

KINGSWOOD FARM HOMEOWNERS ASSOCIATION, INC.

**AMENDED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR KINGSWOOD FARM**

THIS INSTRUMENT WAS DRAFTED BY:

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KINGSWOOD FARM HOMEOWNERS ASSOCIATION, INC.

**AMENDED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR KINGSWOOD FARM**

HENNEPIN COUNTY, MINNESOTA

WHEREAS THIS AMENDED AND RESTATED DECLARATION made this 4th day of Sep, 2014 by KINGSWOOD FARM HOMEOWNERS ASSOCIATION, INC., a Minnesota non-profit corporation, hereinafter called "Association."

WITNESSETH:

WHEREAS, the original Declaration of Covenants, Conditions and Restrictions for The Kingswood Farm Homeowners Association, Inc. was filed of record October 24, 1979, in the office of the Recorder, Hennepin County, Minnesota, as Document Number 4515501; as amended by the First Supplementary Declaration filed of record September 5, 1980, in the office of the Recorder, Hennepin County, Minnesota, as Document No. 4585915; as further amended by the Second Supplementary Declaration filed of record November 20, 1981, in the office of the Recorder, Hennepin County, Minnesota, as Document No. 4685901; as further amended by the Third Supplementary Declaration filed of record March 26, 1982, in the office of the Recorder, Hennepin County, Minnesota, as Document No. 4707756; as further amended by the Fourth Supplementary Declaration filed of record May 1, 1982, in the office of the Recorder, Hennepin County, Minnesota, as Document No. 4715729; as further amended by the Fifth Supplementary Declaration filed of record August 5, 1982, in the office of the Recorder, Hennepin County, Minnesota, as Document No. 4732365; as further amended by the Sixth Supplementary Declaration filed of record October 4, 1982, in the office of the Recorder, Hennepin County, Minnesota, as Document No. 4744424; as further amended by the Seventh Supplementary Declaration filed of record December 6, 1982, in the office of the Recorder, Hennepin County, Minnesota, as Document No. 4757794; as further amended by the Eighth Supplementary Declaration filed of record January 18, 1983, in the office of the Recorder, Hennepin County, Minnesota, as Document No. 4766194; as further amended by the Ninth Supplementary Declaration filed of record May 26, 1983, in the office of the Recorder, Hennepin County, Minnesota, as Document No. 4795876; as further amended by the Tenth Supplementary Declaration filed of record July 29, 1983, in the office of the Recorder, Hennepin County, Minnesota, as Document No. 4813461; as further amended by the Eleventh Supplementary Declaration filed of record November 17, 1983, in the office of the Recorder, Hennepin County, Minnesota, as Document No. 4845689; and as further amended by the Twelfth Supplementary Declaration filed of record May 1, 1984, in the office of the Recorder, Hennepin County, Minnesota, as Document No. 4886547 (collectively, the "Original Declaration");

WHEREAS, the real property which is held, transferred, sold, conveyed and secured subject to the Original Declaration is located in the County of Hennepin, State of Minnesota and is legally

described on Exhibit A, which is attached hereto and made a part hereof;

WHEREAS, the Property is exempt from the provisions of Minn. Stat. 515B.1-102(b)(3), known as the Minnesota Common Interest Ownership Act, and it is the intent of the Association that the Property remain outside of the scope of the Minnesota Common Interest Ownership Act;

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WHEREAS, the Original Declaration may be amended with the consent of at least seventy-five percent (75%) Owners and at least seventy five percent (75%) of Owners/Tenants (as that term is defined in the Original Declaration);

WHEREAS, the Original Declaration further provides that amendment of certain terms of the Original Declaration requires written consent of at least seventy five percent (75%) of Mortgagees (as that term is defined in the Original Declaration);

WHEREAS, there are no longer any Owners/Tenants;

WHEREAS, the Association and the Owners desire to amend and restate the Original Declaration in accordance herewith;

NOW THEREFORE, the Association, with the consent of those Owners constituting not less than seventy-five percent (75%) of the Owners and at least seventy five percent (75%) of Mortgagees (as that term is defined in the Original Declaration), hereby declares that the Property and any additions thereto shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, restrictions, easements, charges and liens set forth herein; that all persons or entities having or acquiring any interest in the Property shall be bound hereby; and that the Original Declaration shall be revoked and superseded in its entirety by this Declaration upon its recording.

ARTICLE 1 DEFINITIONS

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

- 1.1 **Association** shall mean Kingswood Farm Homeowners Association, Inc., a Minnesota non-profit corporation.
- 1.2 **Board** shall mean the Board of Directors of the Association as provided for in the Bylaws.
- 1.3 **Bylaws** shall mean the Bylaws governing the operation of the Association, as amended from time to time.
- 1.4 **Common Area** shall mean that portion of the Property other than the Lots, as more fully legally described on Exhibit A attached hereto and incorporated herein by reference.

1.5 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.

1.6 Dwelling Unit shall mean a residential housing unit designed or intended for use as living quarters for one family. Each Dwelling Unit contains an attached garage. For the purpose of determining membership in the Association, each Dwelling Unit shall be considered as a separate and individual unit.

1.7 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.

1.8 Lot shall mean any Lot, with the exception of the Common Area, within the Property as shown upon any recorded subdivision plat or map of Kingswood Farm, Hennepin County, Minnesota.

1.9 Member shall mean any person or entity holding membership in the Association as provided in Article 3.

1.10 Mortgage shall mean any mortgage or other security instrument by which a Lot or any part thereof or any structure thereon is encumbered.

1.11 Mortgagee shall mean any person or entity named as the mortgagee under any such mortgage or any successors or assigns to the interest of such person or entity under such mortgage.

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

1.13 Owner shall mean a person who owns a Dwelling Unit, 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.

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

1.15 Property shall mean that certain real property legally described on Exhibit A attached hereto and incorporated herein by reference.

1.16 Rules and Regulations shall mean the Rules and Regulations of the Association approved from time to time pursuant to Article 4.6.

ARTICLE 2
DESCRIPTION OF PROPERTY AND PROPERTY RIGHTS

2.1 Property. Kingwood Farm consists of hundred and twelve (112) Lots and Common Area, as more fully described on Exhibit A attached hereto and incorporated herein by reference. All Lots are restricted exclusively to residential use. Each Lot constitutes a separate parcel of real estate. No additional Lots may be created by the subdivision or conversion of Lots. The locations of the Lots are as shown on the plat of Kingswood Farm, Hennepin County, Minnesota, which is incorporated herein by reference.

2.2 General Provisions.

- a) All easements described in this Declaration are permanent easements appurtenant, running with the land. They shall at all times inure to the benefit of and be binding on the Owner and the Mortgagee from time to time of any Lots and the Owner and Mortgagee, if any, from time to time of the Common Area, and their respective heirs, successors, personal representatives or assigns.
- b) The covenants and restrictions contained in this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective personal or legal representatives, heirs, successors and assigns in perpetuity.

2.3 Right of Enjoyment by Owner. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area, which right and easement shall include, but not be limited to, (i) utility, water and sewer easements; (ii) access to Gleason Lake; and (iii) use and enjoyment of open spaces and all other parts of the Common Area and improvements located thereon. Such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a) The right of the Association to adopt reasonable rules, with respect to the Property, for the health, comfort, safety and welfare of persons using same;
- b) The right of the Association to suspend the voting rights and right to the use of recreational facilities situated upon the Common Area (but not utility or other easements essential to the use and occupation of the Lot) by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for an infraction of its published Rules and Regulations;
- c) The right of the Association to levy assessments as provided in this Declaration;
- d) The right of the Owner of each Lot to a reciprocal easement for access where necessary over adjoining Lots for maintenance and upkeep of walls and fences;
- e) The rights of the Association reserved under Sections 2. 5 herein below.

2.4 Delegation of Enjoyment. Any Owner may delegate, in accordance with the Bylaws of the Association, his right of enjoyment to the Common Areas to Occupants, including the members of his family, his tenants, or contract purchasers.

2.5 Association's Rights.

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- a) The Association shall have the right to manage, build, reconstruct, repair, maintain and improve the Common Area, the portions of the Lots not occupied by a Dwelling Unit and certain portions of a Dwelling Unit as specified under Article 7.3. There shall be no material alteration or substantial addition or improvement to the Common Area at an expense to the Association of more than \$15,000 without the affirmative vote of not less than sixty-seven percent (67%) of the Owners at an annual meeting, at a meeting duly called for this purpose or by mail ballot. Maintenance, repair, replacement or preventative maintenance, or any other acts necessary or desirable for the protection of the Common Area shall not be considered a material alteration or substantial addition or improvement within this section.
 - b) The Association shall have the right to mortgage all or any portion of the Common Area for the purpose of securing a loan of money to be used for any of the purposes specified in subsection 2.5 (a) hereinabove, provided that the rights of such mortgagee in the Common Area shall be subordinate to the rights of the Owners under this Declaration, and provided, further, that the mortgage shall have received the prior written approval specified in Article 11, Section 11.5 of this Declaration.
 - c) The Association shall have the right to dedicate or transfer all or any part of the Common Area to any governmental subdivision or public agency or utility. No such dedication or transfer shall be effective unless it shall have received the prior written approval specified in Article 11, Section 11.5 of this Declaration.
 - d) The Property shall be subject to easements of record on the date hereof and any easements in the Common Area which may hereafter be granted by the Association (subject to the approval referred to in the preceding paragraph) to any public or private utilities or governmental bodies for the installation and maintenance of electrical and telephone conduit and lines, gas pipes, sewers or water pipes, coaxial cable, or any other utility services serving any Lots or the Common Area. Lots shall also be subject to minor unintentional encroachments of Common Area improvements.
 - e) Anything apparently to the contrary notwithstanding, no abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Area or other common property or any part thereof shall be effective unless it shall have received the prior written approval specified in Article 11, Section 11.5 of this Declaration.

2.6 Non Dedication to Public Uses. Nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Common Area to or for any public use or purpose whatsoever.

2.7 Utility and Drainage Easements. The Association shall have the right, but not the obligation, to maintain the utility and drainage easements as shown upon the plat of Kingswood Farm across portions of certain Lots and the Common Area.

2.8 Easement For Unintentional Encroachment. Notwithstanding any other provisions contained herein, in the event that any Dwelling Unit or any improvements to any Dwelling Unit encroaches upon any part of the Common Area then a perpetual easement appurtenant to such encroaching Lot shall exist for the continuance of any such encroachment on the Common Area. Any encroachment onto the Common Area by any Dwelling Unit must be reviewed and approved by the Board of Directors.

ARTICLE 3 MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

3.1 Membership. Each Owner shall be a Member of the Association by virtue of Lot ownership. An Owner shall cease to be Member at such time as that person ceases to be a Lot Owner. When more than one Person is an Owner of a Lot, all such Persons shall be Members of the Association, but multiple ownership of a Lot shall not increase the voting rights allocated to such Lot nor authorize the division of the voting rights. An Owner of more than one Lot shall be entitled to one membership for each such Lot. Each such membership shall be appurtenant to the Lot upon which it is based and shall transfer automatically by voluntary or involuntary conveyance of the right to possession (as the case may be) of that Lot. No Person other than an Owner may be a Member of the Association.

3.2. Voting. All Owners shall be entitled to one vote for each Lot in which they have the right to possession. Multiple ownership of a Lot shall not increase the voting rights allocated to such Lot.

ARTICLE 4 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:

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

Documents. All references to the Association shall mean the Association acting through the Board unless specifically stated to the contrary.

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) 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.

4.3 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 shall be binding upon all Owners and Occupants, and their lessees, guests, heirs, personal representatives, successors and assigns, and all persons owning a security interest.

4.4 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.

4.5 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. 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.

4.6 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. 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 providing reasonable notice to Owners and giving them the opportunity to be heard at a duly called meeting of the Board.

4.7 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.

ARTICLE 5 ASSESSMENTS

5.1 General. Each Owner of any Lot by acceptance of a deed, or contract for therefor, is deemed to covenant and agree to pay to the Association:

- a) Annual assessments for Common Expenses;

- b) Limited assessments for expenses benefiting an individual Lot or Lots; and
- c) Special assessments, such assessments to be established and collected as hereinafter provided.


The assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due and if more than one person was an Owner then such obligation shall be joint and several. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

5.2 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots.

5.3 Annual assessments. Annual assessments shall be levied by the Board, subject to the limitations set forth hereafter. The assessment shall cover all of the anticipated Common Expenses of the Association for that year. Common expenses shall include, but not be limited to, all charges for water and sewer used upon the Common Area, snow removal and lawn care of the Property, trash and recycling removal, insurance for the Common Area, repairs and replacement of those elements of the Common Area that must be replaced on a periodic basis, exterior maintenance and repair of those portions of the Dwelling Units specified under Article 7.3 herein below and other Common Area expenses as determined by the Board.

The annual assessment shall be due and payable in twelve equal installments on the first day of each and every month.

5.4 Annual Assessment Determination. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days prior to the end of the fiscal year. The Board shall send written notice thereof to each Owner. At the time the Board fixes the amount of the assessment it shall adopt a budget for the following fiscal year and cause a copy of such budget in reasonable detail to be furnished to each Owner. The failure of the Board to timely levy an annual assessment shall not relieve the Owners of their obligation to continue paying assessment installments in the amount currently levied.

 **5.5 Limitation on Assessment.** The Board shall not increase the annual assessment each year more than five percent (5%) above the annual assessment for the previous year without a vote of the membership. The assessment may be increased above five percent (5%) by a vote of sixty-seven percent (67%) of Members who are voting in person or by proxy, at a meeting called for this purpose.

5.6 Limited Assessments. Notwithstanding the provisions of Article 5, Section 5.2, any Common Expense or portion thereof benefiting fewer than all of the Lots may be assessed exclusively against the Lots benefited, on the basis of (i) equality; (ii) square footage of the area being maintained, repaired or replaced; or (iii) the actual cost incurred with respect to each Lot.

5.7 **Special Assessments.** In addition to annual and limited assessments authorized above, the Board may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of not less than sixty-seven percent (67%) of Members who are voting in person, by proxy at a meeting duly called for this purpose or by mail ballot pursuant to the procedures set for in Article 3.6 of the Bylaws.

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5.8 **Proof of Payment.** Upon written demand of an Owner or Mortgagee at any time, and for a reasonable charge, the Association shall furnish a written certificate signed by an officer of the Association setting forth whether there are any then unpaid regular monthly or special assessments levied against such Owner's or Mortgagee's Lot. Such certificate shall be conclusive evidence of payment of any regular or special assessments not stated therein as unpaid.

5.9 **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 Lot; 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 Lot shall be personally liable for the share of the Common Expenses assessed against such Lot. Such liability shall be joint and several where there are multiple Owners of the Lot. The liability is absolute and unconditional. 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 in Article 12, in addition to any remedies provided elsewhere in the Governing Documents or by law, for the purpose of enforcing its rights hereunder.

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5.10 **Effect of Nonpayment of Assessments.** Any assessment not paid within ten (10) days after the due date shall be charged a monthly late fee as determined by the Board of Directors in its reasonable discretion. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate specified from time to time by the Board which shall not exceed the highest rate permitted by the laws of the State of Minnesota relative to usury. The Association may (i) bring an action at law against the Owner personally obligated to pay the same or (ii) foreclose the lien against the Property in the same manner as a mortgage pursuant to Minnesota Statutes, Chapters 580, 581 or 582, as amended. The Association shall be entitled to recover interest at the rate not to exceed the highest rate permitted by the laws of the State of Minnesota and its costs, expenses and disbursements, including reasonable attorney's fees, incurred in such foreclosure. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of the Owner's Lot. Any account of an Owner that is delinquent in the payment of assessments may be referred to legal counsel for collection proceedings. The delinquent Owner shall be responsible for payment of any and all legal fees incurred by the Association in collecting any amounts due and owing. The Association shall have the right to assess all attorneys' fees and costs related to such collection to the delinquent

Owner, and such amounts shall constitute a lien against the Lot in the same manner as assessments levied under Article 5, Section 5.1 of this Declaration.

5.11 Assessment Lien. The Association has a lien on a Lot for any assessment levied against that Lot 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 are liens, and are enforceable as assessments under this Section. Recording of this Declaration constitutes record notice and perfection of any lien under this Section, and no further recordation of any notice of or claim for the lien is required.

5.12 Foreclosure of Lien; Remedies. A lien for Common Expenses may be foreclosed against a Lot under the laws of the State of Minnesota (i) by action, or (ii) by advertisement as a lien under a mortgage containing a power of sale, provided, however, that in a foreclosure by advertisement, the foreclosing party shall be entitled to costs and disbursements of foreclosure and attorneys fees authorized by the Declaration or Bylaws, notwithstanding the provisions of Minn. Stat. § 582.01, subd. 1 and 1a (In a foreclosure by action, the foreclosing party shall be entitled to costs and disbursements of foreclosure and attorneys fees as the court shall determine). 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 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. The commencement of an action to recover the sums is not an election of remedies if it is dismissed before commencement of foreclosure of the lien provided for by this Declaration.

5.13 Lien Priority; Foreclosure. A lien under this Section is prior to all other liens and encumbrances on a Lot except (i) liens and encumbrances recorded before the Original Declaration, (ii) any first mortgage encumbering the fee simple interest in the Lot, and (iii) liens for real estate taxes and other governmental assessments or charges against the Lot. Notwithstanding the foregoing, if (i) a first mortgage on a Lot is foreclosed, (ii) and no Owner redeems during the Owner's period of redemption provided by 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 Lot subject to a lien in favor of the Association for unpaid assessments for Common Expenses levied by the Association and which became due, without acceleration, during the six months immediately preceding the first day following the end of the Owner's period of redemption.

5.14 Voluntary Conveyances; State 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 by the seller, 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, in recordable form, from the Association setting forth the amount of the unpaid assessments against the Lot,

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

ARTICLE 6 ARCHITECTURAL CONTROLS

6.1 Restrictions on Alterations. One of the purposes of this Declaration is to ensure that those parts of the Lots and Dwelling Units which are visible from the exterior be kept architecturally attractive in appearance. Therefore, the following requirements shall apply to alterations in the property.

- a) **Architectural Control Committee.** The Association shall appoint a committee to establish guidelines, procedures and requirements for the construction or alteration of any and all improvements to be erected on any Lot. The guidelines shall not be inconsistent with Article 8. The committee may be composed of at least three (3) members of the Board or three (3) or more Owners appointed by the Board.

- b) **Application for Approval Required.** No exterior additions, removals or alterations (including changes in color or appearance) to any building on the Property, additional fences, or changes in landscaping schemes, existing fences, walls, walkways and other structures shall be commenced, erected until the plans and specifications showing in reasonable detail the nature, kind, shape, height, materials and location of same shall have been submitted to and approved in writing as to harmony of the external design and location in relation to surrounding buildings in the subdivision by the committee.

- c) **Approval Process.**
 - i. The Board of Directors shall give the Owner written notice of approval or disapproval within sixty (60) days of the date on which plans, specifications and related information has been submitted to the Board. The Board's failure to provide approval or disapproval within such time period (or at all) shall not be deemed to be an approval by the Board of a request for alteration. *If no request for approval is submitted, approval shall be deemed to be denied.*

 - ii. All fees and costs incurred by the Association in conjunction with any such request for approval, including attorneys' fees and costs or fees and costs of other professionals, shall be borne by the requesting party. Any such fee or cost which the requesting party fails to pay shall be assessed to the subject Lot and Owner of such Lot and shall be a lien against such Lot and the personal obligation of such Lot Owner in the same manner and with the same priority and effect as assessments under Article 5 hereof.

6.2 Remedies for Violations. The Association may undertake any measures, legal or administrative, to enforce compliance with this Section and shall be entitled to recover from the Owners causing or permitting the violation all attorneys' fees and costs of enforcement, whether or not a legal action is started. Such attorneys' fees and costs shall be a lien against the Owner's Lot and a personal obligation of the Owner. In addition, the Association shall have the right to enter the Owner's Lot and to restore any part of the Dwelling Unit or Lot to its prior condition if any alterations were made in violation of this Section, and the cost of such restoration shall be a personal obligation of the Owners and a lien against the Owner's Lot.

6.3 Modifications to Allow Access to the Disabled. Subject to the provisions of applicable law, an Owner, at Owner's expense, may make improvements or alterations to a Dwelling Unit or Lot as necessary for the full enjoyment of the Lot by any person residing in the Lot who has a handicap or disability, as provided in the Fair Housing Amendments Act, United States Code, Title 42, Section 3601, *et seq.*, and the Minnesota Human Rights Act, Chapter 363, and any amendments to those acts. The Association may not prohibit such improvements or alterations referred to in this Section 6.3, but may reasonably regulate the type, style and quality of the improvements or alterations, as they relate to health, safety and architectural standards. In addition, improvements or alterations made pursuant to this Section 6.3 must satisfy the following requirements: (i) they must not impair the structural integrity or mechanical systems, affect the Common Area, or impair the support of any portion of the Property; (ii) prior arrangements must be made with the Association to ensure that other Lot Owners and Occupants are not disturbed; (iii) the Common Area shall not be damaged; and (iv) Lot Owner making such addition, improvement or alteration shall take steps to ensure that the Common Area and other Lots are protected against mechanics' liens.

6.4 Hold Harmless. The Owner who causes an alteration to be made, regardless of whether the alteration is approved by the Board, shall be solely responsible for the construction standards and specifications relating to the alteration, and the construction work. The Owner, and not the Association, is responsible for determining whether any alteration is in violation of any restrictions imposed by any governmental authority having jurisdiction over the Property. In no event shall the Association's review or approval of plans, specifications or related information be deemed to constitute an opinion or statement by the Association as to the adequacy or structural soundness of the alterations or their compliance with governmental laws, codes, ordinances or regulations. The Owner shall hold the Association harmless and indemnify the Association, and its officers and directors, from and against any expenses, claims, damages, losses or other liabilities, including, without limitation, attorneys' fees and costs of litigation, arising out of (i) any alteration which violates any governmental laws, codes, ordinances or regulations; (ii) the adequacy of the specifications for construction of the alterations; and (iii) the construction of the alterations.

6.5 Record of Improvements to Units. The Association shall maintain a record of exterior improvements of Dwelling Units and Lots from original construction as approved by the Architectural Control Committee.

**ARTICLE 7
MAINTENANCE**

7.1 Maintenance of Common Area by Association. Subject to Article 8, Section 8.3 of this Declaration, the Association shall be responsible for the maintenance, repair and replacement of the Common Area and all improvements, such as the recreational facilities, if any, walkways and all other improvements or material located within or used in connection with the Common Area.

Drumkit mention 1st Ave

7.2 Maintenance of Entrance Monument by the Association. Pursuant to the unrecorded agreement between the Association and the Wayzata Independent School District No. 284 dated October 1, 2013 and attached hereto as Exhibit B and incorporated herein by reference, the Association shall be responsible for the maintenance, repair and replacement of the entrance monument identifying the Kingswood Farm community located on the property adjacent to the Property and generally described in the agreement attached hereto as Exhibit B. Such maintenance shall include maintenance, repair and replacement of any entrance monument and surrounding plantings and grass, if any, as well as related lighting and equipment.

✂

7.3 Maintenance and Repair of Exterior of Dwelling Units by Association. The Association shall be responsible for the following maintenance and repair of exterior surfaces of Dwelling Units as originally constructed:

- a) Chimney cap, provided the cost of which shall not exceed a reasonable amount to be determined by the Board; *\$ 500*
- b) Exterior boards to include fascia, soffit and drip board; lentil posts and foundation, siding and gable ends;
- c) Exterior bricks to include replacement of individual bricks and tuck pointing
- d) Painting of shutters; *?*
- e) Garage door wraps, frames and exteriors;
- f) Entry doors, to include frame, sill and exterior surface;
- g) Window sills.

The Board shall develop policies and procedures on regular inspection, repair and maintenance of the exterior of Dwelling Units. *Committee: EVERY other year*

7.4 Maintenance of Individual Lots by Association. The Association shall be responsible for repair and maintenance with regard to individual Lots:

- NOT Repair in 1st Ave*
- a) Repair to entry walks as originally installed
 - b) Maintenance and seal coating of driveways
 - c) Repair or replacement of mailboxes to include the mailbox, posts and concrete base and newspaper tubes
 - d) Plowing of snow in driveways and shoveling sidewalks to front door
 - e) Mowing and fertilization of lawn areas

7.5 Maintenance and Repair of Dwelling Unit by Owner. Each Owner shall be responsible for the upkeep and maintenance of his Dwelling Unit, patio and all other areas, features or parts of his Lot to the extent not otherwise maintained by the Association. This shall include, but not be limited to the following:

- a) Interior of Dwelling Unit
- b) Additions to the exterior of Dwelling Unit from original construction
- c) Roof
- d) Chimney except for repairs provided by Association under 7.3 (a)
- e) Exterior bricks when replacement includes an entire wall
- f) Windows to include caulking, repair and replacement of all parts including frames, sashes, hardware, glass and screens
- g) Exterior doors, to include caulking, hardware, weather stripping, interior surfaces
- h) Patio doors
- i) Shutters to include repair and replacement excluding painting
- j) Garage doors to include doors, panels, hardware, operators and springs
- k) Down spouts and rain gutters
- l) Address numbers and door bells
- m) Sill cocks
- n) Air conditioning units and generators, including pads
- o) Irrigation
- p) Privacy fences
- q) Patios
- r) Landscaping
- s) Exterior lights and fixtures

7.6. Access. For the sole purpose of performing the repairs and maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have an easement for access to Owner's Lots and Exterior of Dwelling Units.

7.7 Willful or negligent acts causing damage in Common Area. Notwithstanding any provision to the contrary in this Article, if, in the judgment of the Association, the need for maintenance of any part of the Common Area is caused by the willful or negligent act or omission of an Owner or occupant, or their guests, the Association may cause such damage or condition to be repaired or corrected and the cost thereof may be charged and assessed against the lot of the Owner responsible for the damage. Such cost shall be a personal obligation of the Owner and a lien against the Owner's Lot.

7.8 Willful or negligent acts in maintenance and repair to a Dwelling Unit or Lot. In the event that there is need for a repair or maintenance to a Dwelling Unit or Lot caused through the willful or negligent act of an Owner, Occupant, his family, guests or invitees, the cost of such repairs shall be added to and become a part of the assessment. The Board shall provide written notice of the repairs or maintenance to the Dwelling Unit or Lot and a reasonable time for the Owner to complete the repairs or maintenance prior to the costs of such repairs or maintenance becoming a part of the assessment.

7.9 Failure to Care and Maintain Property; Conditions of City of Plymouth. The Property shall be maintained in accordance with the following conditions and rules:

- a) If, in the opinion of the City Council of the City of Plymouth, expressed in a resolution, the Association or the Owners of Lots, have failed to provide; (i) adequate maintenance and repair of any streets within the Property which have not been dedicated to public use; (ii) adequate snow removal from any said streets; (iii) adequate control of surface water drainage; (iv) adequate construction, and/or maintenance and repair of any sanitary sewer, storm sewer, water supply system, or other public utilities the construction, the maintenance and repair of which are the responsibility of the Association, or the Owners of Lots; or adequate care of the Common Area; then duly authorized agents of the City of Plymouth may enter upon the Common Area and perform such : (i) street maintenance and repair; (ii) snow removal from streets; (iii) control of surface water drainage; (iv) maintenance and repair of sanitary sewer, storm sewer, water supply system or (v) other public utilities; as the City Council of the City of Plymouth shall have deemed necessary to preserve the health, safety and welfare of the residents of the Property or of the City of Plymouth.
- b) If the City of Plymouth performs maintenance or makes repairs pursuant to this Declaration or constructs any public improvements pursuant to the laws of the State of Minnesota then the City may assess the cost of said maintenance or repairs or public improvement directly against the benefited Lots, or the City may assess the Common Area for the cost of said maintenance or repairs, or public improvement. If the City assesses the Common Area for the cost of said maintenance or repairs, then the Association shall levy a limited assessment against the benefited Lots to defray the total amount of the City assessment.
- c) The title of the Association and the owners of Lots in and to the Common Area is hereby made subject to a non-exclusive easement in favor of the City of Plymouth for the purpose of ingress and egress for police, fire rescue and other emergency calls, animal control, health and protective inspection and to provide to the Owners other public services deemed necessary by the City of Plymouth, and for the purposes set forth herein.
- d) The cost of any work performed by the City of Plymouth pursuant to this Declaration shall be assessed pursuant to the above provisions.

7.10 Services. The Association may obtain and pay for the services of any persons or entities, to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Property whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration. The Association shall arrange with others to furnish trash collection as a Common Expense and provide for other common services to each Lot.

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

ARTICLE 8 RESTRICTIONS ON USE OF THE PROPERTY

8.1 Dwelling Unit and Lot Restriction. No more than one Dwelling Unit shall be erected or maintained on each Lot. No Dwelling Unit shall be used for purposes other than as a single family residence, nor shall any trade or business of any kind be carried on within a Dwelling Unit or upon a Lot, provided that none of the following activities shall be considered a violation of this covenant:

- a) The maintenance of an office by the Association or its designated manager for purposes of management of the Property;
- b) The use of a Lot or Dwelling Unit by an Owner for incidental office purposes to the extent permitted by applicable zoning ordinances. Notwithstanding anything to the contrary, home-based day care businesses operated upon an Owner's Lot are prohibited.

8.2 Common Area Restriction. No industry, business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Common Area, nor shall any "for sale" or "for rent" signs or any window display advertising be maintained or permitted on any part thereof. No Dwelling Unit shall be constructed on the Common Area.

8.3 Obstructions on Common Area. There shall be no obstruction of the Common Area, nor shall anything be kept or stored on any part of the Common Area without the prior written consent of the Association. Nothing shall be altered on, constructed in, or removed from the Common Area except upon the prior written consent of the Association; any such consent may be conditioned upon the Owner's agreement to maintain such item, at such Owner's sole expense.

8.4 Prohibition of Damage and Certain Activities. Nothing shall be done or kept on any Lot or in the Common Area or any part thereof which would increase the rate of insurance on the Property or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association. Nothing shall be done or kept on any Lot or in the Common Area or any part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage

to, or waste of, the Common Area or any part thereof or of the exterior of the Property and buildings shall be committed by any invitee of any Owner who shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees, to the Association or other Owners.

8.5 Fences, Walls and Patios. No Owner shall relocate, heighten, lower or otherwise move or change any fence, wall or patio upon the Property except as provided in Article 6 hereinabove.

8.6 No Unsightly Uses. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out on any portion of the Common Area, or on a Lot so as to be visible from outside the Lot. The Common Area and Lots shall be kept free and clear of all rubbish, debris and other unsightly materials.

8.7 Animals. No animal may be kept or maintained anywhere on the Property, provided, however, that no more than two (2) household pets of mature size not exceeding eighteen (18) inches in height at the withers may be kept on a Lot. The foregoing restrictions may be waived in individual circumstances upon written approval of the Board. No animal may be bred, or kept or maintained for commercial purpose. The Board shall have the exclusive authority to adopt reasonable Rules and Regulations regarding pet ownership and use. This authority may be exercised so as to permit or prohibit different types of animals. The word "animal" shall be construed in its broadest sense and shall include all living creatures except humans.

8.8 Prohibited Structures. No structure of a temporary character, trailer, basement, tent, or shack shall be maintained on any Lot nor shall any garage or other building except a permanent residence, be used on any Lot at any time as a residence or sleeping quarters, either temporarily or permanently.

8.9 Storage. Outside storage of any items, including but without limiting the generality of the foregoing, sporting equipment, toys, yard and garden tools and equipment, shall not be allowed unless screened from view by enclosures or landscaping so as to be effectively screened from view outside the 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 natural substance is prohibited. Usual household trash and garbage containers shall not be kept outside on a permanent basis.

8.10 Noise or offensive activity. No noxious, destructive or offensive activity which disturbs the peace, comfort or serenity of residents shall be allowed on any Lots or in the Common Area or any part thereof, nor shall anything be done thereon which may be or may become a nuisance to any other Owner or to any other person at any time lawfully residing on the Property.

8.11 Vehicles. No boats, snowmobiles, trailers, camping vehicles, unlicensed or inoperable automobiles or trucks or other vehicles shall at any time be stored or parked on any Lot outside of a Dwelling Unit. No such boats, snowmobiles, trailers, camping vehicles, unlicensed or inoperable automobiles or trucks or other vehicles shall be stored or parked on any part of the Common Area without the express written approval of the Board.

8.12 Signs. No sign of any kind (other than designations, in such styles and materials as the Association shall by regulation approve, of street addresses and names of occupants) shall be displayed to the public view on any Lot, except that a "For Sale" sign may be displayed provided that it is in such form as the Association may require.

8.13 "Small Dish" Satellite-Type and Any Other Antennae. One "small dish" satellite antenna no larger than one (1) meter in diameter or antennae for purposes of receiving direct broadcast/satellite service, video programming services or television broadcast signals may be installed on a Lot, as permitted by federal law. However, the Board or an Architectural Control Committee (ACC) appointed by the Board may require that the antenna be installed so as to minimize its visibility from the front of the Lot and otherwise camouflage its appearance, unless such requirements would (i) unreasonably delay installation; (ii) unreasonably increase the cost of installation, maintenance, or use of the antenna; or (iii) preclude reception of an acceptable quality signal. Such installation shall be subject to all governmental laws, codes and ordinances, including any limit on the height of television broadcast antennae. The Board shall have the authority to impose further, reasonable requirements consistent with law. The Owner or Occupant of the Lot shall perform and pay for the installation, maintenance and repair of the antenna. Any and all damage caused by use of these devices shall be the sole responsibility of the Owner installing the device. Subject to federal law, short wave radio antennae are not allowed in the Association.

8.14 Occupancy Restrictions. Occupancy of Lots exclusively by non-Owner Occupants shall be allowed, subject to reasonable regulation by the Association, and subject to the following conditions: (i) no Lot shall be occupied for transient or hotel purposes; (ii) no Lot may be subleased; (iii) all occupancy agreements, whether they be leases or otherwise, shall be in writing; (iv) no occupancy agreement shall be for a term of less than one year; and, (v) all occupancy agreements shall provide that they are subject to the Governing Documents, the Rules and Regulations and that any failure of the Occupant to comply with the terms of such documents shall be a default under the occupancy agreement. In the event an Owner determines that the minimum term of occupancy set forth herein imposes a hardship on the Owner, such Owner may petition the Board for written waiver of such minimum term of occupancy as to that Owner's Lot based upon such hardship. Such petition shall describe the hardship imposed by such restriction and state the length of time for which such Owner requests the waiver of the minimum term of occupancy restriction. The decision whether to grant such waiver shall be at the sole discretion of the Board, whose decision is final. The Association may impose such reasonable Rules and Regulations as may be necessary to implement procedures for the occupancy of Lots exclusively by non-Owners, consistent with this Section.

ARTICLE 9 INSURANCE

9.1 Required Coverage. The Association shall obtain and maintain, at a minimum, a master policy or policies of insurance issued by a reputable insurance company or companies authorized

to do business in the state of Minnesota as follows:

- 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" of the Common Area, less deductibles, exclusive of land, footings, excavation and other items normally excluded from coverage (but including all building service equipment and machinery). The policy or policies shall cover personal property owned by the Association. The policy or policies shall also contain "Inflation Guard" and "Agreed Amount" endorsements, if reasonably available.
- b) 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.
- c) 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.
- d) Workers' Compensation insurance as required by law.
- e) Directors and officer's liability insurance with such reasonable limits and coverages as the Board shall determine from time to time.
- f) Such other insurance as the Board may determine from time to time to be in the best interests of the Association.

9.2 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 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.

9.3 Owner's Personal Insurance. Owners shall maintain at their own cost or expense such insurance coverage as they may desire with respect to the (i) personal liability for acts and occurrences upon their Lot and within their Dwelling Unit and (ii) physical damage losses for property, whether real or personal, and (iii) such coverage of their Lot and Dwelling Unit as they deem sufficient.

The Association shall have no obligation whatsoever to obtain any hazard or flood insurance in connection with any Lot or Dwelling Unit.

ARTICLE 10
RECONSTRUCTION, CONDEMNATION AND EMINENT DOMAIN

10.1 Reconstruction. The obligations and procedures for the repair, reconstruction or disposition of the Property following damage to or destruction thereof shall be governed by the terms of this Declaration. Any repair or reconstruction shall be substantially in accordance with the plans and specifications of the Property as initially constructed and subsequently improved. The Association shall have all authority necessary to cause the Property to be reconstructed, including without limitation the authority (i) to require the Owners to enter into reconstruction contracts on their respective Units, or (ii) to contract for the reconstruction of the Units on behalf of the Owners. Notice of substantial damage or destruction shall be given pursuant to Article 11, Section 11.2 of this Declaration.

10.2 Condemnation and Eminent Domain. In the event of a taking of any part of the Property by condemnation or eminent domain, the provisions of applicable law shall govern; provided, that notice shall be given pursuant to Article 11, Section 11.2 of this Declaration. Mortgagees holding a first Mortgage against a Lot shall be entitled to priority for condemnation awards in accordance with the priorities established by the Governing Documents, as their interest may appear.

10.3 Notice. All Mortgagees holding a first Mortgage against a Lot shall be entitled to receive notice of any condemnation proceedings or substantial destruction of the Property, and the Association shall give written notice thereof to a Mortgagee pursuant to Article 11, Section 11.2 of this Declaration.

ARTICLE 11
RIGHTS OF FIRST MORTGAGEES

11.1 The provisions of this Article take precedence over any other conflicting provisions of this Declaration.

11.2. A holder of a first Mortgage upon a Lot, upon written request to the Association, is entitled to written notification from the Association of each and all of the following:

- a) Any default in the performance by the Owner of any obligation under the Declaration or Bylaws, which is not cured within sixty (60) days;
- b) All meetings of the Association;
- c) Any formal proposal submitted to the Members to: (i) abandon or terminate the Common Area or the townhouse covenants; or (ii) amend materially the Declaration, Bylaws or Articles of Incorporation;
- d) Substantial damage to or destruction of a Dwelling Unit upon which the mortgage is a

lien, or to any part of the Common Area;

- e) The Dwelling Unit or Lot upon which the mortgage is held, or any part of the Common Area, is made the subject matter of any condemnation or eminent domain proceedings.

11.3 The right of an Owner to sell, transfer, or otherwise convey his Lot or Dwelling Unit will not be subject to any right of first refusal or any similar restriction in favor of the Association or other Owners.

11.4 Any holder of a first mortgage on a Lot or any purchaser of a first mortgage at a foreclosure sale, that comes into possession of a Lot by foreclosure of the first mortgage or by deed or assignment in lieu of foreclosure, takes the Lot free of any claims for unpaid assessments or any other charges or liens imposed against the Lot by the Association which have accrued against such Lot prior to the acquisition of possession of the Lot by said first mortgage holder or purchaser except as provided in Article 5, Section 5.13 hereof.

11.5 Unless at least (i) sixty-seven percent (67%) of Owners and (ii) all holders of first mortgage liens have given their prior written approval (together with any additional or greater consent required by this Declaration), the Association shall not be entitled to: by act or omission seek to abandon, partition, subdivide, encumber, alienate, release, hypothecate, sell or transfer the common property owned, directly or indirectly, by the Association for the benefit of the Lots. The granting of easements for public utilities or for other public purposes consistent with the intended use of such common property shall not be deemed a transfer within the meaning of this Section;

11.6 Unless at least sixty-seven percent (67%) of the holders of first mortgages (based upon one vote for each first mortgage owned) and sixty-seven percent (67%) of the Owners have given their prior written approval, the Association shall not be entitled to:

- a) Change the method of determining the obligation, assessments, dues or other charges which may be levied against an Owner;
- b) By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Dwelling Units, the exterior maintenance of Dwelling Units, the maintenance of the common property, party walks or common fences and driveways, or the upkeep of lawns and plantings;
- c) Fail to maintain fire and extended coverage on insurable common property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value, based on current replacement cost; or
- d) Use hazard insurance proceeds for losses to any common property otherwise than for the repair, replacement or reconstruction of such common property.

11.7 First mortgagees shall have the right to examine the books and records of the Association.

11.8 First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any common property and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the common property, and first mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

11.9 Any holder of a first mortgage may designate a representative to attend meetings of Members.

11.10 For such matters requiring consent of holders of first Mortgages and notwithstanding anything to the contrary contained herein, implied approval of a proposed amendment shall be assumed when a holder of a first Mortgagee fails to submit a response to any written proposal for an amendment within 60 days after its receives proper notice of the proposal, provided that the notice was delivered by certified mail with a return receipt requested.

ARTICLE 12 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 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 Article, in addition to the rights and remedies authorized elsewhere by the Governing Documents.

12.1 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, or the decisions of the Association. Owners may also enforce compliance with the Governing Documents or the Rules and Regulations, by a private legal action, independent of this Article. No Owner may 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.

12.2 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) Impose late charges as determined by the Board under Rules and Regulations, for each past due assessment, and impose interest at the highest rate permitted by law accruing beginning on the first day of the month after the assessment was due.
- c) In the event of default of more than 30 days in the payment of any assessment or installment thereof, all remaining installments of assessments assessed against the Lot owned by the defaulting Owner may be accelerated and shall then be payable in full if all delinquent assessments, together with all costs of collection and late charges, are not paid in full prior to the effective date of the acceleration. 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 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 Lot 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 Area 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 Lots.
- g) Repair damage to any Dwelling Unit or Lot caused through the willful or negligent act of the Owner in violation of the Governing Documents, and to assess the cost of such repair against the Owner and Lot.
- h) Foreclose any lien arising under the provisions of the Governing Documents or under law, in the manner provided for the foreclosure of mortgages by action or under a power of sale in the state where the Property is located.

12.3 Rights to Hearing. Before the imposition of any of the remedies authorized by Section 12.2 d, e or f, the Board shall, upon written request of the offender, grant to the offender an opportunity for a fair and equitable hearing. The offender shall be given notice of the nature of the violation and the right to a hearing, and at least ten (10) days within which to request a hearing. The hearing shall be scheduled by the Board and held within thirty (30) days of receipt of the hearing request by the Board, and with at least ten (10) days prior written notice to the offender. If the offender fails to timely request a hearing or to appear at the hearing, then the right to a hearing shall be deemed waived and the Board may take such action as it deems appropriate. The decision of the Board and the rules for the conduct of hearings established by the Board shall be final and binding on all parties. The Board's decision shall be delivered in writing to the offender within ten (10) days following the hearing, if not delivered to the offender at the hearing. 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.

12.4 Lien for Charges, Penalties, Etc. Any assessments, charges, fines, expenses, penalties 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 Assessments 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 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.

12.5 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 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. 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 Lot.

12.6 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 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.

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

ARTICLE 13 AMENDMENTS

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 percentage of holders of first mortgages (based upon one vote per first mortgage owned) required by Article 11 as to matters prescribed by said Article. 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 Mortgagees shall be in writing. The Amendment shall be effective when recorded in the office of the Hennepin County Recorder. 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.

ARTICLE 14 GENERAL

14.1 Notices. Any notice required to be sent to any Member of the Association under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such Member appearing on the records of the Association at the time of such mailing.

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

14.3 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way limit or proscribe the scope of this Declaration or the intent of any provision hereof.

14.4 Interpretation. The singular shall be deemed to include the plural wherever appropriate and each reference to a male pronoun shall include the female and neutral; and unless the context clearly indicates to the contrary, any obligation imposed shall be joint and several.

14.5 Construction. In the event of any conflict among the provisions of the Declaration, the Bylaws or the Rules and Regulations, the Declaration shall control, and as between the Bylaws and the Rules and Regulations, the Bylaws shall control.

[signature page follows]

EXHIBIT A
TO
AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR KINGSWOOD FARM

LEGAL DESCRIPTION OF PROPERTY

LOTS:

Lots 1 through 36, both inclusive, Block 1;
Lots 1 through 7, both inclusive, Block 2;
Lots 1 through 15, both inclusive, Block 3;
Lots 1 through 15, both inclusive, Block 4;
Lots 1 through 24, both inclusive, Block 5;
Lots 1 through 15, both inclusive, Block 6;

all in Kingswood Farm, Hennepin County, Minnesota, according to the recorded plat thereof.

COMMON AREA:

Outlot A, Kingswood Farm, Hennepin County, Minnesota

AND

that part of vacated 1st Avenue North between County Road No. 101 and Kimberly Lane North, City of Plymouth, Hennepin County, Minnesota, located within the plat of Kingswood Farm, Hennepin County, Minnesota.

EXHIBIT B
TO

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR KINGSWOOD FARM

[Agreement dated October 1, 2013, regarding monument location and maintenance with
Wayzata Independent School District No. 284]

AGREEMENT

WHEREAS, The Wayzata Independent School District No. 284 (School District) is the owner of the property at the southeast corner of State Highway No. 101 and First Avenue North in the City of Plymouth.

AND WHEREAS, Kingswood Farm Owners Association (KFOA) is the owner of the property adjoining the School District property on the south side of the school district property.

AND WHEREAS, The School District is desirous of maintaining the ownership of the property and grounds.

AND WHEREAS, KFOA who has their entrance monument and plantings on this property is desirous to maintain these grounds at no cost to the School District by fertilizing, weed control, mowing of grass weekly, watering and aerating as necessary since this property serves as a focal point to our community.

NOW THEREFORE, KFOA will maintain this property to look like the remainder of the Kingswood property.

This document will allow the School District to maintain ownership of the property and KFOA will maintain the grounds.

This document is executed this 1st day of October

2013.

John Duetsch Director Facilities & Transportation
John Duetsch, Wayzata School District 284 Grounds Maintenance

Theodore D. Kemnd
Theodore D. Kemnd, RLS. KFOA Vice President of Maintenance

WISD-184

09-10-13

AFFIDAVIT OF SECRETARY

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

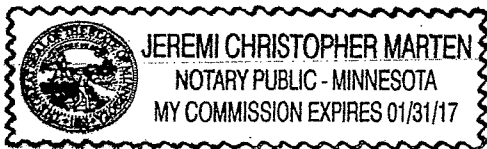
The undersigned, Secretary of Kingswood Farm Homeowners Association, Inc., a Minnesota nonprofit corporation, being first duly sworn and upon oath, hereby swears and certifies, pursuant to the applicable provisions of Minnesota law and the Original Declaration, that the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Kingswood Farm, has been duly approved by a vote of the Board of Directors of the Association, and in writing by the requisite number and percentage of Owners and mortgagees, in compliance with the requirements of Minnesota law and the Original Declaration.

Kingswood Farm Homeowners
Association, Inc.

Barbara Franzen
Secretary

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

Signed and sworn to before me this 21 day of SEPTEMBER, 2017, by BARBARA A. FRANZEN, Secretary of Kingswood Farm Homeowners Association, Inc., a Minnesota nonprofit corporation.



[Signature]
Notary Public

This instrument drafted by:

HELLMUTH & JOHNSON, PLLC (NTP)
8050 W. 78th St.
EDINA, MN 55439
(952) 941-4005