

**CLOVER FIELD FIFTH ADDITION
DECLARATION OF DEVELOPMENT STANDARDS, COVENANTS,
CONDITIONS AND RESTRICTIONS**

WHEREAS, Chaska Investment Limited Partnership, a Minnesota limited partnership, is the fee owner of the land lying and being in the area known as "Jonathan" in the County of Carver and State of Minnesota, described on Exhibit A attached hereto (hereinafter the "Property").

WHEREAS, The Jonathan Association is a non-profit homeowner association within Jonathan; and

WHEREAS, Chaska Investment Limited Partnership and The Jonathan Association, desire to impose certain development standards, covenants, conditions and restrictions on the Property; and

WHEREAS, the Property is not encumbered by a mortgage;

NOW, THEREFORE, Chaska Investment Limited Partnership and The Jonathan Association do hereby declare that the Property shall be held, sold and conveyed subject to the following easements, development standards, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I.

DEFINITIONS

Section 1.01. "Association" shall mean and refer to The Jonathan Association, its successors and assigns.

Section 1.02. "Developer" shall mean and refer to Chaska Investment Limited Partnership

Section 1.03. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to the Property or any portion thereof subject to the Declaration, but shall not mean or refer to the mortgagee of any such property unless and until such mortgagee has acquired title pursuant to foreclosure of said mortgage and the period within which the fee owner may redeem from such foreclosure has terminated. Where any such property is being sold to a contract vendee who is entitled to possession of the property, the contract vendee and not the vendor shall be considered the "Owner" of the property upon the furnishing of a copy of the executed Contract for Deed to the Association.

Section 1.04. "Property" shall mean all of the real property submitted to this Declaration as described on Exhibit A, including the Dwellings and all other structures and improvements located thereon.

Section 1.05. "Common Properties" shall mean all real property (including the improvements thereto) owned or to be owned by the Association for the common use and enjoyment of the Owners.

Section 1.06. "Lot" shall mean and refer to any plot of land, including a unit within a Common Interest Community, upon which a Dwelling is located or intended to be located as shown upon any recorded subdivision map of the Property or CIC plat (Common Interest Community plat).

Section 1.07. "Declaration" shall mean and refer to this Declaration and other declarations that at any time or from time to time may effect all or any part of the Property as the same may be amended from time to time as therein and herein provided.

Section 1.08. "Members" shall mean and refer to the Owners herein and those persons entitled to membership in the Association as provided in the Declarations.

Section 1.09. "Standards" or "Criteria for Standards" is defined to include the following goals, limitations, guidelines and criteria:

- (a) to protect the Owners against improper use of surrounding property as will depreciate the value of their property;
- (b) to guard against the erection of structures built of improper or unsuitable materials;
- (c) to insure adequate and reasonable development of the Property;
- (d) to encourage the erection of attractive buildings appropriately located to foster a harmonious appearance and function;
- (e) to ensure compatibility with existing structures;
- (f) to ensure appropriateness of any structure, exterior design, construction materials, size of improvement, or color scheme thereof;
- (g) set backs and off-street parking as specified in this Declaration;
- (h) all terms and use restrictions contained herein; and

(i) Minimum Building Standards set forth in Section 4.03 of this Declaration.

Section 1.10. "Declarant" shall mean Chaska Investment Limited Partnership or its assigns.

Section 1.11. "Dwelling" shall mean a building or portion thereof, consisting of one or more floors designed and intended for occupancy for residential purposes and located within the boundaries of a Lot. The Dwelling includes any garage attached thereto or otherwise included within the boundaries of the Lot or legal description in which the Dwelling is located.

Other terms shall have the meanings attributed to them herein.

ARTICLE II.

PERMITTED USES

Section 2.01. Residential Purpose. No Lot shall be used except for residential purposes. Garages shall have a maximum of three garage stalls.

Section 2.02. Division of Lot. No Lot shall be subdivided or split by any means whatsoever into any greater number of Lots, nor into any parcel or parcels of smaller size without the express written consent of the Association.

Section 2.03. Enjoyment of Property. Any Owner may delegate, in accordance with the By-Laws of the Association his right of enjoyment to the Common Properties to the members of his family, or his tenants.

Section 2.04. Offensive Activities. No noxious or offensive activities shall be conducted on the Property, nor shall anything be done thereon which may be or become an annoyance or nuisance to other Owners or to the Association.

Section 2.05. Compliance. All uses shall comply with the zoning and other applicable regulations as set forth by the City of Chaska or other governmental agencies. Said regulations shall govern if inconsistent herewith to the extent actually inconsistent. If not inconsistent herewith, the standards herein contained shall be considered as requirements in addition to said regulations.

Section 2.06. Signage. No sign shall be placed on the Property, except political campaign signs, or one normal rental or "for sale" sign.

Section 2.07. Animals. No birds, animals or insects shall be kept on the Property except dogs, cats and other common household pets, provided that they are not kept, bred or maintained for any commercial purpose.

Section 2.08. Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, or other building shall be used on the Property at any time as a residence, either temporarily or permanently.

Section 2.09. Exterior Antenna. Unless required to be permitted by regulations promulgated by the Federal Communication Commission, no exterior tower or exterior antenna of any kind shall be constructed, maintained, or permitted to remain on the Property. Exterior satellite dishes shall be allowed if in compliance with the Association satellite policy in place at the time the satellite dish is installed. The Association may

modify its exterior tower/exterior antenna/satellite dish policy by a two-thirds vote of the Board of Directors.

Section 2.10. Objectionable Trees. No objectionable trees or shrubbery, such as cottonwood and box elder trees, shall be planted or permitted to remain on the Property.

Section 2.11. Utility Meters. All utility meters, located on the exterior of a building, shall be concealed from view from off the Lot or architecturally treated to blend with a building.

Section 2.12. Receptacles. No trash or debris shall be left on any portion of the Property except in approved containers. No trash receptacles, or incinerators, or garbage cans shall be located outside of a building unless completely screened from view.

Section 2.13. Utilities. All buildings shall be served by underground utility distribution facilities. Poles, wires, or other above ground utility service distribution facilities may be temporarily installed during the construction or repair of the underground utility cables and facilities.

Section 2.14. Parking. Unless modified by written policy of the Association through a two-thirds vote of the Association Board of Directors, the following storage and parking restrictions apply upon the Property:

- (a) The storage or parking of "Winter Season" vehicles is only allowed upon the driveway of the Lot and is only allowed from November 1 through March 31.
- (b) The storage or parking of "Summer Season" vehicles is only allowed upon the driveway of the Lot and is only allowed from April 1 through November 1.
- (c) The storage or parking of "All Season" vehicles is only allowed upon the driveway of the Lot and is allowed all year.

For purposes of this section, the following definitions apply:

- (a) "Winter Season" vehicles are defined as snowmobiles and any trailer upon which they are stored or transported.
- (b) "Summer Season" vehicles are defined as all boats (motorized or non-motorized including sailboats, pontoon boats and houseboats), canoes, rafts, surfboards, windsurfers, jet skis, go carts, campers, trailer homes, and any trailers upon which the above are stored or transported.
- (c) "All Season" vehicles are defined as vans less than twenty (20) feet in length.

In addition, no abandoned vehicles shall be parked on any Lot or appurtenant street for a period longer than three (3) consecutive days. For purpose of this restriction, an automobile, van, motorcycle or other motor vehicle which is parked in the same location without use for more than seventy-two (72) consecutive hours shall be presumed to be an abandoned vehicle. No vehicle twenty feet or more in length shall be parked on any lot or appurtenant street at any time.

Section 2.15. Home Industry. No profession or home industry shall be conducted in or on any Lot without the specific written approval of the Association, which, in its discretion, upon consideration of the circumstances in each case, and particularly the effect on surrounding property, may permit a Lot to be used in whole or in part for the conduct of a profession or home industry. No such profession or home industry shall be permitted, however, unless it is considered by the Association to be compatible with a high quality residential neighborhood.

ARTICLE III.

REQUIRED YARDS AND LOT MAINTENANCE

Section 3.01. Outside Storage. Outside storage of any items shall not be allowed unless screened from view by enclosures so as to effectively screen such storage from view. The design of such screened enclosure must have prior written approval by the Association.

Section 3.02. Fences, Animal Enclosures and Storage Structures. Fences are allowed if approved by the Developer and the Association as part of the original construction of the dwellings on the property. No fence may be added, modified or expanded after the Certificate of Occupancy has issued for the affected lot. No animal enclosure, or storage structure shall be erected on the Property. The Association may modify its prohibition/control of fences, animal enclosures and storage structures by a two-thirds vote of the Board of Directors. If the Association does modify its policies controlling fences, animal enclosures and storage structures, such approval or the refusal to grant approval shall be based upon the written policy of the Association in existence at the time of the written application for such approval.

Section 3.03. Maintenance.

- (a) **Maintenance of the Lot.** The Lot and improvements thereon shall be maintained in a state of good order and repair by the Owner thereof or the association to which Owner belongs. In the event any Owner of a Lot, entitled and required to belong to the Association or the association to which Owner belongs, shall fail to maintain the Lot and improvements, the Board of Directors of the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Lot to repair, maintain, and restore the Lot and the

exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

- (b) Maintenance of the Common Properties. The Association shall provide for all maintenance and repair of the Common Properties.

ARTICLE IV.

PLAN APPROVAL

Section 4.01. Once the initial Certificate of Occupancy is issued by the City of Chaska, Minnesota for the initial Dwelling, no future building or improvements shall be commenced, erected, placed or substantially altered on the exterior nor any substantial landscape work done on any Lot until the building or other alteration plans, specifications, including elevations and architect's rendering, a plat showing the location of the approval on the particular Lot, including general landscape plans; are submitted to and approved in writing by the Association as to fulfilling the purposes and Criteria for Standards herein contained. All future changes in exterior paint color/exterior siding color must also receive prior Association approval. Provided, however, that the Association shall not be liable to anyone in damages who has submitted plans for approval or to any landowner by reason of mistake in judgment, negligence, or nonfeasance of itself, its agents or employees, arising out of or in connection with the approval or disapproval of any such plans. Likewise anyone so submitting plans to the Association, for approval, by submitting such plans, and any person when he becomes an Owner agrees that he or it will not bring any action or suit to recover for any such damages against the Association. The Association shall not unreasonably withhold approval of any plans submitted pursuant hereto; provided,

however, that failure to meet (i) the Criteria for Standards, (ii) the standards contained herein, (iii) standards as to plans required to be submitted, (iv) standards as to compatibility with existing structures, and (v) standards of appropriateness of any structure, exterior design, construction materials, size of improvements, or color scheme thereof, shall be grounds for the Association's reasonable disapproval of any such plans. Failure of the Association to send written notice of disapproval of any plans within sixty (60) days after submission of said plans to it shall be deemed to be approval thereof. All construction work shall, upon approval of plans by the Association, be carried on with dispatch and completed within one (1) year from initiation. Upon completion thereof, the Lot shall be promptly landscaped.

Section 4.02. All improvements shall be constructed in conformity with this Declaration, the then existing building codes and other applicable codes, ordinances and regulations of the City of Chaska.

Section 4.03. Minimum Building Standards.

- (a) Structures erected or placed on any Lot must be in harmony with the residence in respect to workmanship, materials and external design.
- (b) No structure shall be erected or placed nearer to the front lot line, or nearer to a side street line, or nearer to the rear lot line than permitted by the City of Chaska as of the date hereof. For the purpose of this restriction, eaves, steps and open porches shall not be considered a part of a Dwelling; provided, however, that this shall not be construed to permit any portion of the Dwelling on any Lot to encroach upon other residential Lots.
- (c) The entire Lot area between rear lot line and the public street shall be seeded or sodded within sixty (60) days of occupancy, or in the event of inclement weather, as soon thereafter as reasonably possible.

ARTICLE V.

MEMBERSHIP AND VARIOUS RIGHTS IN THE ASSOCIATION

Section 5.01. Each Owner shall be a member of the Association and shall be entitled to one vote for each Lot owned, and Owners of multiple Dwellings (property with more than one Dwelling thereon) shall be entitled to one vote for each rental unit. When more than one person holds an 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 vote be cast with respect to each Lot. Said Association shall also have as members other landowners, in the Jonathan Development. For the purpose hereof, an owner of a single townhouse unit or condominium unit shall be considered to be a single family residential Lot Owner. Provided, however, that on any vote taken on Association business the total votes by Owners of Multiple Dwellings shall not exceed forty-nine percent (49%) of the total votes voted and if necessary each Multiple Dwelling vote shall be appropriately weighted so that the total thereof does not exceed this maximum. On all votes taken in the Association, Multiple Dwelling votes shall be taken and counted separately to effectuate the forty-nine percent (49%) policy set forth above.

Section 5.02. If any of the Property is used as rental property, the Owner must include language in any lease or rental agreement requiring the tenants and occupants to be bound by this Declaration.

ARTICLE VI.

COMPLETION OF CONSTRUCTION OF IMPROVEMENTS

If any structure or improvement is begun after approval of the plans therefor as provided in Article IV hereof and is not completed in accordance with the approved plans within one (1) year after the commencement of said construction the Association, at its sole option, may take such steps as may be necessary in its sole discretion to improve the appearance so as to make the Lot harmonious with other Lots and the amount of any expenditure made in so doing shall be the personal, joint and several obligation of the Owner or Owners of the Lot involved, as the case may be, and shall be a lien on the Property and enforceable as set forth in Article VIII.

ARTICLE VII.

COMMON PROPERTIES

Every Owner and tenants of the Owner occupying a Dwelling shall have a right and easement of enjoyment in and to the Common Properties which 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 charge reasonable admission and other fees for the use of any recreational facilities situated upon the Common Properties.
- (b) The right of the Association to suspend the voting rights and right to use the recreational facilities by an Owner for any period during which any assessments on the Owner's Lot remain unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations. The Association is hereby given the right to establish uniform rules and regulations for the Common Properties.

- (c) The right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless assented to by two-thirds (2/3) of the members who are voting in person or by proxy at a meeting or meetings duly called for this purpose. Notice of such meeting or meetings shall be given and the required quorum shall be determined in the same manner as provided in Section 8.05. The rights of the Association contained in this paragraph (c) shall be in addition to and shall in no way limit the rights granted to the Association in this Article VII.
- (d) The Association shall have the right to lease portions of the Common Properties to commercial recreational developers for the purpose of providing recreational facilities or services or both to members provided that the net income from any said lease shall be applied to developing and maintaining the Common Properties in the Jonathan Development.

ARTICLE VIII.

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 8.01. Creation of the Lien and Personal Obligation of Assessments. Each Owner, for each Lot owned within the Properties, hereby covenants, whether or not it shall be expressed in his or her deed, or contract for deed, is deemed to covenant and agrees to pay to the Association (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his

successors in title unless expressly assumed by them. Notwithstanding anything contained herein to the contrary, the Developer shall not have any liability to the Association or to any other party for any annual assessments or charges and/or special assessments for capital improvements, it being specifically understood that the annual and special assessments shall not be imposed against any Lot until a Dwelling has been constructed thereon, a certificate of occupancy issued therefor, and such Lot and Dwelling have been sold and conveyed by the Developer to the Owner.

Section 8.02. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the properties and for the improvement and maintenance of the Common Properties.

Section 8.03. Maximum Annual Assessments. The maximum annual assessment for 2004 shall be \$207.00 per Lot or per rental unit in a Multiple Dwelling.

- (a) The maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.
- (b) The maximum annual assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of the members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 8.04. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or

in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Properties, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 8.05. Notice and Quorum for any Action Authorized under Sections 8.03 and 8.04. Written notice of any meeting called for the purpose of taking any action authorized under Section 8.03 or 8.04 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of the members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8.06. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and rental units and may be collected on a monthly, quarterly, semi-annually or on an annual basis as shall be determined by the Board of Directors of the Association.

Section 8.07. Date of Commencement of Annual Assessments; Due Dates. The first annual assessment shall be adjusted according to the number of months remaining

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

Section 8.08. Effect of Nonpayment of Assessments; Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Property. Such assessment, together with interest thereon at eight percent (8%) per annum, plus all costs and reasonable attorneys' fees, shall be the personal obligation of the person who was the Owner of the Lot at the time when the assessment was due. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Properties or abandonment of his Lot.

Section 8.09. Subordination of the Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien

of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE IX.

ENFORCEMENT

Section 9.01. The Standards set forth herein shall be enforceable by the Association, or any Owner, their successors and assigns, for the maximum period allowed by law and shall be enforceable by the Association, or any Owner, their successors and assigns, by (i) injunctive relief, prohibitive or mandatory, to prevent the breach of or to enforce the performance or observance of these standards, or by (ii) a money judgment for damages by reason of a breach of those standards, (iii) both (i) and (ii), or (iv) foreclosure of any lien authorized herein.

The assessments provided for herein shall be enforceable by the Association by a money judgment against the Owner or Owners responsible therefor or by foreclosure of the lien. A lien for assessments may be foreclosed against a Lot under the laws of this state as if it were a lien under a mortgage containing a power of sale. The Association, or its authorized representative, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey any Lot so acquired. The Owner, by the acceptance of any conveyance of any interest in the Lot grants to the Association full authority, including without limitation a power of sale, to accomplish such foreclosure, acquisition and sale, together with the power and right to exercise any other remedy

available under the laws of this state governing such foreclosures. The Association shall, in addition, have the right to pursue any other remedy at law or in equity against an Owner who fails to pay any assessment or charge against his Lot. In any action brought by the Association against an Owner in violation of the covenants, including, but not limited to the recovery of delinquent assessments, the Association shall further be entitled to recover all costs of the action, including without limitation interest on the delinquent amount at the rate of eight percent (8%) per annum and reasonable attorneys' fees.

Section 9.02. The failure of the Association and any Owner, their successors or assigns, to enforce any provisions of the Standards contained herein upon the violation thereof shall in no event be deemed to be a waiver of the rights to do so as to any subsequent violation.

Section 9.03. Invalidation of any of the provisions of these covenants and Standards, whether by court order or otherwise, shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 9.04. Any party to a proceeding who succeeds in enforcing a Standard or lien or enjoining the violation of a Standard against an Owner may be awarded a reasonable attorneys' fee against such Owner and shall be entitled to interest at the rate of eight percent (8%) per annum on any monetary amount awarded from the date such amounts shall be determined to have been payable.

Section 9.05. No violation of any of these standards shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any property subject

hereto; provided, however, that any mortgagee in actual possession, or any purchaser at any mortgagees' or foreclosure sale shall be bound by and subject to these standards as fully as any other Owner of any Lot subject hereto.

Section 9.06. The Association by a two-thirds (2/3) vote of the Association Board of Directors may grant variances from the strict application of the provisions of the standards set forth whereby reason of extraordinary and exceptional conditions of any property or circumstances the strict application of any standard would result in peculiar and practical difficulties or exceptional or undue hardship upon the Owner of any property, provided any such variance shall meet the Criteria for Standards provided for herein.

IN WITNESS WHEREOF, Chaska Investment Limited Partnership, has caused these presents to be signed by its general partners this _____ day of _____, 2004.

Chaska Investment Limited Partnership,
a Minnesota Limited Partnership,

By: Primac Corporation,
a Minnesota Corporation,
Its Managing General Partner

By: _____
Vasco Bernardi, Its President

STATE OF MINNESOTA)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me, a Notary Public, on this _____ day of _____, 2004, by Vasco Bernardi, the President of Primac Corporation, a Minnesota Corporation and the managing general partner of Chaska Investment Limited Partnership, a Minnesota Limited Partnership.

Notary Public

The foregoing standards, covenants and restrictions are hereby approved and accepted by The Jonathan Association.

The Jonathan Association

By: Walter Ripplinger

[illegible]

The foregoing instrument was acknowledged before me, a Notary Public, on this _____ day of _____, 2004, by Walter Ripplinger, the President of The Jonathan Association, on behalf of said association.

Notary Public

This Instrument Drafted By:
Thomsen & Nybeck, P.A.
3300 Edinborough Way, Suite 600
Edina, Minnesota 55435-5962
Telephone: (952) 835-7000

EXHIBIT "A"

All lots and outlots within the plat known as Clover Field Fifth
Addition, Carver County, Minnesota,