

MILL POND NO. 2
CONDOMINIUM DECLARATION

KNOW ALL MEN BY THESE PRESENTS, THAT:

WHEREAS, JONATHAN VENTURES, INC., a Minnesota corporation, hereinafter called "Declarant", is the owner of the real property situated in Carver County, Minnesota, described as follows:

Lots 2 and 3, Block 2, Mill Pond, according to the plat thereof on file and of record in the Office of the Registrar of Titles, Carver County, Minnesota

(hereinafter called the "Condominium Project"); and

WHEREAS, The Condominium Project includes: two sixteen-unit multiple family structures consisting of two levels: a lower level which is the lowest elevation, and an upper level which is the highest elevation, which structure consists of concrete block foundation, wood frame, and brick veneer with stucco exterior, with four eight-unit detached, one-level garage buildings, consisting of concrete block foundation, wood frame, and brick veneer with stucco exterior; and

WHEREAS, Declarant desires to establish a condominium project under the Minnesota Condominium Act; and

WHEREAS, Declarant desires to establish a plan for the ownership in fee simple of the real property estates consisting of the area or space contained in each of the apartment units in each of said multiple family structures and the co-ownership by the individual and separate owners thereof of all the remaining property, which property is hereinafter defined and referred to as the common areas and facilities and limited common areas and facilities; and to provide a plan whereby the ownership of roadways within and providing access to the Condominium Project may be established and said roadways maintained and serviced.

NOW THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with

the land, shall be a burden and a benefit to Declarant, its successors and assigns, and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees or assigns.

1. Definitions, unless the context shall expressly provide otherwise.

(a) "Apartment" or "apartment unit" or "unit" means an individual air space which is contained within the perimeter walls, floors, ceilings, windows, and doors of each unit as shown on the Floor Plans to be filed for record, together with all fixtures and improvements therein contained but not including any of the structural components of the building, if any, located within the unit.

(b) "Condominium" or "condominium unit" means the fee simple interest and title in and to a unit together with the undivided interest in the common areas and facilities and together with the limited common areas and facilities appurtenant to the unit.

(c) "Owner" means a person, persons, firm, corporation, partnership, association, or other legal entity, or any combination thereof, owning fee simple absolute interest in one or more condominium units.

(d) "Common areas and facilities" means and includes:

(1) The land on which the multi-family structures (the "buildings") are located;

(2) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building;

(3) The yard areas, gardens, parking areas, garages, sidewalks, pathways and storage spaces;

(4) The premises, if any, for the lodging of janitors or persons in charge of or managing the condominium project.

(5) Installations of central services such as heating, gas, water and laundry facilities.

(6) The tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(7) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use; and

(8) The items enumerated in Minnesota Statutes, Section 515.02, Subdivision 7;

all of which shall be owned by the owners of separate units, each owner of a unit having an undivided percentage or fractional interest in such common areas and facilities as is provided hereinafter.

(e) "Limited common areas and facilities" means those parts of the common areas and facilities, if any, which are either limited to and reserved for the exclusive use of an owner or are limited to and reserved for the common use of more than one but fewer than all of the owners, including patios, balconies, stairways and garages, which parts shall be identified on the Floor Plans.

(f) "Condominium project" means all of the land and improvements initially submitted by this Declaration and subsequently submitted as may be provided hereinafter.

(g) "Common expenses" means and includes expenses for maintenance, repair, operation, management, and administration; expenses declared common expenses by the provisions of this Declaration; and all sums lawfully assessed against the common areas and facilities by the Board of Directors of the Association of Owners or the Manager duly designated by the Board of Directors.

(h) "Association of Owners" or "Association" means the Mill Pond No. 2 Condominium Association, a Minnesota nonprofit corporation, the Bylaws of which together with this Declaration shall govern the administration of this condominium project, and the members of which shall be all of the owners of the units of this condominium project.

(i) "Board of Directors" means the body elected pursuant to the Bylaws of the Association.

(j) "Manager" means the person or firm designated and required

to be employed by the Board of Directors to manage the affairs of the condominium project.

(k) "Floor Plans" or "supplemental floor plans" means and includes the engineering survey of the land depicting and locating thereon all of the improvements, the floor and elevation plans and any other drawing or diagrammatic plan depicting a part of or all of the improvements.

(l) "Mortgagee" means a beneficiary under or holder of a mortgage or deed of trust.

(m) "Record" means to file for registration with the Registrar of Titles, Carver County, Minnesota.

The definitions herein shall also apply to like terms used in the Bylaws herein referred to.

2. Floor Plans. The Floor Plans shall be filed for record simultaneously with the recording of this Declaration. The Floor Plans shall show all matters required by law, pursuant to the provisions of Minnesota Statutes, Section 515.13 and are hereby incorporated herein by reference and hereby made a part hereof as if fully set forth herein.

3. Division of Property into Condominium Units. The real property above described and the improvements thereon are hereby divided into fee simple estates, each such estate consisting of the separately designated units and the undivided percentage or fractional interest in and to the common areas and facilities appurtenant to each unit as set forth on Exhibit A attached hereto and made a part hereof.

Declarant reserves the right as to all units then owned by it to physically combine the space within one unit with the space within one or more adjoining units. No change in the undivided percentage of fractional interest appurtenant to each unit as set out on Exhibit A shall result from any such combination, but each unit so combined, for all purposes, including voting, shall retain the undivided percentage of fractional interest as set out on said Exhibit A.

4. Limited Common Areas and Facilities. A portion of the common areas and facilities is reserved for the exclusive use of the individual owners of the respective units, and such areas are referred

to as "limited common areas and facilities". The limited common areas and facilities so reserved, including garages, shall be identified on the Floor Plans. Any balcony, patio, or deck which is accessible from, associated with and which adjoins a unit, without further reference thereto either herein or on the Floor Plans, shall be used in connection with such unit to the exclusion of the use thereof by the other owners of the common areas and facilities, except by invitation. All of the owners of condominium units in this condominium project shall have a non-exclusive right in common with all of the other owners to use of sidewalks, pathways, roads, and streets located within the entire condominium project. No reference thereto, whether such limited common areas and facilities are exclusive or non-exclusive, need be made in any deed, instrument or conveyance, or other instrument, and reference is made to the provisions of paragraph 7 of this Declaration.

5. Parking Spaces. On-site parking areas and facilities shall be under the control of the Association.

6. Inseparability of a Condominium Unit. Each unit, the appurtenant undivided interest in the common areas and facilities, and the appurtenant limited common areas and facilities, shall together comprise one condominium unit, shall be inseparable, and may be conveyed, leased, devised, or encumbered only as a condominium unit.

7. Deeds. Every deed, lease, mortgage, trust deed, will, or other instrument referring to a condominium unit shall include the following particulars:

(a) Description of the land on which the apartment and improvements are or are to be located, and the post office address of the apartment building, including the book, page, document number and date of recording this Declaration;

(b) The apartment number designation of the apartment as contained in the Declaration and any other data necessary for its proper identification;

(c) Statement of the use for which the apartment is intended and restrictions on its use; and

(d) The percentage of undivided interest appertaining to the apartment in the common areas and facilities.

The initial deeds conveying each condominium unit may contain reservations, exceptions, and exclusions which the Declarant deems to be consistent with and in the best interest of all condominium unit owners.

8. Separate Assessment and Taxation - Notice to Assessor. Declarant shall give written notice to the Assessor of Carver County, Minnesota of the creation of condominium ownership in this property, as is provided by law, so that each unit and the undivided interest in the common areas and facilities appurtenant thereto shall be deemed a parcel and subject to separate assessment and taxation.

9. Ownership - Title. A condominium unit may be held and owned in any real property tenancy relationship recognized under the laws of the State of Minnesota.

10. Non-Partitionability of Common Areas and Facilities. The common areas and facilities shall be owned in common by all of the owners and shall remain undivided, and no owner shall bring any action for partition or division of the common areas and facilities. Nothing contained herein shall be construed as a limitation of the rights of partition of a condominium unit between the owners thereof, but such partition shall not affect any other condominium unit.

11. Use of Common Areas and Facilities and Limited Common Areas and Facilities. Each owner shall be entitled to exclusive ownership and possession of his unit. Each owner may use the common areas and facilities and limited common areas and facilities in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other owners. There shall be perpetual, non-exclusive easements, which shall be easements appurtenant, from each owner to each other owner and to the Association, over, across and through the common areas and facilities for ingress and egress and for utility services, including but not limited to conduits, pipes, ducts, plumbing and wiring.

12. Use and Occupancy. The units shall be used and occupied solely for residential purposes, and no unit shall be used or occupied by more than one family.

Declarant and Declarant's employees, representatives, agents, and contractors may maintain a business and sales office, construction facilities and yards, model units, and other developer's facilities necessary or required during the construction and sales periods. The Board of Directors or the Manager may maintain an office in one of the units in the condominium project for the purpose of managing the condominium units within this condominium project.

13. Easements. If any portion of the common areas and facilities encroaches upon a unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of a unit encroaches upon the common areas and facilities, or upon an adjoining unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event the condominium project is partially or totally destroyed, and then rebuilt, the owners of apartment units shall permit minor encroachment of parts of the common areas and facilities due to construction and valid easements for said encroachment and the maintenance thereof shall exist.

14. Termination of Mechanic's Lien Rights and Indemnification. Subsequent to the completion of the building in which a unit is located as described on the Floor Plans, no labor performed or materials furnished and incorporated in such unit with the consent or at the request of the unit owner, his agent, his contractor, or subcontractor shall be the basis for filing of a lien against the unit of any other unit owner not expressly consenting to or requesting the same, or against the common areas and facilities. Each owner shall indemnify and hold harmless each of the other owners from and against all liability arising from the claim of any lien against the unit of any other owner or against the common areas and facilities for construction performed or for labor, materials, services, or other products incorporated in the owner's unit at such owner's request. The pro-

visions herein contained are subject to the rights of the Board of Directors or the Manager of the condominium property as set forth in paragraph 17.

15. Notice of Lien or Suit. An owner shall give notice to the Board of Directors or the Manager of every lien or encumbrance upon his condominium unit, other than for taxes and special assessments, and the address of the owner of such lien or encumbrance, and notice of every suit or other proceeding which may affect the title to his condominium unit, and such notice shall be given in writing within thirty (30) days after the owner has knowledge thereof.

16. Administration and Voting. The administration of this condominium project shall be governed by this Declaration, the Bylaws of the Association, which Bylaws are annexed hereto and hereby made a part hereof, and resident policies adopted pursuant thereto. An owner of a condominium unit, upon becoming such an owner, shall become a member of the Association and shall remain a member for the period of his ownership, and shall be bound by the terms, covenants, and conditions of the Articles of Incorporation, this Declaration, said Bylaws and resident policies, as each may from time to time be hereafter amended. Each owner shall have such voting rights as is set out in the Bylaws.

17. Reservation for Access - Maintenance, Repair and Emergencies. The Association shall have the irrevocable right, to be exercised by the Board of Directors or the Manager, to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the common areas and facilities or limited common areas and facilities therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or limited common areas and facilities or to another unit. Damage to the interior or any part of a unit resulting from the maintenance, repair, emergency repair, or replacement of any of the common areas and facilities or limited common areas and facilities or as a result of emergency

repairs within another unit, at the instance of the Board of Directors or the Manager, shall be a common expense of all of the owners; provided, however, that if such damage is the result of the misuse or negligence of a unit owner or such owner's invitees, guests or representatives, then such unit owner shall be responsible and liable for all of such damage, and the cost and expense incurred by the Association in making any such repair upon or replacement, together with interest thereon at 8% per annum, may be assessed against such responsible owner and his condominium unit and the same may be enforced pursuant to paragraphs 25 and 26 hereof as if the same were an assessed common expense, and shall also be payable upon demand made by the Association. All damaged improvements shall be restored substantially to the same condition in which they existed prior to the damage. All maintenance, repairs, and replacements to the common areas and facilities, and (except as provided in paragraph 18) the limited common areas and facilities, whether located inside or outside of units (unless necessitated by the negligence or misuse of a unit owner, or such owner's invitees, guests, or representatives, in which case such expense shall be charged to such unit owner, and enforced, in the manner above set out in this paragraph) shall be the common expense of all of the owners.

18. Owner's Maintenance Responsibility. For purposes of maintenance, repair, alteration, and remodeling, an owner shall be deemed to own the interior non-supporting walls, the materials (such as, but not limited to, plaster, gypsum dry wall, paneling, wall-paper, paint, wall and floor tile and flooring, but not including the sub-flooring) making up the finished surfaces of the perimeter walls, ceilings, and floors within the unit, including unit doors and windows. The owner shall not be deemed to own lines, pipes, wires, conduits, or systems (which for brevity are herein and hereafter referred to as utilities) running through his unit which serve one or more other units except as a tenant in common with the other owners. Such utilities shall not be disturbed or relocated by an

owner without the written consent and approval of the Board of Directors or the Manager. Such right to repair, alter, and remodel is coupled with the obligation to replace any finishing or other materials removed with similar or other types or kinds of materials. An owner shall maintain and keep in repair the interior of his own unit. All fixtures and equipment installed within the unit commencing at a point where the utilities enter the unit shall be maintained and kept in repair by the owner thereof. An owner shall do no act nor any work that will impair the structural soundness, safety, or integrity of the building or reduce the value thereof or impair any easement or hereditament, without in every such case the unanimous consent of all the other owners being first obtained. Except for structural repairs which are the obligation of the Association, an owner shall also keep any garage, balcony area, or other limited common area appurtenant to his unit, in good repair and neat and clean condition. No owner shall paint or otherwise decorate or change the appearance of any common area and facility or limited common area and facility without the prior written consent of the Association.

19. Compliance with Provisions of Bylaws and Declaration.

Each owner shall comply strictly with the provisions of this Declaration and of the Bylaws of the Association and the decisions, resolutions, and resident policies adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both, and for reimbursement of all attorney's fees incurred in connection therewith, which action shall be maintainable by the Board of Directors or the Manager in the name of and on behalf of the owners or, in a proper case, by an aggrieved owner.

20. Revocation or Amendment to Declaration. This Declaration shall not be revoked unless all of the owners and the holders of all liens covering or affecting any or all of the condominium units unanimously consent and agree to such revocation by instrument duly

recorded. This Declaration shall not be amended unless the owners representing an aggregate ownership interest of 80% or more of the total percentage of undivided interests in the common areas and facilities as set out in Exhibit A, and all of the holders of any recorded first mortgages covering or affecting any or all condominium units consent and agree to such amendment by instrument duly recorded; provided, however, that the percentage of the undivided interest in the common areas and facilities appurtenant to each unit, as expressed in this Declaration, shall have a permanent character and shall not be altered without the consent of all of the unit owners and all of the holders of any such recorded first mortgage expressed in an amended Declaration duly recorded; and provided, further, that revocation of this Declaration shall always require the consent of all of the owners and the holders of all liens covering or affecting any or all of the condominium units.

21. Additions, Alterations, and Improvements of Common Areas and Facilities and Limited Common Areas and Facilities. There shall be no additions, alterations, or improvements of or to the common areas and facilities and limited common areas and facilities by the Board of Directors without prior approval of all of the owners, and such expenditures shall be a common expense. Such limitation shall not be applicable to the repair or maintenance, of any of the common areas and facilities or limited common areas and facilities or common personal property (as defined in paragraph 29 hereof).

★ 22. Assessment for Common Expenses. All owners shall be obligated to pay the assessments, either estimated or actual, imposed by the Board of Directors to meet the common expenses. The assessments shall be made according to each owner's percentage of fractional interest in and to the common areas and facilities. Except for ordinary cleaning, the limited common areas and facilities shall be maintained as common areas and facilities, and owners having exclusive use thereof shall not be subject to any special charges or assessments for the repair or maintenance thereof. Assessments for the common expenses, estimated or actual, shall be due in advance on the first day of each month, or as may be determined by the Board of Directors.

In the event the ownership of a condominium unit, title to which is derived from Declarant, commences on a day other than the first day of the assessment period, the assessment for that period shall be prorated.

The assessments made shall be based upon the cash requirements deemed to be such aggregate sum as the Manager, or if there is no Manager, then the Board of Directors, shall from time to time determine, is to be paid by all of the condominium unit owners, to provide for the payment of all expenses estimated and actual, growing out of or connected with the maintenance, repair, operation, additions, alterations, and improvements of and to the common areas and facilities and limited common areas and facilities, which sum may include, but shall not be limited to, expenses of management; indemnification of officers and directors of the Association; taxes and special assessments until separately assessed; premiums for fire insurance with extended coverage and vandalism and malicious mischief with endorsements attached issued in the amount of the full insurable replacement cost of all of the common areas and facilities and condominium units (including all fixtures; interior walls and partitions; decorated and finished surfaces of perimeter walls, floors, and ceilings; doors, windows and other elements or materials comprising a part of the units); casualty and public liability and other insurance premiums; landscaping and care of grounds; common lighting and heating; repairs and renovations; trash and garbage collections; wages; common water and sewer charges; legal and accounting fees; management and rental fees; expenses and liabilities incurred by the Manager or Board of Directors on behalf of the unit owners under or by reason of this Declaration; for any deficit remaining from a previous period; the creation of a reasonable contingency, reserve, working capital, and sinking funds as well as other costs and expenses relating to the common areas and facilities.

The omission or failure of the Board of Directors to fix the assessment for any period shall not be deemed a waiver, modification, or a release of the owners from their obligation to pay the same. The Board of Directors may require each owner to deposit and maintain

with the Board of Directors an amount equal to one quarterly estimated assessment for use as working capital.

23. Insurance. The Manager shall obtain and maintain at all times insurance of the type and kind provided hereinabove and including for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium buildings, fixtures, equipment, and personal property, similar in construction, design, and use, issued by responsible insurance companies authorized to do business in the State of Minnesota. The insurance shall be carried in blanket policy form naming the Association the insured, as trustee for all of the condominium unit owners, which policy or policies shall identify the interest of each condominium unit owner (owner's name, unit number, building designation), and which policy or policies shall provide a standard, noncontributory mortgagee clause in favor of each first mortgagee. It shall also provide that the policy cannot be cancelled until after ten days' prior written notice is first given to each owner and each first mortgagee. The Manager shall also obtain and maintain, to the extent obtainable, public liability insurance in such limits as may from time to time be determined, covering each unit owner, each person having an interest in a unit who is registered with the Association pursuant to the Bylaws, each member of the Board of Directors, and the Manager. Such public liability coverage shall also cover cross liability claims of one insured against another and shall contain waivers of subrogation as to claims against all unit owners, and each person having an interest in a unit who is registered with the Association pursuant to the Bylaws. Each owner may obtain additional insurance at his own expense for his own benefit provided that all such policies shall contain waivers of subrogation as to claims against all other owners, and provided, further, that the liability of the carriers issuing insurance shall not be affected or diminished by reason of any such insurance carried by any unit owner. All such insurance shall be reviewed at least annually by the Board of Directors and shall be in amounts, on terms, and with companies determined by the Board of Directors except for

said fire insurance with extended coverage and vandalism and malicious mischief which shall be for the full insurable replacement cost as above stated.

Insurance coverage on the furnishings and other items of personal property belonging to an owner and casualty and public liability insurance coverage within each individual unit shall be the responsibility of the owner thereof.

24. Owner's Personal Obligation for Payment of Assessments.

The amount of the common expenses assessed against each condominium unit shall be the personal and individual debt of the owner thereof. No owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of his unit. Both the Board of Directors and the Manager shall have the responsibility to take prompt action to collect any unpaid assessments which remain unpaid more than 60 days from the due date for payment thereof. In the event of default in the payment of the assessment, the unit owners in default shall be obligated to pay interest at the rate of 8% per annum on the amount of the assessment from due date hereof, together with all expenses, including attorneys' fees incurred together with such late charges as provided in this Declaration. Suit to recover a money judgment for unpaid common expenses may be maintained without foreclosing or waiving the lien securing same. Each owner, by acceptance of a deed for his condominium unit, agrees that the holder of any first mortgage of his condominium unit may collect assessments for the common expenses on behalf of the Association on a monthly basis, and hold such assessments in escrow for payment to the Association, and that any failure to pay such assessments to said mortgagee shall constitute a default under said mortgage.

25. Assessment Lien. All sums assessed but unpaid for the share of common expenses chargeable to any condominium unit shall

constitute a lien on such unit superior to all other liens and encumbrances, except only for tax and special assessments liens on the unit in favor of any assessing unit, and all sums unpaid on a first mortgage of record, including all unpaid obligatory sums as may be provided by such encumbrances. To evidence such lien, the Board of Directors or the Manager shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of the accrued interest and late charges thereon, the name of the owner of the condominium unit and a description of the condominium unit. Such notice shall be signed by one of the Board of Directors or by the Manager and shall be recorded in the Office of the Registrar of Titles, Carver County, Minnesota. Such lien shall attach from the due date of the assessment, and may be enforced by the foreclosure of the defaulting owner's condominium unit by the Board of Directors in like manner as a mortgage on real property upon the recording of a notice or claim thereof. In any such proceedings the owner shall be required to pay the costs, expenses and attorneys' fees incurred for filing the lien, and in the event of foreclosure proceedings, all additional costs, all expenses and reasonable attorneys' fees incurred. The owner of the condominium unit being foreclosed shall be required to pay to the Board of Directors the assessments against the condominium unit during the period of foreclosure, and the Board of Directors shall be entitled to a receiver to collect the same. The Manager or the Board of Directors acting on behalf of the owners, shall have the power to bid in the condominium unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the same, either in the name of the Association or in the name of a nominee. Any encumbrancer holding a lien on a condominium unit may pay, but shall not be required to pay, any unpaid common expenses payable with respect to such unit, and upon such payment such encumbrancer shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance without the necessity of having

to record a notice or claim of such lien.

26. Liability for Common Expense Upon Transfer of Condominium Unit is Joint. Upon payment to the Manager of a reasonable fee not to exceed \$25, and upon the written request of any mortgagee, or prospective mortgagee of a condominium unit, the owners, by their Manager, or by the Board of Directors, shall issue a written statement setting forth the amount of the unpaid common expenses, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for any advanced payments of common assessments, for prepaid items, such as insurance premiums, but not including accumulated amounts for reserves or sinking funds, if any, which statement shall be conclusive upon the owners, the Board of Directors, and the Manager in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within ten days, all unpaid common expenses which became due prior to the date of making such request shall be subordinate to the lien rights of the such mortgagee requesting such statement if such mortgagee then places a lien on the subject unit. The grantee of a condominium unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for the unpaid common assessments up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor; provided, however, that upon payment of a reasonable fee not to exceed \$25, as is provided hereinabove, and upon written request, any such prospective grantee shall be entitled to a statement from the Manager setting forth the amount of the unpaid assessments, if any, with respect to the subject condominium unit, the amount of the current monthly assessment, the date that such assessment becomes due, and credits for any advanced payments of common assessments, prepaid items, such as insurance premiums, but not including accumulated amounts for reserves or sinking funds, if any, which statement shall be conclusive upon the owners, Board of Directors, and Manager. Unless

such request for such a statement shall be complied with within ten days after such request, then such requesting grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for any unpaid assessments against the subject unit. The provisions set forth in this paragraph shall not apply to the initial sales and conveyance of the condominium units made by Declarant, and such sales shall be free from all common expenses (unless otherwise specified in any sale agreement entered into by Declarant) to the date of conveyance made or to a date as agreed upon by Declarant and Declarant's grantee.

27. Mortgaging a Condominium Unit - Priority. An owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage, or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a condominium unit may create junior mortgages, liens, or encumbrances on the following conditions: (1) that any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for common expenses, and other obligations created by this Declaration; (2) that the mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title, and interest in and to the proceeds under all insurance policies upon said premises by the owners. Such release shall be furnished forthwith by a junior mortgagee upon written request of one or more of the members of the Board of Directors, and if such request is not granted, such release may be executed by the Association as attorney-in-fact for such junior mortgagee.

28. Disposition of Property Where It Is Damaged By Fire or Other Disaster. In case of fire or other disaster, if unit owners with fifty-one percent (51%) or more of the total percentage of undivided interests in the common areas and facilities as set out on Exhibit A hereto and all holders of first mortgages of record do not voluntarily make

provision for reconstruction of the apartment units within 180 days from the date of damage or destruction, the Manager or the Board of Directors of the Association shall file for record with the recording officer a notice setting forth such facts, and upon the recording of such notice:

(a) The property shall be deemed to be owned in common by the unit owners;

(b) The undivided interest in the property owned in common which shall appertain to each owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities;

(c) Any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the unit owner in the property as provided herein; and

(d) The property shall be subject to an action for partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the unit owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the apartment owners, to the extent sufficient for the purpose, all liens on the undivided interest in the property by each unit owner.

29. Personal Property for Common Use. The Association may acquire and hold for the use and benefit of all of the condominium unit owners, tangible, personal property and may dispose of the same by sale or otherwise. The beneficial interest in any such property shall be owned by all of the condominium unit owners in the same proportion as their respective interests in the common areas and facilities, and such interest therein shall not be transferable except with a conveyance of a condominium unit. A conveyance of a condominium unit shall transfer to the grantee ownership of the grantor's

beneficial interest in such property without any reference thereto in the deed. Each owner may use such property in accordance with the purpose for which it is intended without hindering or encroaching upon the lawful rights of the other owners. The transfer of title to a condominium unit under foreclosure shall entitle the purchaser to the beneficial interest in such personal property associated with the foreclosed condominium unit.

30. Period of Condominium Ownership. The separate condominium estates created by this Declaration shall continue until this Declaration is revoked or terminated in the manner as is provided for in this Declaration or the Minnesota Condominium Act.

31. Service of Process. Briggs Napier, Jonathan Village Center, Chaska, Minnesota, shall be the person to receive service of process as provided for in the Minnesota Condominium Act until such as his successor has been designated in writing duly filed in the Office of the Registrar of Titles of Carver County, Minnesota.

32. General.

(a) If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase, or word, or the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provisions, paragraph, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby.

(b) The provisions of this Declaration shall be in addition to and supplemental to the Minnesota Condominium Act of the State of Minnesota and to all other provisions of law.

(c) That whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

Exhibit A
to
Mill Pond Condominium No. 2 Declaration

Apartment
No.

Address at
Geske Road
Chaska, Minn.
55318

Approximate
Area in
Square Feet
(Including Garage)

Number
of Rooms
Exclusive
of Bathrooms
and Closets

Number
of
Garages

Value

Percentage
of
Undivided
Interest