remedy, but shall not be final as to violations for which a hearing is held until the Board makes a written decision at or following the hearing. All remedies shall be

cumulative, and the exercise of, or failure to exercise, any remedy shall not be deemed a waiver of the Association's right to pursue any others.

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

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

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

## **SECTION 14 AMENDMENTS**

**14.1 Approval Requirements.** Except for amendments by Declarant pursuant to Section 515B.2-112(c) of the Act, this Declaration may be amended only by the approval of:

- a. Owners of Units to which are allocated at least sixty-seven percent (67%) of the total votes in the Association,
- b. The percentage of Eligible Mortgagees (based upon one vote per Unit financed) required by Section 15 as to matters prescribed by said Section, and
- c. Declarant as to certain amendments as provided in Section 16.5.

**14.2 Procedures.** Approval of the Owners may be obtained in writing or at a meeting of the Association duly held in accordance with the Bylaws. Consents of Eligible Mortgagees and Declarant shall be in writing. Any amendment shall be subject to any greater requirements imposed by the Act. The amendment shall be effective when recorded as provided in the Act. An affidavit

by the Secretary of the Association as to the outcome of the vote, or the execution of the foregoing agreements or consents, shall be adequate evidence thereof for all purposes, including without limitation, the recording of the amendment.

## **SECTION 15**

### **RIGHTS OF ELIGIBLE MORTGAGEES**

Notwithstanding anything to the contrary in the Governing Documents, and subject to any greater requirements of the Act or other laws, Eligible Mortgagees shall have the following rights and protections:

**15.1 Consent to Certain Amendments.** The written consent of Eligible Mortgagees representing at least fifty-one percent (51%) of the Units that are subject to first mortgages held by Eligible Mortgagees (based upon one (1) vote per Unit financed) shall be required for any amendment to the Governing Documents which causes any change in provisions including the following: (i) voting rights; (ii) increases in Assessments over twenty-five percent (25%), Assessment liens, or priority of Assessment liens; (iii) reductions in reserves for maintenance, repair and replacement of Common Elements; (iv) responsibility for maintenance and repairs; (v) reallocation of interests in the Common Elements, or rights to their use; (vi) redefinition of any Unit boundaries; (vii) convertibility of Units into Common Elements or vice versa; (viii) expansion or contraction of the Property or the addition, annexation or withdrawal of property to or from the Property; (ix) hazard or fidelity insurance requirements; (x) imposition of restrictions on the leasing of Units; (xi) imposition of any restrictions on an Owner's right to sell or transfer his or her Unit; (xii) restoration or repair of the Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Governing Documents; (xiii) any action to terminate the legal status of the common interest community after substantial destruction or condemnation occurs; or (ix) any provisions that expressly benefit Eligible Mortgagees, or insurers or guarantors of mortgages. Notwithstanding the foregoing, approval of a proposed amendment shall be assumed when an Eligible Mortgagee fails to submit a response to any written proposal of an amendment within 30 days after it receives proper notice of the proposal, provided that notice was delivered by certified mail, return receipt requested.

**15.2 Consent to Certain Actions.** The written consent of Eligible Mortgagees representing at least sixty-six percent (66%) of the Units that are subject to first mortgages held by Eligible Mortgagees (based upon (1) one vote per Unit financed) shall be required to (i) abandon or terminate the common interest community; (ii) change the allocations of voting rights, Common Expense obligations or interests in the Common Elements; (iii) partition or subdivide a Unit except as permitted by statute; (iv) abandon, partition, subdivide, encumber or sell the Common Elements; or (v) use hazard insurance proceeds for other than the repair, replacement or reconstruction of the Property, except as otherwise provided by law.

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

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

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

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

**15.7 Priority for Condemnation Awards.** No provision of the Governing Documents shall give an Owner, or any other party, priority over any rights of the Eligible Mortgagee of the Unit pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Unit and/or the Common Elements. The Association shall give written notice to all Eligible Mortgagees of any condemnation or eminent domain proceeding affecting the Property promptly upon receipt of notice from the condemning authority.

**15.8 Requirements for Management Agreements.** The term of any agreement for professional management of the Property may not exceed two (2) years. Any such agreement must provide at a minimum for termination without penalty or termination fee by either party, (i) with cause upon thirty (30) days prior written notice, and (ii) without cause upon ninety (90) days prior written notice.

**15.9 Access to Books and Records/Audit.** Eligible Mortgagees shall have the right to examine the books and records of the Association upon reasonable notice during normal business hours, and to receive free of charge, upon written request, copies of the Association's annual reports and other financial statements. Financial statements, including those which are audited, shall be available within one hundred twenty (120) days of the end of the Association's fiscal year. FNMA, or any institutional guarantor or insurer of a mortgage loan against a Unit, may require that, at its own expense, an audit of the Association's financial statements be made for the preceding year, in which case the Association shall cooperate in having an audit made and a copy given to the requesting party.

**15.10 Notice Requirements.** Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor of a mortgage on a Unit, and the Unit number or address, the holder, insurer or guarantor shall be entitled to timely written notice of:

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

- b. a sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of a Unit on which it holds a mortgage;
- c. a lapse, cancellation or material modification of any insurance policy maintained by the Association; and
- d. a proposed action which requires the consent of a specified percentage of Eligible Mortgagees.

## **SECTION 16 SPECIAL DECLARANT RIGHTS**

Declarant hereby reserves exclusive and unconditional authority to exercise the following special declarant rights within the meaning of Section 515B.1-103 (33b) of the Act for as long as it owns a Unit, or for such shorter period as may be specifically indicated:

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

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

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

**16.4 Control of Association.** To control the operation and administration of the Association, including without limitation the power to appoint and remove the members of the Board pursuant to Section 515B.3-103 of the Act, until the earliest of: (i) voluntary surrender of control by Declarant, (ii) an Association meeting which shall be held within sixty (60) days after conveyance to Owners other than a Declarant of seventy-five percent (75%) of the total number of Units authorized to be included in the Property or (iii) the date five (5) years following the date of the first conveyance of a Unit to an Owner other than a Declarant. Notwithstanding the foregoing, the Owners other than a Declarant shall have the right to nominate and elect not less than thirty-three and one-third percent (33 1/3%) of the directors at a meeting of the Owners which shall be held within sixty (60) days following the conveyance by Declarant of fifty percent (50%) of the total number of Units authorized to be included in the Property.

**16.5 Consent to Certain Amendments.** Until such time as Declarant no longer owns any Unit for initial sale, Declarant's written consent shall be required for any amendment to the Governing Documents or Rules and Regulations which directly or indirectly affects Declarant's rights under the Governing Documents or the Act.

**16.6 Add Additional Real Estate.** *To add Additional Real Estate to the Property as described in Section 18.*

## **SECTION 17 MISCELLANEOUS**

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

**17.2 Construction.** Where applicable, the masculine gender of any word used herein shall mean the feminine or neutral gender, or vice versa, and the singular of any word used herein shall mean the plural, or vice versa. References to the Act, or any section thereof, shall be deemed to include any statutes amending or replacing the Act, and the comparable sections thereof.

**17.3 Tender of Claims.** In the event that any incident occurs which could reasonably give rise to a demand by the Association against Declarant for indemnification pursuant to the Act, the Association shall promptly tender the defense of the action to its insurance carrier, and give Declarant written notice of such tender, the specific nature of the action and an opportunity to defend against the action.

**17.4 Notices.** Unless specifically provided otherwise in the Governing Documents or the Act, all notices required to be given by or to the Association, the Board, the Association officers or the Owners or Occupants shall be in writing and shall be effective upon hand delivery or mailing if properly addressed with postage prepaid and deposited in the United States mail.

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

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

## **SECTION 18 RIGHTS TO ADD ADDITIONAL REAL ESTATE**

*Declarant hereby expressly reserves the right to add the Additional Real Estate to the Property, by unilateral action under Section 515B.2-111 of the Act, subject to the following conditions:*

**18.1 Time Limit.** *The right of Declarant to add the Additional Real Estate to the common interest community shall terminate ten (10) years after the date of recording of this Declaration or upon earlier express written withdrawal of such right by Declarant or a successor Declarant, unless extended by a vote of the Owners pursuant to Section 515B.2-106(2) of the Act. There are no other limitations on Declarant's rights hereunder, except as may be imposed by law.*



**18.2 Description.** *The Additional Real Estate is described in Exhibit D. The Additional Real Estate may be added to the Property in parcels consisting of one (1) or more platted lots, or portions thereof.*

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

**18.4 Maximum Units.** *The maximum number of Units that may be created within the Additional Real Estate described as such on the date of this Declaration is Six (6).*

**18.5 Architectural Compatibility.** *Any Units, Dwellings and other structures, erected upon the Additional Real Estate shall be compatible with the other Units, Dwellings and other structures which are part of the Property in terms of architectural style, quality of construction, principal materials employed in construction and size; subject (i) to any changes required by governmental authorities or lenders and (ii) to any interior and exterior changes made by Declarant to meet changes in the market.*

**18.6 Application of Covenants.** *All covenants and restrictions contained in this Declaration affecting the use, occupancy and alienation of Units shall apply to all Units created on the Additional Real Estate.*

**18.7 Effect on Excluded Property.** *The statements made in Subsections 18.1 through 18.6 shall not apply to any Additional Real Estate which is not added to the Property.*

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

**///ASSOCIATION NAME///**

**UNCHAINED, LLC**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

[illegible]

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2025 by \_\_\_\_\_ as \_\_\_\_\_ of ///ASSOCIATION NAME///, on behalf of the company.

(stamp)

Notary Public

THIS INSTRUMENT DRAFTED BY:  
**SMITH LAW, PLLC**  
1710 W. Hwy. 61, P.O. Box 66  
Grand Marais, MN 55604  
(218) 387-9800 / TS/md

## **EXHIBIT A**

### **Legal Description of the Property**

All real property platted as ///ASSOCIATION NAME/// according to the recorded plat thereof on file and of record in the office of the Cook County, Minnesota, Recorder.

## EXHIBIT B

(Schedule of Units voting rights and common expense obligation allocation)

## Allocation of voting rights and of the common expense obligations

[illegible]

## **EXHIBIT C**

### **Legal Description of the Common Elements**

///insert/// and ///ASSOCIATION NAME/// Drive, ///ASSOCIATION NAME/// as shown on to the recorded plat thereof on file and of record in the office of the Cook County, Minnesota, Recorder.

***EXHIBIT D***

*Legal Description of the Additional Real Estate*

*///insert///, ///ASSOCIATION NAME/// as shown on to the recorded plat thereof on file and of record in the office of the Cook County, Minnesota, Recorder.*