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**DECLARATION
FOR
THE ROYAL GOLF VILLAS**

(Updated 9/13/18)

This Declaration is made effective as of April 23, 2019, by **TJB Homes, Inc.**, a Minnesota Corporation (“**Declarant**”), the Person developing the property located in the City of Lake Elmo, Washington County, Minnesota, legally described on attached ***Exhibit A*** (the “**Property**”). Declarant has reserved the right, but not the obligation, to add to the Property the land legally described on attached ***Exhibit B***, the improvements thereon, if any, and the rights relating thereto (collectively the “**Additional Real Estate**”).

Declarant hereby submits the Property and any Additional Real Estate that may hereafter be added to the Property in conformance with this Declaration, to the terms of this Declaration for the purpose of creating ***The Royal Golf Villas Homeowners Association*** (the “**Community**”), a permanent residential community consisting of detached, single family homes (each, a “**Home**,” and collectively, the “**Homes**”), to be owned, occupied and operated for the benefit of its resident Owners and Occupants, in a manner that preserves the value of the Homes in the Property, and provides for the use and operation, and the maintenance, repair and replacement (collectively, “**Maintenance**”) of applicable elements from time to time existing within or serving the Property.

This Declaration shall constitute covenants running with the Property, and the Property shall be owned, used, occupied and conveyed only subject to the covenants, restrictions, easements, charges and liens set forth or provided for herein, all of which shall be binding upon all Persons (as hereafter defined) owning or acquiring any right, title or interest therein, and their heirs, personal representatives, successors and assigns.

**Article 1
General Matters**

1.1 **Recitals.** The Recitals shall be considered to be a substantive part of this Declaration.

1.2 **Property Subject to this Declaration.** The Property subject to this Declaration is legally described on attached ***Exhibit A***.

1.3 **Flexible Community; Additional Real Estate; Maximum Number of Additional Lots.** Declarant hereby reserves the right, but not the obligation, to add to the Property any or all of the Additional Real Estate legally described in attached *Exhibit B* pursuant to *Article 12*.

1.4 **Association.** The association of owners of the platted lots in the Property (each a “**Lot**,” and collectively, the “**Lots**”) is *The Royal Golf Villas Homeowners Association* (the “**Association**”). The Association has been incorporated under Chapter 317A of the Minnesota Statutes, known as the Minnesota Nonprofit Corporation Act (the “**Act**”). The Association shall have all powers described in this Declaration, the Association’s articles of incorporation (“**Articles**”), bylaws (“**Bylaws**”) and the Act. The Declaration, Articles and Bylaws will sometimes be referred to collectively in this Declaration as the “**Governing Documents**.”

1.5 **Boundaries of the Lots.** The boundaries of each Lot are shown on the Plat of Royal Golf Club at Lake Elmo 2nd Addition. If any portions of the Additional Real Estate are added to the Property, the boundaries of the Lots added to the Property from the Additional Real Estate shall be as shown on the applicable plat creating those Lots.

1.6 **Allocation to Each Unit of Allocated Interests.** Each Lot is allocated an equal share of the voting power of the Association and a fractional share of the Common Expenses of the Association as set forth on attached *Section 3.1*.

1.7 **Community is Not Subject to MCIOA.** The Property is exempt from the provisions of the Minnesota Common Interest Ownership Act (“**MCIOA**”) pursuant to Section 515B.1-102(e)(2) thereof. The Community is not subject to a lease which, if terminated, would affect the existence of the Community or this Declaration.

1.8 **Master Association.** The Property is subject to the provisions of a document entitled Master Declaration for Royal Golf Club Master Community, dated September 28, 2017, which was filed of record in the office of the Washington County Recorder as Document Number 4129866, as may be amended from time to time (the “**Master Declaration**”). A master association known as Royal Golf Club Master Association (the “**Master Association**”) is responsible for administering the master common elements described in the Master Declaration (the “**Master Common Elements**”) and administering and enforcing the provisions of the Master Declaration and such rules as may be adopted by the Master Association (the “**Master Rules**”). The members of the Master Association are the Lots within the Property from time to time subject to the Master Declaration.

1.9 **Master Assessments.** The Master Association has the right to levy assessments (“**Master Assessments**”) to cover the costs incurred by the Master Association in caring for the Master Common Elements and carrying out the other purposes and powers of the Master Association (collectively, the “**Master Common Expenses**”).

1.10 **Restrictions on Use, Occupancy and Alienation of Lots.** The Lots in the Property are restricted solely to residential uses. There are restrictions regarding leasing of Dwellings, and those restrictions are described in *Section 7.3* of this Declaration. Subject to the foregoing, there

are no restrictions on the free alienability of Lots and Dwellings, the sale price of a Lot and Dwelling, or on the amount that may be received by an Owner on the sale, condemnation or casualty loss to a Lot or Dwelling.

1.11 **Subdivision of Units Owned by Declarant.** Declarant has not reserved any Special Declarant Right to subdivide any of the Lots Declarant owns.

1.12 **Time Shares.** *Section 7.12* of this Declaration prohibits the time share form of ownership.

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

a. **“Additional Real Estate”** shall mean the real property legally described in attached *Exhibit B*, including all improvements located thereon, now or in the future, and all easements and rights appurtenant thereto. Declarant has reserved the right to add some or all of the Additional Real Estate to the Property, thereby making it subject to this Declaration, during the ten (10) year period commencing on the date this Declaration is recorded.

b. **“Assessments”** shall mean and refers to all assessments levied by the Association pursuant to *Section 5* of this Declaration, including annual assessments, special assessments and limited allocation assessments.

c. **“Association”** shall mean *The Royal Golf Villas Homeowners Association*, as described in *Section 1.4*.

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

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

f. **“City”** shall mean the City of Lake Elmo.

g. **“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 without limitation allocations to reserves and those items specifically identified as Common Expenses in this Declaration or the Bylaws, including the portion of Master Common Expenses allocated to the Property pursuant to the Master Declaration.

h. **“Director”** shall mean one of the members of the Board of Directors of the Association.

i. **“Dwelling”** shall mean a building or part thereof consisting of one or more floors, designed and intended for occupancy as a single-family residence, and located within the

boundaries of a Lot. A Dwelling includes any garage attached thereto or otherwise included within the boundaries of the Lot in which the Dwelling is located.

j. “**Eligible Mortgagee**” shall mean any Person owning a mortgage on any Lot, which mortgage is first in priority upon foreclosure to all other mortgages that encumber such Lot, 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.

k. “**Governing Documents**” shall mean this Declaration, 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.

l. “**Master Assessments**” shall mean the assessments levied by the Master Association to cover the costs incurred by the Master Association in caring for the Master Common Elements and carrying out the other purposes and powers of the Master Association as described in *Section 1.9* above.

m. “**Master Association**” shall mean Royal Golf Club Master Association, as described in *Section 1.8*.

n. “**Master Declaration**” shall have the meaning set forth in *Section 1.8* above.

o. “**Master Community**” shall mean those Lots and Outlots subject to the Master Declaration.

p. “**Master Governing Documents**” shall mean the Master Declaration, the Master Bylaws and the Master Articles of Incorporation.

q. “**Master Rules**” shall mean the Rules and Regulations adopted from time to time by the Master Association, including architectural guidelines.

r. “**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.

s. “**Occupant**” shall mean any person or persons, other than an Owner, in possession of, or residing in, a Dwelling located within the boundaries of a Lot within the Property.

t. “**Owner**” shall mean a Person who owns a Lot, but excluding contract for deed vendors, mortgagees and other secured parties. The term “Owner” includes, without limitation, contract for deed vendees and holders of a life estate.

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

v. “**Property**” shall mean all of the real property submitted to this Declaration, now or in the future, and all structures and improvements located thereon, including the Dwellings. The Property as of the date of this Declaration is legally described in attached *Exhibit A*. Declarant has reserved the Special Declarant Right to add all, some, or none of the Additional Real Estate to the Property in accordance with this Declaration.

w. “**Rules and Regulations**” shall mean the Rules and Regulations of the Association as approved from time to time pursuant to *Section 4.3*.

Article 2 Easements

2.1 **Areas for which the Association is Responsible for Performing Maintenance.** An easement shall exist over the portions of the Property on which the drainage pond is located for use, maintenance, repair and replacement of the same. In addition, the Association and/or the Master Association shall have the right to enter onto the Property in order to maintain, repair and replace the drainage pond or the Master Common Elements, including but not limited to clustered mailboxes.

Article 3 Association Membership; Rights and Obligations

Membership in the Association, and the allocation to each Lot 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:

3.1 **Membership and Allocation of Votes.** Membership in the Association is mandatory and each Owner of a Lot within the Property is a Member of the Association by virtue of ownership of that Lot. If the Property at any time includes any platted outlot (each, an “**Outlot**”) that Outlot shall not be considered to be a Lot for purposes of determining membership or allocating votes. Membership in the Association shall automatically be transferred with the conveyance of the Owner’s interest in a Lot, and shall terminate when the Owner’s ownership of a Lot terminates. Each Lot shall have an equal interest in the Association, and each Lot is allocated one vote. No voting power is allocated to any Outlot. Rights, obligations and interests of Members shall not be separated or transferred separately from membership in the Association.

When a Lot is owned by more than one Person, all Owners shall be considered to be Members of the Association. Multiple ownership of a Lot shall not, however, increase the voting power allocated to a Lot, nor authorize the division of the single vote allocated to that Lot. The Owner, or some natural person designated to act as proxy on behalf of the Owner, and who need not be an Owner, may cast the vote allocated to such Lot at meetings of the Members of the Association. If there are multiple Owners of a Lot, only the Owner or other Person registered with the Association pursuant to the provisions of the Bylaws may cast the vote allocated to that Lot or appoint a proxy to cast the vote allocated to that Lot. The voting rights of Owners are more fully described in the Bylaws.

3.2 **Allocation of Common Expenses.** Each Lot shall bear an equal share of the Common Expenses of the Association. No portion of the Common Expenses shall be allocated to any Outlot. Common Expenses that benefit fewer than all of the Lots, or that benefit some Lots materially more than others, may, at the discretion of the Association's Board, be allocated to the benefited Lots in the manner provided in *Section 5.1 (a)*, or on any other equitable basis. The right is reserved for the Owners in portions of the Property to elect to incur additional Common Expenses by having the Association perform additional services for their Lots, or otherwise, so long as: (i) the Board gives its consent; and (ii) the Owners making such election bear the additional Common Expenses in question.

Article 4 Administration

The administration and operation of the Association and the Property shall be governed by the following provisions:

4.1 **General.** The Governing Documents and the rules and regulations adopted from time to time by the Association (the "**Rules and Regulations**") control the operation and administration of the Association and the Property. The Association's chief functions are: (i) enforcing the provisions of the Governing Documents and Rules and Regulations; (ii) administering the drainage pond; (iii) adopting a budget and levying Assessments to cover its costs of operation and Maintenance; and (iv) performing the maintenance, repair and replacement (collectively, "**Maintenance**") for which the Association is responsible under this Declaration. The power and authority of the Association is vested in the Board except to the extent action or approval by the individual Members of the Association is specifically required by the Governing Documents. All references to the Association shall mean the Association acting through the Board, unless specifically stated as the Association acting through the Members. Because the Property is a part of the Development described in the Master Declaration, the Property is subject to the Master Declaration and the Master Rules.

4.2 **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) performing Maintenance of the drainage pond; and (iii) preserving the value and character of the Property. All agreements and determinations made by the Association in accordance with the Governing Documents and Rules and Regulations shall be binding upon all Owners and Occupants, and their guests and representatives, as well as all parties holding a security interest on a Lot.

4.3 **Rules and Regulations.** The Board may adopt and enforce reasonable Rules and Regulations for the purpose of administering the affairs of the Association and regulating the safe and harmonious use of the Property and compliance with this Declaration. The Rules and Regulations shall not, however, be inconsistent with the Community's Governing Documents or the Master Rules and shall become effective only after reasonable notice has been given to the Owners. It shall be the responsibility of each Owner to provide those Persons occupying an Owner's Lot with copies of such Rules and Regulations when received from the Association.

4.4 **Association Assets.** 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.

Article 5

Assessments for Common Expenses

5.1 **General.** Assessments for Common Expenses (which may include general assessments and special assessments) shall be determined and assessed against the Lots by the Board, in its reasonable discretion, subject to the limitations set forth in *Sections 5.2* and *5.3*. Outlots shall not be subject to assessment. Each Lot shall be assessed on an equal basis, except as follows:

- a. Reasonable attorneys' fees and other costs incurred by the Association in connection with: (i) the collection of Assessments; or (ii) the enforcement of the Governing Documents, Rules and Regulations, Master Governing Documents or Master Rules against an Owner or Occupant or their guests or contractors, may be assessed against the non-complying Owner's Lot.
- b. Fees, charges, late charges, fines, interest, and attorneys' fees may be assessed as reasonably determined by the Board.
- c. Assessments levied to pay a judgment against the Association will be levied on an equal basis only against the Lots within the Property that existed at the time the judgment was entered.
- d. If any damage to the drainage pond is caused by an Owner or Occupant, or their guests or contractors, that is not covered by the Association's insurance, the Association may, in the Board's discretion, assess the costs of repairing the damage, together with any "deductible" provided for under the Association's insurance, exclusively against the responsible Owner's Lot.
- e. If any installment of an assessment against a Lot becomes more than thirty (30) days past due the Association may, upon ten (10) days written notice to the Owner, declare the entire amount of the assessment against a Lot immediately due and payable in full.
- f. Assessments under *Subsections 5.1.a-d* shall not be considered special assessments as described in *Section 5.3*.

5.2. **Annual Assessments.** Annual Assessments levied by the Board shall cover all of the anticipated Common Expenses of the Association for that year. Annual Assessments shall provide, among other things, for contributions to a separate reserve fund sufficient to cover the cost of long-term Maintenance of the drainage pond. The amount of any reserve represents the Board's good-faith estimate of the future cost of repairing or replacing those components of the drainage pond, and neither Declarant nor the Board shall be liable if the reserve is determined, with the passing of time, to be too high or too low. By accepting a deed to a Lot, the Owner of a Lot shall be deemed to have waived any claims related to the inaccuracy of that prediction.

5.3 **Special Assessments.** The Board may levy special assessments for the purpose of defraying in whole or in part: (i) the cost of any unforeseen or unbudgeted Common Expense; (ii) general or specific reserves for Maintenance; and (iii) the Maintenance of any part of the drainage pond, and any facilities or other property related thereto. Notwithstanding the foregoing, any special assessment shall be subject to approval by the vote of a majority of those Owners voting, in person or by proxy, at a meeting called for that purpose. Written notice of the meeting shall be sent to all Owners not less than twenty-one (21) days nor more than thirty (30) days in advance of the meeting. The Board also shall have the authority to levy a special assessment against a Lot for costs incurred by the Association to bring a Lot or the improvements thereon into compliance with this Declaration or because of the failure of an Owner or Occupant of a Lot to abide by the provisions of the Governing Documents, or the Rules and Regulations.

5.4 **Working Capital Fund.** When Declarant conveys a Lot, the Person to whom that Lot is conveyed shall pay the Association a one-time contribution in an amount equal to the greater of: (i) two monthly installments of Common Expenses against the Lot; or (ii) Three Hundred Twenty Dollars (\$320.00). This one-time contribution shall be used by the Association as a working capital account to purchase additional equipment or services, or to meet unforeseen expenditures. This one-time payment is in addition to the regular monthly installments of Assessments levied by the Association.

5.5 **Liability of Owners for Assessments.** The obligation of an Owner to pay Assessments for the Owner's Lot shall commence on the date that a Home on that Lot is completed, as evidenced by a certificate of occupancy issued by the City of Lake Elmo. Prior to the issuance of a certificate of occupancy for a Lot, that Lot shall not be subject to assessment. The Owner of a Lot at the time an assessment is payable shall be personally liable for the Assessments against his or her Lot. This liability shall be joint and several where there are multiple Owners of a Lot. The liability is absolute and unconditional and no Owner is exempt from liability for payment of his or her share of Common Expenses by right of set-off, by waiver of use or enjoyment of any part of the Property, by absence from or abandonment of the Lot, by the waiver of any other rights, or by reason of any claim against the Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents. The Association may invoke the charges, sanctions and remedies set forth elsewhere in the Governing Documents, for the purpose of enforcing its rights hereunder.

5.6 **Assessment Lien.** The Association has a lien on each Lot for the entire unpaid portion of any assessment levied against that Lot. If an assessment is payable in installments, the full amount of the assessment shall be considered to be a lien from the time the first installment of the assessment becomes due. Fees, charges, late charges, fines and interest charges imposed by the Association pursuant to this Declaration shall also be considered to be liens and are enforceable as assessments under this Article. Recording of this Declaration constitutes record notice and perfection of any lien under this Article in the same manner as would be applicable if the Property were subject to Section 515B.3-116 of MCIOA, and no further recordation of any notice of or claim for the lien is required.

5.7 **Foreclosure of Lien; Remedies.** A lien for unpaid Assessments may be foreclosed against a Lot: (i) by action; or (ii) by advertisement as a lien under a mortgage containing a power of sale, all pursuant to the laws of the State of Minnesota, as though the Community were subject to the applicable provisions of MCIOA, and for this purpose, the provisions of Section 515B.3-116 of MCIOA shall be considered to be incorporated in this Declaration by reference. The Association, or its authorized representative, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and/or convey any Lot so acquired. The Owner and any other Person claiming an interest in the Lot, by the acceptance or assertion of any interest in the Lot, grants to the Association a power of sale and full authority to accomplish the foreclosure. The Association shall, in addition, 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 Lot.

5.8 **Lien Priority; Foreclosure.** A lien under this Article is prior to all other liens and encumbrances on a Lot except: (i) liens and encumbrances recorded before this Declaration; (ii) any first mortgage on the Lot; and (iii) liens for real estate taxes and other governmental assessments or charges against the Lot. Notwithstanding the foregoing, if a first mortgage on a Lot is foreclosed, and no Owner redeems during the Owner's period of redemption provided for under Chapters 580, 581, or 582 of the Minnesota Statutes, as applicable, then the holder of the sheriff's certificate of sale from the foreclosure shall take title to the Lot subject to unpaid Assessments for Common Expenses levied pursuant to this Declaration 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.

5.9 **Voluntary Conveyances; Statement of Assessments.** In a voluntary conveyance of a Lot, 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 Lot 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 Lot until satisfied. Any seller or buyer shall be entitled to a statement from the Association, in recordable form, setting forth the then-current amount of the unpaid Assessments against the Lot, including all Assessments payable in the Association's current fiscal year. That statement shall be binding on the Association, the seller and the buyer.

Article 6 Architectural Control

6.1 **Architectural Control by the Master Association.** The Master Association has adopted Architectural Guidelines that apply to the Community and the other communities in the Master Community. At such time that architectural review authority is relinquished by the Master Association, the right and authority of the Association to perform architectural and design review shall become operational. To that end, the Association has adopted written Design Guidelines and procedures for review of exterior alterations and improvements performed within the Property.

6.2 **Design Guidelines.** The Association has adopted written Design Guidelines. The purpose of the Design Guidelines include: (i) promotion and preservation of architectural harmony; (ii) prevention of construction of Homes and other improvements on portions of Lots that are not designed to bear heavy, structural loads without additional soil correction (such as the rear areas of the Lots whose soils are not designed to be load bearing; (iii) preservation of values; (iv) prevention of conflicts among Owners relating to the exterior appearance, size, placement, and design of Homes and other improvements; and (v) achieving a high level of function and aesthetics for the Homes and other improvements constructed from time to time within the Property. The Design Guidelines and the purpose of the Design Guidelines relate to (A) the initial construction of Homes and other improvements and alterations of the same; (B) landscaping requirements for each Lot; and (C) alterations of the exterior of the Dwelling and/or other exterior improvements on a Lot. The Design Guidelines may be revised, from time to time, by affirmative vote of a majority of the Board's Directors, subject, however, to the rights reserved by Declarant in *Section 11.5* of this Declaration. A copy of the Design Guidelines shall be provided by the Association to interested parties upon request. The Association shall have the right to charge a reasonable fee for issuance of copies and updates of the Design Guidelines and for review of proposed alterations or improvements. If there is a conflict between the Architectural Guidelines adopted by the Master Association and the Design Guidelines, the Architectural Guidelines shall govern.

6.3 **Design Review Committee Approval Required.** No improvement shall be performed within any portion of the Property, including a change in grade, removal of trees, performance of landscaping, installation of any mailbox, construction of any Home or other structure, and the making of any exterior alteration, except in conformance with the Design Guidelines, or in accordance with a variance from the Design Guidelines issued by the Design Review Committee. The Design Review Committee or its agents shall have the right to enter Lots from time to time in reasonable ways to confirm compliance with this Article. During the Master Declarant Control Period described in the Master Declaration, or until such right and authority is relinquished by the Master Association, the Design Review functions of the Design Review Committee are delegated to the Master Association.

6.4 **Composition of the Design Review Committee.** During the Development and Sale Period described in *Section 11.7*, Declarant shall appoint the members of the Design Review Committee. Thereafter, during any period that Declarant owns any Lot within the Property, Declarant shall have the option to appoint at least one third (1/3) of the members of the Design Review Committee. The Design Review Committee shall have the authority to retain consultants and other experts to assist it in reviewing Applications and related material, and to provide the Design Review Committee with technical advice. Expenses incurred by the Design Review Committee in connection with consultants and experts may be assessed by the Design Review Committee against the Lot of the Owner applying for approval and shall be a personal obligation of the Person applying for approval (the "**Applicant**").

6.5 **Procedure for Design Review and Approval.** When architectural review authority is relinquished by the Master Association, an Owner of any Lot who desires to construct a Home or perform any other improvement on a Lot, make an alteration of an existing structure, or do

anything else that requires the approval of the Design Review Committee under this Declaration, or the designated agent of an Applicant, shall follow the procedures outlined in this **Section 6.5**. Grading and tree removal requires such approval. Landscaping is subject to applicable Design Guidelines and the approval of the Design Review Committee is required where specified in the Design Guidelines.

- a. Applicants shall advise their design and building team that the approval of the Design Review Committee and compliance with the procedures herein as well as applicable laws and codes, is required. It is each Applicant's responsibility to provide the Applicant's design and building team with a copy of the Design Guidelines. The approval of the Design Review Committee is required for all exterior improvements or alterations on a Lot, changes in grade, changes in landscaping, and removal of trees.
- b. An application for Design Review Committee approval (each, an "**Application**") shall be in the then-current form adopted by the Association and shall include such information and material that is required by the Design Guidelines. The Association may charge a reasonable fee for review of an Application.
- c. The Design Review Committee shall review each Application and approve or disapprove the Application within thirty (30) days. All approvals, denials, questions or comments will be addressed in writing. Any questions or concerns made by an Applicant or his or her representatives must also be addressed in writing and submitted to the Design Review Committee. The Design Review Committee may disapprove an Application for any of the following reasons: (i) non-compliance with the Design Guidelines or applicable laws and codes; (ii) the likelihood that the proposed Home or other improvement or alteration would adversely affect the functionality, use, enjoyment, or value of other improvements within the Property; or (iii) failure to provide information sufficient, in the reasonable judgment of the Design Review Committee, for the Design Review Committee to evaluate the characteristics of the proposed Home, other improvement, or alteration, or to otherwise conduct its review. Expenses incurred by the Design Review Committee in retaining consultants and experts to review Applications or other material submitted by an Applicant may be allocated to the Applicant and the Applicant's Lot. The failure of the Design Review Committee to respond to an Application within the required time shall be considered to be a denial of the request.
- d. If the Design Review Committee approves an Application, such approval may be granted with or without conditions. In approving any request, the Design Review Committee may require that construction of a Home or performance of any other improvement or exterior alteration be completed within a specified time period. If construction of a Home or other improvement or alteration does not commence within the period required by the Design Review Committee, if any, the committee's approval shall expire, and the Applicant must reapply for approval before commencing the activities in question. It shall be a condition to all approvals that: (i) once construction of a Home or other improvement or alteration is commenced, it shall be diligently pursued to completion, with all work being completed within twelve (12) months after commencement, in the case of a Home, or such reasonable period as may be required by

the Design Review Committee in the case of another improvement or alteration; and (ii) all landscape improvements must be completed within one complete growing season following occupancy of the Home, in the case of a new Home, unless a different time for completion of the Home or landscaping is otherwise specified in the notice of approval, or the Design Review Committee, in its discretion, grants an extension in writing.

6.6 Variances. The Design Review Committee may exempt certain activities from the application and approval requirements of this Article, if such activities are undertaken in compliance with the Design Guidelines. The Design Review Committee shall have authority to authorize variances from compliance with any of the Design Guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations make doing so appropriate, in accordance with the reasonable discretion of the Design Review Committee; provided, however, that no such exemption or variance shall be given without the written consent of the Declarant during the period Declarant owns any Lot within the Property. No exemption or variance shall be effective unless in writing. Because the members of the Design Review Committee will change from time to time, interpretation and application of the Design Guidelines may vary. Also, it may not always be possible to identify objectionable features of a project until work is completed. In such cases, the Design Review Committee may elect not to require changes to objectionable features. The Design Review Committee reserves the right, however, to refuse to approve similar proposals in the future. Approval of Applications or plans shall therefore not constitute a waiver of the right to withhold approval or deny a variance as to any similar Applications, plans, or other matters subsequently or additionally submitted for approval. The Design Review Committee's determination regarding granting or not granting any request for an exemption or variance shall be conclusive and shall not be precedent for future decisions.

6.7 Limitations on Responsibility of Declarant, the Design Review Committee, and its Members. In granting or withholding its approval, the Design Review Committee shall not be considered to have expressed an opinion regarding: (i) compliance of the plans and specifications (or other material contained in or submitted with a request for approval) with applicable laws or codes; (ii) the safety or soundness of the improvement or alteration in question; (iii) whether special construction means or methods are necessary or advisable; (iv) whether there are inconsistencies between the plans and specifications; (v) the existence of defects or other shortcomings in the plans and specification; (vi) the adequacy of soil conditions, drainage, or other site conditions; (vii) the financial strength, experience, or adequacy of the proposed contractor; or (viii) other similar matters or circumstances. Neither Declarant nor any member of the Design Review Committee shall be responsible for any death, bodily injury, personal injury, damages, delays or other loss arising out of or in connection with the construction of a Home or other improvement or alteration approved by the Design Review Committee. By requesting the approval of the Design Review Committee, an Applicant shall be deemed to have agreed to indemnify, defend, and hold harmless Declarant, the Association, the Board, the Design Review Committee, and the members of the Design Review Committee, from any claims, loss or expense which may be incurred in connection with such a request, the committee's approval, the undertaking of an improvement or alteration approved by the committee, or and any related circumstance or matter. The sole remedy in the case of delay of

the Design Review Committee, or the wrongful refusal of the committee to approve a request, shall be injunctive relief.

6.8 Performance of Work Without Design Review Committee Approval. If a Home or other improvement or alteration is performed without approval by the Design Review Committee, or if a Home or other improvement or alteration is completed other than in material compliance with the Application approved by the Design Review Committee, the Design Review Committee, the Association shall have the right to: (i) bring an action to enjoin further work on the Home or other improvement or alteration and/or to compel the non-conforming Owner to remove the non-conforming improvement or conform the improvement to the Application approved by the Design Review Committee; (ii) obtain reimbursement for any costs or expenses, including attorneys' fees, that may be incurred by the Association; (iii) levy a fine, following a hearing, if a hearing is requested by the Owner in question; or (iv) exercise any other remedy that may be available at law or in equity.

6.9 Failure of the Design Review Committee to Discharge its Obligations. If the Design Review Committee fails to discharge its obligations under this *Article 6*, then any Applicant may bring an action to compel the discharge of said obligations. Such an action shall be the exclusive remedy of any Applicant for failure of the Design Review Committee and its members to discharge such obligations.

6.10 Rights Reserved by the Declarant. Declarant has reserved certain rights in *Article 11* of this Declaration, including the right, in *Sections 11.5* to (i) create, revise and supplement the Design Guidelines in any reasonable manner; (ii) appoint the members of the Design Review Committee; and (iii) veto decisions of the Design Review Committee and any change in the Design Guidelines during the Development and Sale Period.

Article 7 Restrictions On Use

The Property is subject to the following restrictions:

7.1 Residential Use. The Lots shall be used by Owners and Occupants and their guests exclusively as private single-family homes, and not for transient, hotel, commercial, business or other non-residential purposes (except as provided in *Section 7.2*) or for any purpose for which a conditional use permit is required by the City of Lake Elmo, unless the consent of the Association is received. The maximum number of long-term residents in a Home (i.e., for a period in excess of thirty days) shall be two (2) residents for each bedroom in the Home.

7.2 Business Use Restricted. No business, trade, occupation or profession of any kind, whether carried on for profit or otherwise, shall be conducted in any Lot; except: (i) an Owner or Occupant may maintain a home office, and/or maintain his or her business records; and (ii) an Owner may operate a business out of his or her Home so long as the business does not generate observable noise, odor, or involve other amounts of observable business activity of an extent that the Board determines is likely to impose a burden on or be annoying to neighboring Owners, and otherwise complies with applicable ordinances of the City of Lake Elmo. Nothing contained in this Section

shall be construed in a manner that would impair the ability of the Association to maintain an office or facility on the Property for management and related purposes, or which would prevent Lots being used by Declarant or contractors for temporary offices, model homes and/or sales facilities.

7.3 **Leasing.** Although Homes in the Community are intended primarily for occupancy by the Owners, the leasing of Homes shall be allowed, subject to the following conditions: (i) that no Home shall be leased for less than six (6) months; (ii) that no Home shall be leased under an arrangement where hotel services are provided; (iii) that all leases shall be in writing and provide that they are subordinate and subject to the provisions of the Governing Documents, and the Rules and Regulations, and that any failure of the lessee to comply with the same shall be a default under the lease; and (iv) that the Association may enforce the provisions of the lease, including the provisions described in this Section. The Association may impose such reasonable Rules and Regulations as may be necessary or proper to implement procedures for the leasing of Homes, consistent with this Article.

7.4 **Parking.** The use of garages, driveways and parking areas on the Property (including parking on dedicated public roads), and the types of vehicles and personal property permitted thereon, shall be subject to reasonable regulation by the Association, including without limitation the right of the Association to tow illegally parked or non-functional vehicles or to remove unauthorized personal property. **It is desirable for cars to be parked within garages when possible and for garage doors to be closed when possible.**

7.5 **Accessory Structures.** No accessory structures, such as storage sheds, children's play houses, and similar structures, may be constructed or installed unless written approval is obtained from the Association.

7.6 **Animals.** Owners may keep dogs, cats and typical household pets that comply with applicable laws and ordinances; provided, however, that no animal may be bred, kept or maintained for business or commercial purposes, anywhere on the Property. The Board shall have the authority to adopt reasonable Rules and Regulations relating to the keeping of animals, including, but not limited to, rules limiting the number of household pets and prohibiting keeping animals considered by the Board to be other than typical household pets. The Board may adopt other Rules and Regulations regarding pets that involve matters of health, safety, cleanliness, and issues related to failure to clean up after, or otherwise control, pets (such as when pets are allowed to run at large, or to bark for lengthy periods in a manner that is disturbing to others). The word "animal" and "pets" shall be construed in its broadest sense and shall include all living creatures except Persons.

7.7 **Exterior Storage of Goods and Similar Activities.** Outside storage of watercraft, snowmobiles, recreational vehicles, trailers, inoperable cars, children's recreational facilities such as swing sets or other items of personal property shall not be allowed; provided, however that outdoor cooking equipment, and patio furniture which are maintained in a safe and attractive condition, as determined by the Design Review Committee, may be kept upon a Lot. The storage or collection of rubbish of any character whatsoever, any material that emits foul or obnoxious odors, the growing of any noxious weed or other noxious natural substance, and the harboring of any source of unreasonable noise or activity which disturbs the peace, comfort or

serenity of Owners or Occupants, is prohibited. Usual trash, garbage and recycling shall be kept in sanitary containers in a neat and clean condition, shall be regularly collected and such items shall be kept in accordance with reasonable Rules and Regulations adopted by the Board or Master Rules adopted by the Master Association. Art may be displayed outside of Homes but shall be subject to the reasonable Rules and Regulations of the Association and the Master Rules.

7.8 **Satellite Receiving Dishes and Antennae.** Telecommunications facilities, such as radio antennae and satellite receiving dishes may be erected or placed upon Lots or the exterior of Homes in accordance with the Design Guidelines, other reasonable regulations adopted by the Board, and applicable laws. Such regulations shall not preclude the functional use of such facilities, but may provide for appropriate screening, or otherwise attempt to mitigate the effect of such facilities on the architectural harmony of the Property.

7.9 **Quiet Enjoyment; Interference Prohibited.** All Owners and Occupants and their guests shall have a right of quiet enjoyment in their respective Lots and shall use the Property in such a manner as will not cause a nuisance, nor unduly restrict, interfere with or impede the use of the Property by other Owners and Occupants and their guests. No damage to, or waste of, a Lot or any part thereof or of the Home and/or improvements thereon shall be caused or permitted by any Owner or Occupant. No noxious, destructive or offensive activity shall be allowed on any Lots or any part thereof, nor shall anything be done thereon which may be or may become an annoyance or nuisance to any other Owner or to any other person at any time lawfully on the Property or which will increase the hazard insurance premiums payable by Declarant or other Owners for their Homes.

7.10 **Signage.** The Board shall have the right to adopt reasonable Rules and Regulations regarding signage that may be posted or displayed within the Property. No signage shall be displayed within any Lot that does not comply with the Design Guidelines applicable to signs.

7.11 **Compliance with Law.** Nothing shall be done or kept on any Lot, and no use shall be made of any Lot that 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 any unusual liability, health or safety risk, or an unreasonable expense, for the Association or any Owner or Occupant.

7.12 **Timeshares.** 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 Lot into separate time periods, is prohibited.

Article 8 Maintenance

8.1 **Maintenance by Association.** The Association shall be responsible for maintaining, repairing and replacing the drainage pond. The Association shall also be responsible for the lawns of each Lot and the Association's maintenance responsibilities shall include snow removal from curb to front door on the Dwelling serving each Lot as well as lawn maintenance; provided, however, repairs and maintenance on an individual irrigation system shall be completed by the Association through its contractor with the associated cost billed to the Owner, including the cost of water. During any period

that trash and recycling services are not provided by the Master Association, the Association shall also provide for trash and recycling services. If damage to a Lot or the Home or other improvements thereon occurs in connection with Maintenance by the Association or other Association-related activities, the Association shall be responsible for reasonably repairing the damage. The Master Association shall be responsible for maintaining all clustered mailboxes.

8.2 Maintenance to be Performed by Owners. Each Owner shall be responsible for performing, at the sole expense of that Owner, all Maintenance of the Home, other improvements, and yard area on the Owner's Lot, other than the Maintenance obligations for which the Association is responsible pursuant to *Section 8.1* above.

8.3 Right of the Association to Perform Neglected Maintenance. The Association reserves the right to perform neglected Maintenance on any Lot or the improvements thereon, or to take such action as may be reasonable and appropriate to bring a Home or the yard area or other improvements within a Lot into compliance with this Declaration or the Rules and Regulations of the Association, following written notice to the Owner of the Lot, if the Owner fails to perform the neglected Maintenance in question or bring the Home or other portion of the Lot into compliance within ten (10) days following such notice from the Association. If the Association performs neglected Maintenance, or brings a Home, other improvement, or yard area into compliance, the Owner of the Lot in question shall be responsible for the costs reasonably incurred by the Association, and such costs shall be deemed to be an assessment and lien against the Lot in question. In addition, notwithstanding any provision to the contrary in this *Article 8*, if, in the reasonable judgment of the Association, the need for Maintenance or repair of the drainage pond or Master Common Element is caused by the willful or negligent act or omission of an Owner or Occupant or his or her guests or contractors, or by a condition in a Lot 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 upon any Lot to do so), and the cost thereof may be assessed against the Lot of the Owner responsible for the damage to the extent not covered by insurance maintained by the Association, and any insurance deductible of the Association may be assessed against the Lot of the Owner responsible for the damage, and the Owner of that Lot shall be personally responsible for said amount.

Article 9 Insurance

9.1. Insurance Coverage. Whether obtained and maintained by the Master Association for the benefit of the Association, or directly by the Association, there shall be maintained for the Association, at a minimum, insurance from reputable insurance companies authorized to do business in Minnesota, providing the following coverage:

- a. Property insurance in broad form covering all risks of physical loss in an amount equal to one hundred percent (100%) of the insurable "replacement cost", less a reasonable deductible, and exclusive of the value of land, excavation and other items normally excluded from coverage.

b. Comprehensive public liability insurance covering the use, operation and Maintenance of the drainage pond, with minimum limits of at least \$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.

c. During any period when the Association has employees, workers’ compensation insurance meeting statutory requirements.

The Association may also maintain: (i) directors and officers liability insurance with such reasonable limits and coverages as the Board shall determine from time to time; and (ii) such other insurance as the Board may consider to be in the best interests of the Association and the Owners.

9.2 Premiums; Improvements; Deductibles. The premiums for all insurance maintained directly by the Association, as well as any applicable insurance deductible, shall be considered to be Common Expenses of the Association. The Association has discretion to assess the amount of any insurance deductible against the Lot of an Owner who is responsible for damage to the drainage pond to the extent provided for in this Declaration, and the Owner in question shall be personally liable for that amount.

9.3 Provisions of Policies. All policies of insurance obtained by or for the Association shall: (i) contain waivers of subrogation by the insurer against the Members of the Association, the members of the Owner’s household, and the officers or directors of the Association, as applicable, and, if available, waivers of any defense based on co-insurance or of invalidity from any acts of the insured; (ii) 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; and (iii) provide that the coverage shall not be voided by or conditioned upon any act or omission of an Owner, unless acting within the scope of authority on behalf of the Association, or any failure of the Association to comply with any condition regarding any portion of the Property over which the Association has no control.

9.4 Owner’s Personal Insurance. Each Owner, at his or her own expense, shall obtain such insurance covering fire and other casualty to the Owner’s Lot and to the Home or other improvements constructed thereon, and the personal property therein, together with such personal liability coverage, as the Owner deems necessary or appropriate; or such other amount as may be required by the Association. Each Owner and Occupant shall look to his or her own insurance in connection with a claim. All insurance policies maintained by Owners shall provide that they are without contribution as against the insurance purchased by the Association.

Article 10 Compliance and Remedies

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

10.1 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 or Occupant, or by an Owner against the Association to enforce compliance with the Governing Documents, the Rules and Regulations, or the lawful decisions of the Association. No Owner may, however, withhold any Assessments payable to the Association, or take (or omit) other action in violation of the Governing Documents or the Rules and Regulations as a measure to enforce such Owner's position, or for any other reason.

10.2 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, or the Rules and Regulations:

- a. Commence legal action for damages or equitable relief in any court of competent jurisdiction.
- b. Charge interest on Assessments or special assessments from the date payment of the assessment or special assessment was due until the assessment or special assessment is paid at a rate equal to the lesser of: (i) the interest rate adopted from time to time by the Board; or (ii) the highest rate permitted by applicable law.
- c. Impose an administrative late charge in such amount as the Board may from time to time designate; provided, however, that the late charge in any calendar year applicable to non-payment of that year's Common Expense assessment shall not exceed fifteen percent (15%) of that year's annual Common Expense assessment.
- d. If the Board has elected to permit Owners to make annual Common Expense payments in installments, and any such installment is not made within thirty (30) days of the date that installment is due, the Board may declare all remaining installments of the Common Expense assessment to be accelerated and the Owner in default shall then be required to pay the assessment or special assessment in full; provided, however, that at least five (5) days advance written notice of the effective date acceleration is to occur shall be given to the defaulting Owner to give that Owner an opportunity to cure the defect.

- e. Suspend the rights of any Owner or Occupant and their guests to use any then-existing amenities; provided, however, that this limitation shall not apply to those portions of the area providing utilities service and/or access to the Lot. 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 drainage pond 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, subject to the provisions of this Declaration, to assess the cost of such restoration against the responsible Owners and their Lots.
- g. Enter any Lot in which, or as to which, a violation or breach of the Governing Documents or Rules and Regulations exist which materially affects, or is likely to materially affect in the near future, the health or safety of the other Owners or Occupants or their guests, or the safety or soundness of any Home or other part of the Property or the personal 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 Lot which is causing the violation; provided, that any improvements which are a part of a Lot may be altered or demolished only pursuant to a court order or with the agreement of the Owner. Any costs incurred by the Association in connection with such action may be specially assessed against the Lot in question in accordance with the provisions of this Declaration. An easement for the benefit of the Association shall exist on, under, over, upon and across each Lot for purposes of having access to enforce the provisions of the Governing Documents and the Rules and regulations, performing neglected Maintenance, or performing any other act necessary to prevent injury to persons or damage to Property.
- h. Foreclose any lien arising under the provisions of the Governing Documents or applicable law, in the manner provided for the foreclosure of mortgages by action or under a power of sale in the state of Minnesota, as though Section 515B.3-116 of MCIOA applied.

10.3 Rights to Hearing. In the case of imposition of any of the remedies authorized by this Article, the Board shall, upon written request of the offender, grant to the offender a fair and equitable hearing. The offender shall be given notice of the nature of the violation and the right to a hearing, and at least ten (10) days within which to request a hearing. The hearing shall be scheduled by the Board and held within thirty (30) days of receipt by the Board of the hearing request, and with at least ten (10) days prior written notice to the offender. If the offending Owner fails to appear at the hearing then the right to a hearing shall be waived and the Board may take such action as it deems appropriate. The decision of the Board and the rules for the conduct of hearings established by the Board shall be final and binding on all parties. The Board's decision shall be delivered in writing to the offender within ten (10) days following the hearing, if not delivered to the offender at the hearing.

10.4 Lien for Charges, Penalties, Etc. Any Assessments, charges, fines, penalties, attorneys' fees, or interest imposed under this Article shall be a lien against the Lot 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 an assessment under *Article 5*. 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 gives written notice 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 right to pursue any others.

10.5 Costs of Proceedings 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 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 Lot 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.

10.6 Liability for Owners' and Occupants' Acts. An Owner shall be liable for the expense of any Maintenance of the drainage pond rendered necessary by such Owner's acts or omissions, or by that of Occupants or guests in the Owner's Lot, 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 Lot, in the discretion of the Association.

Article 11 Special Declarant Rights

Declarant hereby reserves exclusive and unconditional authority to exercise the following "**Special Declarant Rights**" during the period ending at the earliest to occur of: (i) voluntary surrender of control by Declarant; or (ii) the tenth (10th) anniversary of the first conveyance of a Lot to an Owner other than Declarant (the "**Development and Sale Period**") without any requirement that Declarant obtain the consent of the Association, its members or any other Person:

11.1 Add Additional Real Estate. To add some, all, or none of the Additional Real Estate to the Property;

11.2 Complete Improvements. To complete any improvements: (i) included in Declarant's plan of development; (ii) allowed by this Declaration; or (iii) required by any agreement with the City of Lake Elmo or any governmental authority, and to make alterations in the Lots Declarant owns to accommodate reasonable sales and marketing facilities;

11.3 Relocate Boundaries and Alter Lots. To relocate boundaries between or among the Lots and Outlots; provided, however, that Declarant may not do so without the consent of the then-current Owner of a Lot;

11.4 Maintain Sales Facilities. To construct, operate and maintain one or more sales offices, management offices, Lots with model Homes, signage, and other development, sales and rental facilities and any Lots owned by Declarant from time to time, located anywhere within the Property;

11.5 **Create and Revise the Design Guidelines.** To create, revise and supplement the Design Guidelines in any reasonable manner, including having different provisions apply to different portions of the Property; provided, however, that during the Master Declarant Control Period, any change in the Design Guidelines must be approved by the Master Declarant;

11.6 **Appoint and Control the Design Review Committee.** To appoint the members of the Design Review Committee and veto decisions of the Design Review Committee during the Development and Sale Period;

11.7 **Control the Association.** To control the operation and administration of the Association, including, without limitation, the power to appoint and remove the members of the Board during the Development and Sale Period;

11.8 **Maintain Signs.** To erect or permit its designees to erect and maintain signs and other sales displays offering any of the Lots for sale or lease including “For Sale” or similar types of directional signs. Such signage may be located on any Lot owned by Declarant; provided, however that Lots on the golf course may only have one (1) “For Sale” or “For Lease” sign on the golf course side of the Lot and such sign shall not exceed eighteen (18) inches by twenty-four (24) inches, must be set back at least twenty (20) feet from the back Lot line and may not contain a brochure box;

11.9 **Install and Maintain Utilities and Infrastructure.** To install utilities, drainage facilities, infrastructure, walkways, pathways, and trails, and other systems or facilities serving all or any portion of the Property;

11.10 **Grant Easements.** To grant utility or access easements to any public body, and to have and use easements, for itself, its employees, contractors, representatives, agents and prospective purchasers through and over the drainage pond for the purpose of exercising its rights under this *Article II*, including, but not limited to, the right to install utility facilities for the benefit of other adjacent property;

11.11 **Inspect and Maintain.** To inspect, perform Maintenance on, upgrade and remove utility lines and similar infrastructure, and other improvements within the Property;

11.12 **Amend the Governing Documents.** To amend the Governing Documents in any manner that does not adversely affect the rights or increase the obligations of Owners in any material way; and

11.13 **Assignment to the Master Association of the Rights Reserved to Declarant in this Declaration.** To assign to the Master Association, on a shared basis with Declarant, all rights reserved to Declarant in this Declaration; provided, however, that if such an assignment is made, the Master Association shall have the right, but not the obligation, to exercise these rights only during any period when there exists an uncured failure of Declarant to perform any of its obligations in the Governing Documents.

Article 12
Adding the Additional Real Estate

Declarant reserves the right to add all, some, or none of the Additional Real Estate to the Property, by unilateral action, subject to the following conditions:

- a. The right of Declarant to add the Additional Real Estate to the Property 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 a majority of the Owners. There are no other limitations on Declarant's rights hereunder.
- b. The Additional Real Estate is described in attached *Exhibit B*. The Additional Real Estate may be added to the Property in any reasonable manner, including by one or more supplemental declarations that are signed by Declarant.
- c. There are no assurances as to the times at which all or any part of the Additional Real Estate will be added to the Property, the order in which it will be added, the number of Lots that will be added within any phase, nor the size of the Lots. Declarant is under no obligation to add the Additional Real Estate to the Property and 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.
- d. All Lots created in the Additional Real Estate shall be restricted exclusively to residential use.
- e. Any Dwellings and other structures created within the Additional Real Estate, when and if added, shall be compatible with the other structures and Dwellings which are part of the Property in terms of architectural style, quality of construction, principal materials employed in construction and size; subject to: (i) changes, if any, required by governmental authorities or lenders providing financing for the improvements within any part of the Property; and (ii) Declarant's right to make interior and exterior changes to meet changes in the market, as determined by Declarant.
- f. All covenants and restrictions contained in this Declaration affecting the use, occupancy and alienation of Lots shall apply to all Lots created in the Additional Real Estate that are added to the Property.
- g. When Lots are added to the Property, the voting power and share of the Common Expenses shall be recalculated for all Lots in the Property. Each Lot shall be allocated one (1) vote, and each Lot shall be allocated a share of the Common Expenses that is equal to the result derived by dividing one by the total number of Lots within the Property.

**Article 13
Amendments**

Subject to the provisions of *Sections 11.1, 11.3, and 11.12* above, this Declaration may be amended by the consent of: (i) Owners of Lots to which are allocated at least sixty-seven percent (67%) of the votes in the Association; (ii) the consent of Declarant to any amendment during any period Declarant owns a Lot; and (iii) the consent of the Master Declarant during the Master Declarant Control Period described in the Master Declaration. Consent of the Owners may be obtained in writing or at a meeting of the Association duly held in accordance with the Bylaws. Consents of the Declarant and the Master Declarant shall be in writing. The Amendment shall be effective when recorded. 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 without the need to record an instrument containing the signatures of the Persons voting to adopt an amendment.

**Article 14
Miscellaneous**

14.1 **Severability.** If any provision of this Declaration is held to be invalid or unenforceable, that determination shall not affect or impair any other portion of this Declaration.

14.2 **Conflicts Among Documents.** If there is any conflict between this Declaration and any of the other Governing Documents and/or the Rules or Regulations, this Declaration shall control. If there is a conflict between the Bylaws and the Rules and Regulations, the Bylaws shall control. If there is a conflict between this Declaration and the Master Declaration, the Master Declaration shall govern. If there is a conflict between the Governing Documents and the Master Governing Documents, the Master Governing Documents shall control. If there is a conflict between the Rules adopted by the Association and the Master Rules, the Master Rules shall govern.

14.3 **Duration.** The easements and reservations described in this Declaration shall be considered perpetual in accordance with the provisions of Section 500.20 Subdivision 2a of the Minnesota Statutes.

* * * * *

Remainder of page intentionally left blank. Signature of Declarant is set forth on the following page.

EXHIBIT A
Legal Description of the Property

Lots 1 through 11, Block 6, all in The Royal Golf Club at Lake Elmo 2nd Addition, Washington County, Minnesota.

EXHIBIT B
Legal Description of Additional Real Estate

Yet to be determined.