



The Covenants of
Church Hill East Neighborhood

**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS**

CHURCH HILL EAST
a Community of Single Family Residences

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CHURCH HILL EAST

A COMMUNITY OF SINGLE FAMILY RESIDENCES

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DECLARATION

CHURCH HILL EAST

This Declaration is made in the County of Benton, State of Minnesota, on this ____ day of _____, 2003, by Croat Land Company, a Minnesota corporation, (the "Declarant"), for the purpose of creating CHURCH HILL EAST , a community of single family homes in the City of Sauk Rapids, County of Benton, and State of Minnesota.

Croat Land Company, a Minnesota corporation, (the "Declarant") is the Owner of the real property described in Article 2 of this Declaration (the "Properties") and desires to create thereon a residential dwelling community consisting of 80 single family residential lots, public streets and with common areas consisting of a park and facilities for the benefit of the residents and general public; and

THE PROPERTIES ARE EXEMPT FROM THE PROVISIONS OF MINNESOTA STATUTES CHAPTER 515B, KNOWN AS THE MINNESOTA COMMON INTEREST OWNERSHIP ACT, BY VIRTUE OF SECTION 515B.1-102(E)(2) OF THE ACT BECAUSE THE LOTS CONSIST SOLELY OF SEPARATE PARCELS OF REAL ESTATE DESIGNED FOR DETACHED SINGLE FAMILY DWELLINGS AND THE ASSOCIATION HAS NO OBLIGATION TO MAINTAIN ANY BUILDING CONTAINING A DWELLING; and

Declarant desires to provide for the preservation of the values and amenities in said area and for the maintenance of said common areas and facilities, and to this end desires to subject the real property described in Article 2, together with such additions as may thereafter be made thereto, as provided in Article 2, to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each Owner thereof, and

Declarant has deemed it desirable for the efficient preservation of the values and amenities in said area to create an association to which should be delegated and assigned the powers of maintaining and administering such facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created, and

Declarant has incorporated, under the laws of the State of Minnesota, as a non-profit corporation, the CHURCH HILL EAST HOMEOWNERS ASSOCIATION for the purpose of exercising the functions aforesaid; and

NOW, THEREFORE, Declarant does hereby declare that the real property described in Article 2 and such additions thereto as may hereinafter be made pursuant to Article 2 hereof is, and shall be held, transferred, sold, conveyed and occupied, subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "Covenants and Restrictions"), hereinafter set forth.

ARTICLE 1 DEFINITIONS

The following words, when used in this Declaration, or any supplemental declaration (unless the context shall prohibit), shall have the following meanings:

1.1 "Association" shall mean and refer to CHURCH HILL EAST HOMEOWNERS ASSOCIATION.

1.2 "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 the Declaration or By-Laws and Rules and Regulations.

1.3 "Common Properties" shall mean and refer to all parts of the Properties except the Lots, including improvements thereon owned by the Association for the purpose of and intended to be devoted to the common use and enjoyment of the Owners. The Common Properties are: Outlot B and E as shown in the Plat of CHURCH HILL EAST.

1.4 "Declarant" shall mean and refer to Croat Land Company, a Minnesota corporation, its successors and assigns.

1.5 "Dwelling" shall mean a building intended for occupancy as a single family residence, and located within the boundaries of a Lot. The Dwelling includes any garage attached thereto or otherwise included within the boundaries of the Lot in which the Dwelling is located.

1.6 "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.

1.7 "Governing Documents" shall mean this Declaration, and the Articles of Incorporation, By-Laws and Rules and Regulations of the Association, as amended from time to time, all of which shall govern the use and operation of the Properties.

1.8 "Lot" shall mean and refer to any plot of land shown on any recorded subdivision map within the Properties on which a residential home may be constructed, with the exception of Common Properties as heretofore defined.

1.9 "Members" shall mean and refer to all Owners who are Members of the Association as provided in Article 3, Section 3.1, hereof.

1.10 "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of fee simple title to any Lot situated upon the Properties but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure, 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. Until the Properties are fully developed, the Declarant will be considered the Owner of, and entitled to vote, the number of platted Lots owned by it.

1.11 "Owner other than Declarant" shall mean and refer to an Owner of a Lot who has purchased the same for his or her own residential use and occupancy; conveyance of a Lot or Lots from Declarant to a party to whom Special Declarant Rights are also conveyed, or to other developers or builders who acquire Lots for the purpose of resale and construction of dwellings thereon, shall not be considered a conveyance "to Owners other than Declarant" until such time as the Lot together with the dwelling constructed thereon is sold by such developer or builder to another person for occupancy as a residential dwelling.

1.12 "Properties" shall mean and refer to all such existing Properties and additions thereto as are subject to this Declaration or any supplemental declaration under the provisions of Article 2 hereof.

1.13 "Development Agreement (Church Hill East)" shall mean that certain agreement dated the _____ day of _____, 2003, between the City of Sauk Rapids, Minnesota, and Croat Land Company.

1.14 "Voting and Common Expenses". Voting rights and common expense obligations are allocated among the Lots in accordance with the provisions of Section 3.2 and 6.4 of this Declaration.

ARTICLE 2
DESCRIPTION OF PROPERTY SUBJECT TO THIS DECLARATION AND LOTS

2.1 Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is situated in the City of Sauk Rapids, County of Benton, and State of Minnesota, described as follows:

All of the lands included in those parts of the following plat on file and of record in the office of the County Recorder in and for Benton County, Minnesota, to wit: Lots _ through _, Block _; and Outlots A, B, C, D and E, all in CHURCH HILL EAST, filed on the ____ day of _____, 2003, as Doc. No. _____,

all of which real property shall hereinafter be referred to as "Existing Property", or as the "Properties."

2.2.2, 14 Lots. The initial plat contains _____ platted residential Lots but it is the Declarant's plan and reserved right to subdivide Outlots A, C and D into Lots in accordance with the requirements of the Subdivision Ordinances and Regulations of the City of Sauk Rapids, and the Development Agreement (Church Hill East). Initial plans are for a total of 80 Lots as shown in the Preliminary Plat approved by the City of Sauk Rapids, subject to increased densities as may subsequently be applied for and approved by the City of Sauk Rapids. Each Lot constitutes a separate parcel of real estate. The Lot identifiers and locations of the initial Lots are as shown on the Plat of CHURCH HILL EAST. Additional Lots will be created by execution and recording of Amendments to Declaration executed by Declarant and shown on successive re-plats of CHURCH HILL EAST duly recorded in accordance with the Subdivision Ordinances and Regulations of the City of Sauk Rapids. The Lot identifier for a Lot shall be its lot and block numbers and the subdivision name.

2.3 Lot Boundaries. The front, rear and side boundaries of each Lot shall be the boundary lines of the platted Lots as shown on the Plats. The Lots shall have no upper or lower boundaries.

2.4 Common Properties shall mean and refer to Outlots B and E as shown in the Plat of CHURCH HILL EAST, together with the improvements required in the Development Agreement (Church Hill East); which include, but are not limited to: walkways, activity surfaces, plantings, structures, equipment and irrigation systems located thereon. Upon completion of the aforementioned improvements on the Common Properties by Declarant, the Common Property along with the improvements shall be conveyed by the Declarant to the City of Sauk Rapids for the benefit

and common use and enjoyment of the Owners and Occupants, as well as the citizens of the City of Sauk Rapids.

2.4.1 The Initial Declarant shall improve the Common Properties in accordance with the Development Agreement (Church Hill East). The improvements include, but are not limited to: construction of walkways, activity surfaces, plantings, structures, equipment and irrigation systems.

2.4.2 The Common Properties shall be subject to:

2.4.2.1.1 the easements referred to in the Declaration;

2.4.2.1.2 the rights of Owners and Occupants appurtenant to their Lots;

2.4.3 All maintenance, repair, and replacement of the Common Properties shall be the responsibility of the Association pursuant to the terms and conditions contained in the Development Agreement (Church Hill East), this Declaration, as well as City Code, Ordinances, and rules, regulations, or policies established by the City reasonably governing use of the Common Properties in such a manner as will not cause a nuisance, or unduly restrict, interfere with or impede the use of the Properties by Owners, Occupants and their guests.

2.4.4 Common Expenses the performance of the Association's obligations relative to the Common Properties, including, but not limited to maintenance, repair, and replacement, shall be assessed and collected from the Owners in accordance with Article 6.

2.5 Access Easements. Each Lot shall be the beneficiary of an appurtenant easement for access to a public street or highway as shown on the Plat, subject to any restrictions set forth in the Declaration.

2.6 Utility and Maintenance Easements. Each Lot shall be subject to and shall be the beneficiary of appurtenant easements for all services and utilities servicing the Lots.

2.7 Easements. Each Lot shall be subject to and shall be the beneficiary of the appurtenant easements for encroachments as described in Section 2.9.

2.8 Declarant's Easements. Declarant shall have and be the beneficiary of easements for construction and sales activities as described in Section 11.4.

2.9 Recorded Easements. The Properties shall be subject to such other easements as may be recorded against it or otherwise shown on the Plats.

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

2.11 Impairment Prohibited. Subject to the Declaration and the right of the Association to impose reasonable Rules and Regulations governing the use of the Properties, no person shall materially restrict or impair any easement benefitting or burdening the Properties.

ARTICLE 3 **MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

3.1 Membership. Every person or entity who is a record Owner of a fee interest in any Lot, including contract buyers, shall be a Member of the Association by virtue of ownership of an interest in a Lot, and the membership shall be transferred with the conveyance of the Owner's interest in the Lot. Such ownership of a Lot shall be the sole qualification and basis for membership. An Owner's membership shall terminate when the ownership terminates. The foregoing is not intended to include persons or entities who hold an interest merely for security for the performance of an obligation.

3.2 Voting Rights. Voting rights and Common Expense obligations are allocated equally among the Lots, subject to Sections 6.3 and 6.10. Each Member, including the Declarant, shall be entitled to one (1) vote for each Lot in which the person holds the interest required for membership by Section 3.1. When more than one person holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

ARTICLE 4 **COMMON PROPERTIES**

4.1 Common Properties.

4.1.1 Characteristics. The Common Properties and their characteristics are as follows:

4.1.1.1 Common Properties shall mean and refer to Outlot B as shown in the Plat of CHURCH HILL EAST, together with the walkways, activity surfaces, plantings, structures, equipment and irrigation systems located thereon. The Common Properties are owned by the City of Sauk Rapids.

4.1.1.2 All maintenance, repair, replacement, management and operation of the Common Properties shall be the responsibility of the Association. In addition, upon completion of the improvements on Outlot E, the Association will take such measures as are necessary to foster the growth of the seed, and maintain indefinitely Outlot E so as to prevent nuisance conditions. Maintenance of Outlot E shall consist of mowing, and noxious weed control only.

4.1.1.3 Common Expenses for the maintenance, repair, replacement, management and operation of the Common Properties and Outlot E shall be assessed and collected from the Owners in accordance with Article 6.

4.1.2 Disclosure of Responsibilities of Association to the City of Sauk Rapids. Outlots B and E to CHURCH HILL EAST and all of the improvements located thereon have been conveyed to the City of Sauk Rapids. The City of Sauk Rapids will not be responsible to improve or maintain the park or its improvements; the Association as successor in interest to the Developer has certain responsibilities with regard to the park, set out in paragraph 9D of the Development Agreement as follows:

THE ASSOCIATION WILL BE RESPONSIBLE FOR THE MAINTENANCE, REPAIR, AND GENERAL UPKEEP OF OUTLOT B AS A PUBLIC PARK. THIS INCLUDES, BUT IS NOT LIMITED TO:

SEEDING, MOWING, AND GENERAL CARE OF THE GROUNDS;

WATERING OF IMMATURE PLANTS OR PLANTS WITHIN THEIR FIRST FULL GROWING SEASON AFTER PLANTING;

MAKING NECESSARY REPAIRS TO EQUIPMENT AND REPLACING WHEN NECESSARY;

MAINTENANCE AND REPAIR OF THE LANDSCAPING (TREES, SHRUBS, FLOWERS, ETC.);

MAINTENANCE AND REPAIR OF THE BITUMINOUS TRAIL;

AND ANY OTHER MAINTENANCE AND REPAIR DETERMINED NECESSARY BY THE CITY IN ITS SOLE DISCRETION TO PRESERVE OUTLOT B AS A SAFE AND USABLE PARK TO THE GENERAL CITIZENRY OF SAUK RAPIDS.

IN THE EVENT THERE IS A DISPUTE OVER WHETHER OR NOT A REPAIR, IMPROVEMENT, OR OTHER WORK MUST BE DONE, THE CITY'S DECISION SHALL BE FINAL AND BINDING UPON THE ASSOCIATION.

AT ANY TIME THAT THE ASSOCIATION IS REQUESTED BY THE CITY TO MAKE SUCH A REPAIR, IMPROVEMENT, OR OTHER WORK, AND FAILS TO DO SO IN A TIMELY MANNER, THE CITY MAY:

1) IMMEDIATELY CLOSE THE PARK, OR

2) PERFORM THE WORK ITSELF AND ASSESS THE COST AGAINST THE DEVELOPMENT PROPERTY ON A PROPORTIONATE BASIS. SAID ASSESSMENT SHALL BE A LIEN UPON THE PROPERTY.

as well as certain responsibilities with regard to Outlot E, set out in paragraph 6(c) of the Development Agreement (Church Hill East) as follows:

DEVELOPER WILL, AS SOON AS PRACTICABLE OR AS DETERMINED BY THE CITY, FINAL GRADE OUTLOT E.

UNTIL SUCH TIME AS THE LIFT STATION AND/OR OTHER IMPROVEMENTS ARE CONSTRUCTED, DEVELOPER AND/OR THE HOMEOWNERS ASSOCIATION WILL MAINTAIN OUTLOT E FREE FROM NOXIOUS WEEDS, DEBRIS, AND OTHERWISE TAKE SUCH MEASURES NECESSARY TO PREVENT CONDITIONS ON OUTLOT E FROM BECOMING A NUISANCE.

UPON COMPLETION OF THE IMPROVEMENTS ON OUTLOT E, DEVELOPER WILL SEED OUTLOT E.

DEVELOPER AND/OR THE HOMEOWNERS ASSOCIATION WILL TAKE SUCH MEASURES AS ARE NECESSARY TO FOSTER

THE GROWTH OF THE SEED AND HEREBY AGREE TO MAINTAIN OUTLOT E INDEFINITELY.

MAINTENANCE OF OULOT E INCLUDES, BUT IS NOT LIMITED TO, MOWING AND NOXIOUS WEED CONTROL.

4.1.3 Indemnification. The Association shall indemnify and hold harmless the City for all damages, claims, and causes of action arising out of the Association's performance of its obligations as contained in this Declaration.

ARTICLE 5 ADMINISTRATION

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

5.1 General. The operation and administration of the Association and the Properties shall be governed by the Governing Documents. 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 Properties. The Association shall have all powers described in the Governing Documents, and the statute under which it is incorporated. All power and authority of the Association shall be vested in the Board, unless action or approval by the individual Owners is specifically required by the Governing Documents. All references to the Association shall mean the Association acting through the Board unless specifically stated to the contrary.

5.2 Operational Purposes. The Association shall operate and manage the Properties 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 Properties for which it is responsible and (iii) preserving the value and architectural uniformity and character of the Properties.

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

5.4 By-Laws. The Association shall have By-Laws. The By-Laws and any amendments thereto shall govern the operation and administration of the Association.

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

5.6 Rules and Regulations. The Board shall have exclusive authority to approve and implement such reasonable Rules and Regulations as it deems necessary from time to time for the purpose of operating and administering the affairs of the Association and regulating the use of the Properties; 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 or Regulations shall be effective only after reasonable notice thereof has been given to the Owners.

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

ARTICLE 6 COVENANTS AND ASSESSMENTS

6.1 Creation of Lien and Personal Obligation of Assessments. The Declarant hereby covenants and agrees that for each platted Lot owned by the Declarant, and each other Owner of any Lot shall, by acceptance of a deed thereto, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay to the Association: (i) annual assessments or charges; and (ii) special assessments for acquisitions and capital improvements and other items described herein; and (iii) limited allocation expenses under Section 6.6; such assessments to be fixed, established and collected from time to time as hereinafter provided. Assessments shall be determined and assessed against the Units by the Board, in its discretion; subject to the requirements and procedures set forth in this Article 6, and the requirements of the Bylaws. The annual, special and limited assessments, together with such interest thereon and cost of collection thereof as hereinafter provided, shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall also be the personal obligation of the Owner of such Lot at the time when such assessment fell due.

6.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Members and in particular for the care and maintenance of the Common Properties and for the acquisition, improvement and maintenance of the additional Common Properties, services and facilities devoted for this purpose and related to the use and enjoyment of the Common Properties, including but not limited to, the payment of taxes on Common Properties, insurance, repairs, replacements and additions, and for the cost of labor, equipment, materials, management and supervision. Notwithstanding the foregoing provision, assessments levied and collected by the Association during the period of Declarant Control shall not be used for initial construction of any of the capital improvements constituting the Common Properties, although such funds shall be used for all other purposes of the Association in accord with the provisions hereof.

6.3 Liability of Owners for Assessments. Except as provided in Section 6.9 below, the obligation of an Owner to pay assessments shall commence the time at which the Owner acquires title to the Lot. 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 or the Act. The Association may invoke the charges, sanctions and remedies set forth in Article 10, in addition to any remedies provided elsewhere in the Governing Documents, the Rules and Regulations, or by law, for the purpose of enforcing its rights hereunder.

6.4 Annual Assessment. The Board of Directors of the Association shall establish and levy annual assessment upon each Lot as provided in the Bylaws. All Lots shall be assessed equally; provided, however, that the annual assessment upon each Lot may be increased by such additional assessments or charges as the By-laws of the Association provide; and provided that the platted Lots owned by the Declarant and/or sold by Declarant to Developers or Builders holding the same for future construction and resale, shall be assessed at the same rate as any other Lot except as provided below.

6.5 Special Assessments. In addition to annual assessments, and subject to the limitations set forth hereafter, the Board may levy in any assessment year a special assessment against all Lots for the purpose of defraying in whole or in part (i) the cost of any foreseen or unbudgeted Common Expense, (ii) general or specific reserves for maintenance, repair or replacement, and (iii) the maintenance, repair or replacement of any part of the Property, and any fixtures 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 21 days nor more than 30 days in advance of the meeting.

6.6 Limited Allocation Assessment. In addition to annual assessments and special assessments, the Board may, at its discretion, levy and allocate limited allocation assessments among only certain Lots in accordance with the following requirements and procedures:

- 6.6.1 Any assessment or portion thereof benefitting fewer than all of the Lots may be assessed exclusively against the Lot or Lots benefitted.
- 6.6.2 Reasonable attorneys' fees and other costs incurred by the Association in connection with (i) the collection of assessments and (ii) the enforcement of the Governing Documents, or the Rules and Regulations, against an Owner or Occupant or their guests, may be assessed against the Owner's Lots.
- 6.6.3 Late charges, fines and interest may be assessed as provided Section 10.2.
- 6.6.4 Assessments levied to pay a judgment against the Association may be levied only against the Lots in proportion to their Common Expense liabilities.
- 6.6.5 If any damage to the Common Elements or another Lot is caused by the act or omission of any Owner or Occupant, or their guests, the Association may assess the costs of repairing the damage exclusively against the Owner's Lot to the extent not covered by insurance.
- 6.6.6 If any assessment or installment of an assessment becomes more than thirty (30) days past due, then the Association may, upon ten (10) days written notice to the Owner, declare the entire amount of the assessment immediately due and payable in full.

Assessment levied under Sections 6.6.1 through 6.6.6 may, at the Board's discretion, be assessed as a part of, or in addition to, the Assessments levied under Section 6.4.

6.7 Working Capital Fund. Declarant shall establish a working capital fund to meet unforeseen expenditures or to purchase additional equipment or services during the period before breakeven when Declarant is responsible for maintenance of the common areas. There shall be contributed on a one-time basis for each lot sold by Declarant an amount equal to one year's estimated common expense assessment for the lot being conveyed. The contribution to the working capital fund shall be paid at the time of closing of sale of the lot to a person other than Declarant or another developer or a builder for occupancy as a residential dwelling. The amounts paid into this fund are in

lieu of one year's regular monthly installments of assessments. The funds shall be deposited into the Association's account.

6.8 Change in the Method of Calculation (Basis) of Annual Assessments. After termination of the period of Declarant Control as provided in Section 11.5, subject to Article 13 Rights of Eligible Mortgagees, the Association may change the basis of the annual assessments fixed by Section 6.4 hereof prospectively for any period, provided that any such change shall have the assent of two-thirds (2/3) of the votes of Members who are voting in person or by proxy at a meeting duly called for this purpose.

6.9 Date of Commencement of Annual Assessments; Due Dates. The collection of annual assessments provided for herein shall commence at the time of the sale to an Owner of a Lot who has purchased the same for his or her own residential use and occupancy.

6.10 Increases in Annual Assessments. After a common expense assessment is levied, the annual assessment may be subsequently increased as follows: the Board of Directors of the Association may at any time, after consideration of the current costs and future needs of the Association, increase or decrease the annual assessment upon each Lot. In the event that an increase in the annual assessment occurs during an assessment year, the amount of the annual assessment which may be levied for the balance remaining in the assessment year may be an amount which bears the same relationship to the revised annual assessment as the remaining number of months in the year bear to twelve. Except for the variations authorized by Section 6.6, and except for premiums on insurance carried by the Association, the increase in the annual assessment for any fiscal year shall not exceed the greater of (i) 5% of the previous year's annual assessment or (ii) the percentage increase in the National Bureau of Labor Statistics Consumer Price Index for the Minnesota Twin City Metropolitan Area (or comparable index if not available) for the most recent available year, multiplied times the total annual assessment for the Association's previous year; unless the increase is approved by the vote of 67% of those Owners (other than Declarant) voting, in person or by proxy, at a meeting called for that purpose, or voting by mail. Notice of the meeting shall be sent to all Owners not less than 21 days nor more than 30 days in advance of the meeting. The foregoing restriction shall apply only during the period of Declarant control of the Association, as described in Section 11.5.

6.11 Alternative Assessment Program. Notwithstanding the commencement of annual assessment payments as provided above, Declarant hereby establishes the following alternative assessment program:

6.11.1 Declarant's Assessment. Notwithstanding anything to the contrary in this Article 6, Declarant shall pay all Common Expenses (excluding reserve accruals) of the Association pertaining to the maintenance of the Common Areas as they become due, until such time when budgeted assessment revenues equal the cost of Common Expenses (the "Breakeven" point). During the period of time from Breakeven until all

Lots have been sold to a party other than Declarant, any Lot owned by Declarant for initial sale shall be assessed at the rate of 25% of the assessment levied on other Lots of the same type until a certificate of occupancy has been issued with respect to the Declarant's Lot by the City of Sauk Rapids. This reduced assessment shall apply to each Lot owned by Declarant at the time that the Lot is available for issuance of a home construction building permit, and shall continue with respect to the Lot until the certificate of occupancy is issued for that Lot.

6.11.2 Developer/Builder Assessment. Notwithstanding anything to the contrary in this Article 6, since it is part of the scheme of development of CHURCH HILL EAST that Declarant may sell Lots to certain approved Developers and/or Builders for the purpose of construction of dwellings thereon for the purpose of resale to persons who will occupy the dwellings as their place of residence; and since such Lots require only minimal services from the Association until construction has commenced thereon; any Lot owned by a Developer or Builder after purchase from Declarant and held for initial sale after construction of a dwelling thereon, shall not be assessed for Common Expenses until the certificate of occupancy is issued for that Lot or such Lot is sold to any other party.

There are no assurances that this alternative assessment program will have no effect on the level of services for items set forth in the Association's budget.

6.12 Duties of the Board of Directors. The Board of Directors of the Association shall fix the due date and the amount of the assessment against each Lot for each assessment period, and shall at that time prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer or the managing agent of the Association setting forth whether said assessment has been paid. Such certification shall be conclusive evidence of payment of any assessment therein stated to have been paid.

6.13 Effect of Non-payment of Assessment: The Personal Obligation of the Owner; the Lien; Remedies of Association. If an assessment is not paid on the date when due (being the date established pursuant to Section 6.12 hereof) then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof, as hereinafter provided, thereupon become a continuing lien on the Lot to which it applies which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them. 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 a Lot, including all assessments payable in the Association's current fiscal year, which statement shall be binding on the Association, seller and buyer. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of 15% per annum or the highest non-usurious rate of interest allowed by applicable law, whichever is less, and the Association may bring an action at law against the Owner personally obligated to pay the same, or to foreclose the lien against the property, as in the case of foreclosure of a mortgage containing a power of sale pursuant to the provisions of Minnesota Statutes Chapter 580, and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action; and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided, and reasonable attorneys' fees to be fixed by the Court, together with the costs of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Properties or by abandonment of his Lot.

6.14 Assessment Lien and Priority. 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 pursuant to the Governing Documents are liens, and are enforceable as assessments under this Section. **Recording of the Declaration constitutes notice and perfection of any lien under this Section, no further recordation of any notice of or claim for the lien is required.** A lien under this Section is prior to all other liens and encumbrances on a Lot, except any first mortgage on the Lot and liens for real estate taxes and other governmental assessments or charges against the Lot.

6.15 Subordination of Lien to Mortgages. The lien of the assessments provided for herein shall be subordinated to the lien of any mortgage or mortgages now or hereafter placed upon the Properties subject to assessments; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer of such property pursuant to decree of foreclosure and any other proceedings in lieu of foreclosure. Such sale or transfer shall not release such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments. A lien for Assessments is prior to all other liens and encumbrances on a Lot except (i) liens and encumbrances recorded before the Declaration, (ii) any first mortgage on the Lot, and (iii) liens for real estate taxes and other governmental assessments or charges against the Lot.

6.16 Exempt Property. The following Properties subject to this Declaration shall be exempted from the assessments charged and the lien created herein:

6.16.1 All Properties to the extent of an easement or other interest dedicated herein and accepted by the local public authority and devoted to public use;

6.16.2 All Properties exempted from taxation by the laws of the State of Minnesota upon the terms and to the extent of such legal exemption;

6.16.3 The Common Properties.

6.16.4 Notwithstanding any provision herein, no land or improvements devoted to Dwelling use shall be exempt from said assessments, charges or liens.

6.17 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 released. Any seller or buyer shall be entitled to a statement, in recordable form, from the Association setting forth the amount of the unpaid Assessments against the Lot, including all assessments payable in the Association's current fiscal year, which statement shall be binding on the Association, seller and buyer.

ARTICLE 7 PERMITTED USES OF PROPERTY

7.1 Concept Statement. All Common Properties shall be used in a manner consistent with the plan of this Declaration and as established by the Association. The CHURCH HILL EAST development was designed to provide a unique living environment.

The Association park, pathways, trails, walkways, equipment, and plantings, are owned by the Association according to the CHURCH HILL EAST HOMEOWNERS ASSOCIATION Articles and Bylaws.

The design concept of the development provides living space which benefits the surrounding property Owners of CHURCH HILL EAST. To maintain this spirit of cooperation, certain rules and agreements, while not necessarily based on laws, but of ethics, must be presumed.

The purpose of this Article is to minimize the environmental impact of the development of the Properties. Although Minnesota State, Benton County and Sauk Rapids City ordinances provide standards for development, the protective covenants set forth below are designed to augment the protection provided by these ordinances.

7.2 Protective Covenants. All Owners and Occupants, and all secured parties, by their acceptance or assertion of an interest in the Properties, or by their occupancy of a Lot, covenant

and agree that, in addition to any other restrictions which may be imposed by law, or the By-Laws, this Declaration or Rules and Regulations of the Association the occupancy, use, operation, alienation and conveyance of the Properties shall be subject to the following restrictions:

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

7.2.2 Residential Use. All Lots shall be used, improved, and devoted exclusively to residential use. No Lot shall contain more than one single-family residence. An enclosed private garage consisting of at least two stalls shall be constructed for every Dwelling erected. The garage must be attached to the Dwelling. All driveways shall be constructed of concrete or asphalt. Two accessory structures will be allowed on any Lot provided they met architectural committee approval and conform to all city ordinances.

7.2.3 General Appearance of the Residences. **This community of single family homes offers diverse investment opportunities and lifestyles. Each participating homeowner is responsible for the individual appearance of their respective home and share in the common goal and desire to maintain and enhance property values. Therefore, each home site must be kept in order including but not limited to:**

- Refuse container stored inside until day of pickup.
- Lawn and landscape maintenance shall be normal and customary and appropriate to the season. Lawns and grass areas must be kept mowed to a height of not more than 6 inches. All weeds and grasses must be maintained in accord with the requirements of Sauk Rapids City ordinances governing weed elimination except that grasses and weeds must be kept mowed to not more than 6 inches in height.
- Personal property shall be stored inside unless in seasonal use.
- Draperies and other interior decor items visible from the outside must be custom made or manufactured for their intended purpose.

- **Recreation equipment, toys and other amusement devices must be in safe operable condition and not create visual clutter.**
- **Creative landscaping is encouraged.**
- **Private irrigation systems must be maintained to control overspray and waste.**
- **Security lights must be adjusted to eliminate activation by normal traffic.**
- **Easements, setbacks and common property boundaries must be respected. All personal properties, waste material, refuse, or other items created or brought onto the property must remain on the owner's property.**
- **Wood piles, compost material, gardens and similar uses must be maintained (i.e., turned frequently and utilized) so as to be kept free of pests or other public health, safety or nuisance factors, such as smell or creation of habitat for animals or insects that are customarily unwanted in a residential setting. They must be located on the Lot so as to be out of sight from the public right of ways; the requirements of this sentence do not apply to landscape plantings.**
- **All property survey markers must remain in place and are protected by statutory enforcement.**
- **Sidewalks are part of the public right-of-way and must be maintained in all seasons and kept free of personal property and obstructions.**

7.2.4 No Vacant Lots. All Lots are intended and sold to be promptly improved. Within two years from the date of any transfer or conveyance of a Lot to a party other than Declarant or an approved Developer or Builder, the Owner of the Lot shall commence the construction on the Lot of a single family dwelling thereon in accordance with the provisions of the Governing Documents. Construction shall be completed and ready for occupancy no later than six months after commencement of construction. Exceptions to these time limits may only be granted by the Association upon timely written application to the Architectural Committee. Even if commencement of construction is delayed following transfer or conveyance of a Lot to a party other than Declarant or an approved Developer or builder, such Owner shall be responsible for payment of full assessments in accordance with the provisions of Article 6, commencing as provided in Section 6.3.

7.2.5 Subdivision Prohibited. Except for subdivision of Outlots by Declarant as provided in Section 2.2, 14 pursuant to its Special Declarant Rights reserved in this Declaration, no Lot nor any part of the Common Properties may be subdivided or partitioned.

7.2.6 Business Use Restricted. No business, trade, occupation or profession or any kind, whether carried on for profit or otherwise, shall be conducted, maintained or permitted in any Lot or the Common Properties; except:

7.2.6.1 an Owner or Occupant residing in a Lot may conduct a home occupation entirely within the residential Dwelling portion of any structure as regulated according to the City of Sauk Rapids Zoning Ordinance; and

7.2.6.2 an Owner or Occupant residing in a Lot may keep and maintain his or her business records or professional records in such Lot and handle matters relating to such business, provided that such uses are incidental to the residential use, do not involve physical alteration of the Lot and do not involve any observable business activity such as signs, advertising displays, bulk mailings, deliveries.

7.2.6.3 the Association may maintain an office on the Properties for management and related purposes and may maintain such signs upon the Properties and on the Lots advertising CHURCH HILL EAST as are permitted by ordinances of the City of Sauk Rapids.

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

7.2.7.1 that no Lot shall be leased for transient or hotel purposes,

7.2.7.2 that no Lot may be subleased,

7.2.7.3 that all leases shall be in writing, and

7.2.7.4 that all leases shall provide that they are subordinate and subject to the provisions of the Governing Documents, the Rules and Regulations and the Act, and that any failure of the lessee to comply with the terms of such documents shall be in default under the lease.

The Association may impose such reasonable Rules and Regulations as may be necessary to implement procedures for the leasing of Lots, consistent with this Section.

7.2.8 Parking. The use of garages, streets, driveways and other parking areas on the Properties, and the types of vehicles and personal property permitted thereon, shall be subject to regulation by the Association, including without limitation the right of the Association to tow illegally parked vehicles or to remove unauthorized personal property.

7.2.9 Automobiles, Recreational Vehicles, and Trailers. A Lot Owner shall be permitted to have and keep on the premises no more than three vehicles or one vehicle per licensed Owner or Occupant, whichever is greater. Any Recreational Vehicles stored outside must be kept behind the buildings on the Lot and/or screened from view from the public right of way in front of the Lot and as required by City Ordinances. "Recreational Vehicle" is defined for purposes of this covenant as a boat, personal watercraft, other watercraft, trailer, motor home, or snowmobile. A motorcycle can be classified in either category. Motorcycles must be stored inside the garage.

7.2.10 No Inoperable Vehicles or Repairs. No inoperable or wrecked automobiles shall be brought upon, kept, or remain exposed on the premises, and no automobile repairs shall be undertaken or permitted on any Lot unless it is light maintenance which is conducted entirely within the garage by the Occupant.

7.2.11 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 Properties in such a manner as will not cause a nuisance, nor unduly restrict, interfere with or impede the use of the Properties by other Owners and Occupants and their guests.

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

7.2.13 Alterations. Except for those made by Declarant in consideration of its initial sale of a Lot, no exterior additions, alterations, changes, improvements, repairs or replacements of any type, temporary or permanent, structural, aesthetic or otherwise (collectively referred to as "alterations") shall be made, or caused or allowed to be made, by any Owner or Occupant, or their guests, in any part of the Common Properties, or in any part of the Lot which affects the Common Properties or which is

visible from the exterior of the Lot, without the prior written authorization of the Board, or a committee appointed by it, as provided in Article 8.

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

7.2.15 Construction by Approved Contractor/Builder Only. No structure erected or altered shall be built within the Properties, except by Contractors specifically authorized by the Declarant and except in strict conformity with the Development Plan approved by the City of Sauk Rapids. After initial construction there may be no expansion of any structure on any Lot without the prior written authorization of the Board, or a committee appointed by it, as provided in Article 8. The Board, or the appointed committee if so authorized by the Board, shall have authority to establish reasonable criteria and requirements for alterations, and shall be the sole judge of whether the criteria are satisfied.

7.2.16 New Construction. All Dwellings to be erected on any Lot shall be of new, on-site construction. No house or other Dwelling which is completely assembled shall be moved on to any of the Lots.

7.2.17 Easements. No building or portion thereof, including decks, shall be located within the Drainage and Utility Easement Line as shown on recorded Plat for each Lot.

7.2.18 Temporary Residences. No trailer nor any structure of temporary character may be used at any time as a temporary or permanent residence in CHURCH HILL EAST.

7.2.19 Hazards. The Owners or Occupants of any Lots subject to these covenants shall do nothing upon the premises which shall be or become a hazard, nuisance, or annoyance to the other Owners in CHURCH HILL EAST.

7.2.20 Pets and Kennels. No animals, reptiles, insects, or birds of any kind shall be raised, bred, or kept on any Lot except pets in cages or aquariums. No more than two cats or no more than two dogs or no more than 1 dog and 1 cat shall be permitted on any Lot. No animal shall be kept, bred, or maintained for any commercial purposes. Any exotic pets must remain within the residence. No "Non Domesticated Animals" as defined in the Sauk Rapids Animal Control Regulations may be kept on any Lot. No outdoor kennel, enclosure, tie-out or other restraint designed for confinement or restraint of a pet will be allowed in CHURCH HILL EAST unless

located within the side and rear yard setback areas established by the subdivision regulations of the City of Sauk Rapids. Every Owner allowing a dog to be outside on a Lot not controlled by the Owner with a leash, shall install and keep activated, an invisible electronic device or fencing system which effectively restricts pet movement from the property in accord with the requirements of the Rules and Regulations; such device or fencing system must also be located within the side and rear yard setback areas established by the subdivision regulations of the City of Sauk Rapids

7.2.21 Animal Conduct Off Premises. All pets shall be confined to the Owner's property unless accompanying their Owner on a leash. Animals shall not be allowed to defecate on private or Association property. Pet owners will be responsible to carry the necessary container to pick up and remove any feces from the premises.

7.2.22 Fencing. Shall be governed by city ordinance.

7.2.23 Landscaping and Weed Elimination. When any building shall be constructed on any portion of a Lot, the builder/lot owner shall sod or seed all yards excepting however those parts of yards that are used for gardens, decorative shrubs, and driveways.

7.2.23.1 After acquisition of title, Lot Owners may alter the landscaping of their Lot. No hedges, trees and other planting shall be allowed to encroach on adjoining properties, drainage or utility easements. All landscaping installed on a Lot, in addition to the Landscaping established by Declarant for maintenance by the Association shall be properly maintained by and at the sole expense of the Lot Owner. Lot Owners who build, plant, or occupy space with personal and/or real property on easements shall not be reimbursed by any party which maintains rights to the platted easements in the event that construction, maintenance, repair or improvements are made.

7.2.23.2 Yards must be maintained in conformity with the requirements of Sauk Rapids City ordinances and this Declaration governing weed elimination at all times, whether or not a building has been constructed on the Lot.

7.2.23.3 Any weeds or grasses, whether noxious as defined by law or not, growing upon any Lot which have gone or are about to go to seed are a nuisance. The Owner and the Occupant shall abate or prevent such nuisance on their Lot and on land outside the traveled portion of the street or alley abutting on such property.

7.2.23.4 If the Association determines or receives a notice from the Sauk Rapids Weck Inspector or Chief of Police that an Owner or Occupant permits a weed nuisance to exist in violation of this Section, the Association may serve notice upon the Owner ordering such Owner or Occupant to have such weeds cut and removed within 5 days after receipt of the notice and also stating that in case of noncompliance such work may be done by the Association at the expense of the Owner or Occupant and that if unpaid, the charge for such work will be made a special assessment against the property concerned.

7.2.23.5 If the Owner or Occupant fails to comply with the notice within 5 days after its receipt, the Association may cut and remove such weeds or grasses. The Association shall keep a record showing the cost of such work attributable to each separate Lot and parcel and shall assess the costs against the Owner as provided in Section 6.6.

7.2.24 Well. No independent water wells are permitted in CHURCH HILL EAST.

7.2.25 Solid Waste. All solid waste shall be disposed of in accordance with City of Sauk Rapids ordinances. There shall be no accumulation of garbage or refuse upon any Lot in CHURCH HILL EAST and the same shall be removed at periodic intervals at least weekly. Storage containers for waste materials must be within the Dwelling or garage, excepting only the day of scheduled refuse pickup. Construction or remodeling debris shall be removed within one week if the material is not within enclosures or the Dwelling or garage, excepting only initial construction. Waste or refuse may not be burned on site within or without the Dwelling or garage including heating appliances or fireplaces.

7.2.26 Brush Piles. No Lot shall maintain any form of brush pile or any waste debris collection.

7.2.27 Communal Gatherings. Communal gatherings such as garage sales, picnics or special events will be coordinated and governed by the Association.

7.2.28 Other Restrictions. The Association's Members may adopt general rules concerning the use of the Properties, including, but not limited to, rules to regulate animals, antennas, storage and use of recreational vehicles, storage and use of machinery, plantings, maintenance and removal of vegetation of the Lots.

7.3. Restriction Against Further Subdivision. Except for subdivision of Outlots by Declarant as provided in Section 2.2, 14 pursuant to its Special Declarant Rights reserved in this Declaration, No Lot shall be subdivided or separated into two or more smaller parcels, provided that this restriction shall not prohibit deeds of correction, deeds to adjust boundary lines between adjoining Lots where no additional parcel is created, and similar corrective instruments.

7.4. Review and Determination. The Board, or an appointed committee if so authorized by the Board, shall have authority to establish reasonable criteria and requirements for determination of matters within the contemplation of this Article. The Board shall be the final judge of whether the criteria are satisfied. Requests for determination of questionable matters shall be submitted in writing to the Board or designated committee for determination. The Board or designated committee shall not to unreasonably withhold or delay its determination or approval and shall give its determination, approval or disapproval (giving general reasons in case of adverse determination or disapproval) within fifteen (15) working days after their receipt of all necessary information. Any party adversely affected by a determination or decision may request a personal hearing on the matter in accord with the procedures set forth in Section 10.3 below.

ARTICLE 8 ARCHITECTURAL CONTROL

8.1 Restrictions on Construction. The following restrictions and requirements shall apply to all improvements and construction on the Properties:

8.1.1 Except as expressly provided in this Article 8, and except for alterations made by Declarant in consideration of its initial sale of a Lot, no structure, building, dwelling, addition, deck, patio, fence, wall, enclosure, sign, color change, material topographical or landscaping change, or display, decoration or shrubbery out of character of the neighborhood, nor any other exterior improvements to or alteration of any Dwelling or any other part of a Lot which is visible from the exterior of the Lot (collectively referred to as "improvements or alterations"), shall be commenced, erected or maintained in a Lot, unless and until the plans and specifications showing the nature, kind, shape, height, color, materials and locations of the improvements or alterations shall have been approved in writing by the Board of Directors or a committee appointed by it. Notwithstanding the foregoing, Declarant's written consent shall also be required for improvements or alterations until Declarant no longer owns any unsold Lot.

8.1.2 The Board may appoint, supervise and disestablish an architectural committee, and specifically delegate to it part or all of the functions which the Board exercises under this Article 8, in which case the references to the Board shall refer to

the architectural committee where appropriate. The architectural committee shall be subject to the supervision of the Board.

8.1.3 The criteria for approval shall include and require, at a minimum:

8.1.3.1 **substantial uniformity of color, size, location, type and design in relation to the approved development plans maintained in the office of Declarant**, the existing improvements and topography,

8.1.3.2 comparable or better quality of materials as used in existing improvements,

8.1.3.3 ease of maintenance and repair,

8.1.3.4 adequate protection of the Properties, the Association, Owners and Occupants from liability and liens arising out of the proposed alterations, and

8.1.3.5 Substantial preservation of other Owners' sight lines, if material, and

8.1.3.6 compliance with governmental laws, codes and regulations.

8.2 Review Procedures. The Board of Directors shall establish procedures governing requests under this Section as provided in the By-Laws providing that the committee will not unreasonably withhold or delay approvals. Appeals from adverse determinations may be taken to the Board in accord with the provisions at Section 10.3 below.

8.3 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 Owner 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, subject to the laws of the State of Minnesota, the Association shall have the right to enter the Owner's Lot and to restore any part of the Dwelling 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 Owner and a lien against the Owner's Lot.

8.4 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. 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.

ARTICLE 9 INSURANCE

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

9.1.1 Property Insurance. 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 Properties, 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. Such policy or policies shall include such additional endorsements, coverages and limits with respect to the foregoing and other hazards as may be required from time to time by the regulations of the FHA or Federal National Mortgage Association ("FNMA") as a prerequisite to their insuring, purchasing or financing a mortgage on a Lot. The Board may also, on behalf of the Association, enter into binding written agreements with a mortgagee, insurer or servicer, including without limitation the FHA or FNMA, obligating the Association to keep certain specified coverages or endorsements in effect.

9.1.2 Comprehensive Public Liability Insurance. Comprehensive public liability insurance covering the use, operation and maintenance of the Common Properties, with minimum limits of \$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 Properties. The policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or Occupant because of negligent acts of the Association or other Owners or Occupants. The policy shall include such additional endorsements, coverages and limits with respect to such hazards as may be required by

the regulations of the FHA or FNMA as a prerequisite to their insuring, purchasing or financing a mortgage on a Lot.

9.1.3 Fidelity Bond Insurance. Fidelity bond or insurance coverage against dishonest acts on the part of directors, officers, manager, trustees, employees or persons responsible for handling funds belonging to or administered by the Association required by the regulations of the FHA or FNMA as a prerequisite to the purchase or financing of a mortgage on a Lot. The fidelity bond or insurance shall name the Association as the named insured and shall, if required by the regulations of the FHA or FNMA as a prerequisite to their insuring, purchasing or financing of a mortgage on a Lot, be written in an amount equal to the greater of:

9.1.3.1 the estimated maximum of Association funds, including reserves, in the custody of the Association or management agent at any given time while the bond is in force, or

9.1.3.2 a sum equal to three months aggregate assessments on all Lots plus reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers, or a waiver of defense based upon the exclusion of persons serving without compensation shall be added.

9.1.4 Workers' Compensation Insurance. Workers' Compensation insurance as required by law.

9.1.5 Directors and Officers Liability Insurance. Directors and officers liability insurance with such reasonable limits and coverages as the Board shall determine from time to time.

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

9.2 Premiums; Improvements; Deductibles. All insurance premiums for the Common Properties shall be assessed and paid as a Common Expense. If deemed appropriate by the Board of Directors, the Association may obtain and maintain a master policy of insurance covering the Properties, including Lots as well as Common Properties, of the type described in Section 9.1.1.

9.2.1 Owners Insurance. If the Association does not obtain property insurance covering all Lots within the properties as permitted in Section 9.2, then the Owners of all Lots within the Properties shall obtain and maintain at all times a policy or policies of insurance with respect to their Lot and the Dwelling thereon, complying with

the requirements set forth in Section 9.1.1. The insurance policy or policies shall provide for not less than 30 days' written notice to the Association before cancellation, non-renewal, termination or change in coverage, and each Owner shall deliver to the Association a duplicate original or certificate of such insurance policy or policies. In the event an Owner fails to pay any sum of money required to maintain the insurance required under this provision in force, the Association may, at its option, pay the same and the amount so paid by the Association shall be payable at once and added to the amount of the assessment against the Lot or Lots.

9.3 Premiums; Improvements; Deductibles. The insurance need not cover improvements and betterments to the Lots installed by Owners, but if improvements and betterments are covered, any increased cost may be assessed against the Lots affected. The Association may, in the case of a claim for damage to a Lot, (i) pay the deductible amount as a Common Expense, (ii) assess the deductible amount against the Lots affected in any reasonable manner, or (iii) require the Owners of the Lots affected to pay the deductible amount directly.

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

9.5 Waivers of Subrogation. All policies of insurance shall contain waivers of subrogation by the insurer against the Association, or an Owner, Members of the Owner's household, officers or directors, as applicable, and, if available, waivers of any defense based on co-insurance or of invalidity from any acts of the insured.

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

9.7 Restoration in Lieu of Cash Settlement. All policies of property insurance maintained by the Association shall provide that, despite any provisions giving the insurer the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable:

9.7.1 without the prior written approval of the Association (or any Insurance Trustee) or

9.7.2 when in conflict with provisions of any insurance trust agreement to which the Association may be a party, or any requirement of law.

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

9.9 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:

9.9.1 any act or omission of an Owner or Eligible Mortgagee, unless acting within the scope of authority on behalf of the Association, or

9.9.2 any failure of the Association to comply with any warranty or condition regarding any portion of the Properties over which the Association has no control.

9.10 Owner's Personal Insurance. Each Owner shall obtain personal insurance at his or her own expense covering fire and other casualty to the Lot and dwelling thereon, personal property and personal liability. All insurance policies maintained by Owners shall provide that they are without contribution as against the insurance purchased by the Association.

ARTICLE 10 **COMPLIANCE AND REMEDIES**

Each Owner and Occupant, and any other Person owning or acquiring any interest in the Properties, 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 thereto as may be made from time to time. A failure to comply shall entitle the Association to the relief set forth in this Section, in addition to the rights and remedies authorized elsewhere by the Governing Documents.

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 by an Owner against the Association or another Owner, to enforce compliance with the Governing Documents, the Rules and Regulations, or the decisions of the Association. However, no Owner may withhold any assessments payable to the Association, or take (or omit) other action in violation of the Governing Documents, the Rules and Regulations 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, the Rules and Regulations:

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

10.2.2 Impose late charges of up to the greater of twenty dollars (\$20), or fifteen percent (15 %) of the amount past due, for each past due Assessment or installment thereof, and impose interest at the highest rate permitted by law accruing beginning on the first day of the month after the Assessment or installment was due.

10.2.3 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.

Reasonable advance written notice of the effective date of the acceleration shall be given to the defaulting Owner.

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

10.2.5 Suspend the rights of any Owner or Occupant and their guests to use any Common Property amenities; provided, that this limitation shall not apply to those portions of the Common Properties providing utilities service and 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 30 days thereafter, for each violation.

10.2.6 Restore any portions of the Common Properties 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.

10.2.7 Enter any Lot or Dwelling in which, or as to which, a violation or breach of the Governing Documents exists which materially affects, or is likely to materially affect in the near future, the health or safety of the other Owners or

Occupants, or their guests, or the safety or soundness of any Dwelling or other part of the Properties or the property of the Owners or Occupants, and to summarily abate and remove, at the expense of the offending Owner or Occupant, any structure, thing or condition in the Lot or Dwelling 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.

10.2.8 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 Properties are located.

10.3 Rights to Hearing. In the case of imposition of any of the remedies authorized by this Article, or in the case of requests for review of determinations or approvals as provided in Articles 7 and 8, the Board shall, upon written request of the offender or requesting party, grant a fair and equitable hearing. In the case of a violation sanction, the offender shall be given written notice of the nature of the violation and the right to a hearing, and at least 10 days within which to request a hearing in writing. The hearing shall be scheduled by the Board and held within thirty days of receipt of the hearing request by the Board, and with at least 10 days prior written notice to the offender or requesting party. If the offending or requesting Owner or Owner's designated representative 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 within ten days following the hearing, if not delivered at the hearing.

10.4 Lien for Charges, Penalties, Etc. Any assessments, charges, fines, penalties or interest imposed under this Section 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 Section 6.1. 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 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.

10.6 Liability for Owners' and Occupants' Acts. An Owner shall be liable for the expense of any maintenance, repair or replacement of the Properties 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.

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

ARTICLE 11 SPECIAL DECLARANT RIGHTS

Declarant hereby reserves exclusive and unconditional authority to exercise the following Special Declarant Rights for as long as it owns a Lot, or for such shorter period as may be specifically indicated:

11.1 Subdivision of Outlots and Complete Improvements. To subdivide Outlots A, C and D into Lots in accordance with the requirements of the Subdivision Ordinances and Regulations of the City of Sauk Rapids as provided in Section 2.2. To complete all Dwellings upon the Lots and Improvements on the Common Properties, or otherwise included in Declarant's development plans or allowed by the Declaration, and to make alterations in the Lots and Common Properties to accommodate its sales facilities.

11.2 Sales Facilities. To construct, operate and maintain a sales office, management office, model Dwellings and other development, sales and rental facilities within the Common Properties and any Lots owned by Declarant from time to time, located anywhere on the Properties.

11.3 Signs. To erect and maintain signs and other sales displays offering the Lots for sale or lease, in or on any Lot owned by Declarant and on the Common Properties.

11.4 Easements. To have and use easements, for itself, its employees, builders, contractors, representatives, agents and prospective purchasers through and over the Common Properties for the purpose of exercising its Special Declarant Rights.

11.5 Control of Association. To control the operation and administration of the Association, including without limitation the power to appoint and remove the Members of the Board until the earliest of:

11.5.1 voluntary surrender of control by Declarant,

11.5.2 an Association meeting which shall be held within 60 days after conveyance to Owners other than a Declarant of 90% of the total number of Lots or

11.5.3 the date five (5) years following the date of the first conveyance of a Lot to an Owner other than a Declarant.

Notwithstanding the foregoing, the Owners other than a Declarant shall have the right to nominate and elect not less than 33 1/3% of the directors at a meeting of the Owners which shall be held within 60 days following the conveyance by Declarant of 50% of the total number of Lots authorized to be included in the Properties.

11.5.4 For the purposes of this Section 11.5, conveyance of Lots from Declarant to other developers or builders who acquire Lots for the purpose of resale and construction of dwellings thereon, shall not be considered a conveyance "to Owners other than Declarant" until such time as the Lot together with the dwelling constructed thereon is conveyed by such developer or builder to another person for occupancy as a residential dwelling.

11.6 Consent to Certain Amendments. As long as Declarant owns any unsold Lot, or any Lots conveyed by Declarant to other developers or builders who acquire Lots for the purpose of re-sale and construction of dwellings thereon remain unconveyed to a person for occupancy as their residential dwelling, Declarant's written consent shall be required for any amendment to the Governing Documents or Rules and Regulations which directly or indirectly affects or may affect Declarant's rights under the Governing Documents.

11.7 Indemnity. At the time Declarant's control of the operation and administration of the Association is surrendered, Declarant shall agree to indemnify and hold the Association harmless from any failure to obtain requisite governmental approvals, permits or licenses in the development of the Properties.

amendment within 30 days after it receives proper notice of the proposal, provided that the notice was delivered by certified mail with a return receipt requested.

13.2 Consent to Certain Actions. The written consent of the Eligible Mortgagees representing at least sixty-seven percent (67%) of the Lots that are subject to first mortgages held by Eligible Mortgagees (based upon one vote per first mortgage owned) shall be required to:

13.2.1 change the allocations of voting rights or Common Expense obligations;

13.2.2 partition or subdivide a Lot;

13.2.3 abandon, partition, subdivide, encumber or sell the Common Properties; or

13.2.4 use hazard insurance proceeds for other than the repair, replacement or reconstruction of the Properties, except as otherwise provided by law.

13.3 Subdivision. No Lot may be partitioned or subdivided.

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

13.5 Priority of Lien. 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 that any unreimbursed assessments or charges may be reallocated among all Lots in accordance with their interests in the Common Properties.

13.6 Priority of Taxes and Other Charges. All taxes, assessments and charges which may become liens prior to the mortgage under state law shall relate only to the individual Lots and not to the Properties as a whole.

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

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

13.9 Access to Books and Records/Audit. Eligible Mortgagees shall have the right to examine the books and records of the Association upon reasonable notice during normal business hours, and to receive free of charge, upon written request, copies of the Association's annual reports and other financial statements. Financial statements, including those which are audited, shall be available within one hundred twenty (120) days of the end of the Association's fiscal year. If a request is made by FNMA or any institutional guarantor or insurer of a mortgage loan against a Lot, for an audit of the Association's financial statements for the preceding year, the Association shall cause an audit to be made and deliver a copy to the requesting party.

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

13.10.1 a condemnation loss or any casualty loss which affects a material portion of the Properties or the Lot securing the mortgage;

13.10.2 a 60 day delinquency in the payment of assessments or charges owed by the Owner of a Lot on which it holds a mortgage;

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

13.10.4 a proposed action which requires the consent of a specified percentage of Eligible Mortgagees.

ARTICLE 14 GENERAL PROVISIONS

14.1 Duration. The covenants, restrictions and easements established by this Declaration shall run with and bind the Properties 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 legal representatives, heirs, successors and assigns for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants, restrictions and easements shall be automatically renewed for successive periods of ten (10) years. The covenants and restrictions

established by this Declaration may be amended only as provided herein. The restriction concerning no further subdivision is not subject to revision or amendment. Any amendment must be properly recorded.

14.2 Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed postpaid to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

14.3 Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding by law or in equity against any person or persons violating or attempting to violate any covenant or restriction either by restrained violation or to recover damages and against the land to enforce any lien created by these covenants; and failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the rights to do so thereafter.

14.4 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no ways affect any other provision which shall remain in full force and effect.

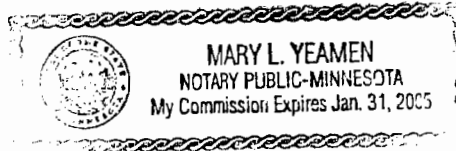
14.5 Eminent Domain. As in the case of physical damage or destruction, the Association shall represent all Owners with respect to any condemnation involving all or any part of the Properties, including the condemnation proceedings, and any negotiations, settlements, or agreements as part of the condemnation or in lieu of the condemnation, and all proceeds shall be payable in the first instance to the Association or an Insurance Trustee, for the benefit of Owners and mortgage holders.

IN WITNESS WHEREOF, Croat Land Company, a Minnesota corporation, has executed this instrument effective as of the _____ day of _____, 2003.

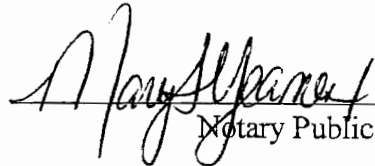
Croat Land Company,
a Minnesota Corporation

By *Kenneth Q. Croat*
Its: CEO

STATE OF MINNESOTA)
)SS.
COUNTY OF Stearns)



The foregoing instrument was acknowledged before me this 4 day of August, 2003, by Kenneth I. Croat, the CEO, of Croat Land Company, a Minnesota corporation, on behalf of the corporation.



Notary Public

This instrument was drafted by:

Roger D. Neils
NEILS, FRANZ & CHIRHART, P.A.
1011 North 2nd St.
P.O. Box 307
St. Cloud, MN 56302
(320) 253-7130
File 20777

CONSENT TO DECLARATION

KNOW ALL MEN BY THESE PRESENT: that _____ as mortgagee as shown by Document No. _____, dated _____, and filed _____, does hereby consent to filing of the attached and foregoing DECLARATION for CHURCH HILL EAST, a Community of Single Family Homes, and subjects the lien of its Mortgage to the terms and provisions thereof.

IN WITNESS WHEREOF, _____ has caused these presents to be executed in its corporate named by _____ its _____, on this _____ day of _____, 2003.

By: _____
Its: _____

STATE OF MINNESOTA

COUNTY OF _____

The foregoing was acknowledged before me this _____ day of _____, 2003, by _____, the _____, of _____, on behalf of said corporation.

Notary Public