

DECLARATION OF CONDOMINIUM OF
VALHALLA TWELVE, A CONDOMINIUM

Condominium No. 74

This Declaration of Condominium (hereinafter called "Declaration") is made and executed in Olmsted County, State of Minnesota, this 6th day of May, 1983, by Metro Development Corporation, (hereinafter called "Declarant"), pursuant to the provisions of the Minnesota Uniform Condominium Act (hereinafter called "Act"), M.S.A. §515A.

W I T N E S S E T H:

WHEREAS, Declarant is the owner of a certain parcel of real estate located in the City of Rochester, County of Olmsted, State of Minnesota, and legally described in Exhibit "A" attached hereto, incorporated herein by reference, and made a part hereof; and

WHEREAS, Declarant is the owner of a certain 8 story building and other improvements being constructed and hereafter to be constructed upon the aforesaid premises, as more fully described in the Floor Plans, incorporated herein by reference, and made a part hereof, and it is the desire and the intention of the Declarant to divide the building into individual residential "Units" and to sell the Units to various persons for their individual ownership of the Units and the remainder of the real estate (common elements and limited common elements) to be designated for common ownership solely by the individual owners thereof, as tenants in common with other owners, subject to the covenants, conditions and restrictions herein reserved to be kept and observed; and

WHEREAS, Declarant desires and intends by filing this Declaration and Floor Plans of the improvements to submit the "real estate" to the aforesaid Act as a condominium project and to impose upon said real estate mutually enforceable reciprocal covenants under a general plan for the benefit of all of the Units and the owners thereof;

WHEREAS, the Condominium Association has been established and identified as Valhalla Twelve, hereinafter referred to as "Association".

NOW, THEREFORE, the Declarant, as the owner of the real estate hereinafter described, and for the purposes set forth above, does hereby publish and declare as follows:

ARTICLE I.

1. Submission of Property. All the real estate hereinafter described and the improvements heretofore and hereafter constructed thereon are hereby submitted to the provisions of the Act, and shall be held, conveyed, encumbered, leased, rented, used and occupied subject always to all covenants, conditions, restrictions, uses, limitations and obligations expressed hereinafter in this

Declaration, contained in the By-Laws of the Association attached hereto as Exhibit C, incorporated herein by reference, and made a part hereof, and codified in the Act. All of such covenants, conditions, restrictions, uses, limitations and obligations are declared and agreed to be in furtherance of a plan for said real estate, and shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its grantees, successors and assigns and any person acquiring or owning an interest in the real estate, their grantees, successors and assigns. Declarant hereby divides the real estate into the following maximum separate freehold estates which may not be subdivided unless expressly provided to the contrary elsewhere in this Declaration:

A. Units:

64 separately designed and legally described freehold estates. The fee title to each freehold estate shall include: the areas contained within the perimeter walls of each of the 64 Units in the Building, said spaces being defined and referred to herein as "Units" and being set forth in the Floor Plans as Exhibit B.

Said Units and an undivided percentage interest in the Common Elements attached to each are separately designated on the Floor Plans filed for record simultaneously with the recording of this Declaration, pursuant to the Act, which Floor Plans are incorporated herein by reference and made a part hereof, and are hereinafter referred to as the "Floor Plans".

B. Common Elements:

(1) Common Elements. An undivided interest in the "Common Elements" and the "Limited Common Elements" is deemed to be conveyed or encumbered with each respective Unit. Any attempt to separate the fee title to a Unit from the undivided interest in the Common Elements appurtenant to each Unit and the Limited Common Elements shall be null and void. The term "Common Elements" when used throughout this Declaration shall mean both "Common Elements" and "Limited Common Elements", unless the context otherwise specifically requires.

(2) Common Parking Spaces and Storage Units. The garage spaces shown on the Floor Plans are, and at all times shall remain, a part of the Common Elements, except as otherwise shown on the Floor Plans. The Association shall offer each unit owner the opportunity to lease a space at rental rates to be determined from time to time, which lease shall hereinafter be referred to as a license.

Said license may be terminated if the licensee fails to pay rent as provided in the License Agreement, Declaration, By-Laws and the Rules and Regulations adopted by the Association, all of which are incorporated into the License Agreement by reference.

The Association must at the time Declarant transfers title have a parking space available to each unit owner. If a unit owner declines to lease a space, the Association may lease this space to another unit owner or non-owner.

Each garage space shall grant such unit owner and the unit owner's heirs, representatives, successors and assigns in interest to the unit owner's Unit the exclusive right to use the designated garage space for the parking of a family automobile or similarly-sized passenger vehicle. All such garage space licenses shall be irrevocable without the written consent of the unit owner (except for the non-payment of rent) and, subsequent to the granting of any such license, no unit owner shall do or cause to be done anything which will interfere with the exclusive use of such garage space by the unit owner to which it has been licensed.

The Declarant shall be entitled to designate which garage space or spaces are to be licensed by the Board of Directors to each Unit owned by Declarant and, as long as Declarant owns any Unit, no garage space which has not been previously licensed may be the subject of a garage space license, except in accordance with Declarant's written designation. Upon receipt of any such designation in writing, the Board of Directors shall issue the appropriate license as requested by Declarant.

Two or more unit owners may request the Board of Directors to exchange the garage spaces then licensed to their Units in such fashion as such unit owner may designate in writing delivered to the Board of Directors. Upon receipt of such writing, the Board of Directors shall have the power and duty to, and shall, terminate the licenses then in existence with respect to such Units and execute and deliver new garage space licenses in the manner requested by such unit owners consistent with the provisions hereof.

(3) Limited Common Elements. The Limited Common Elements and facilities, as shown on the Floor Plans, hereby allocated for use only by unit owners and their respective family members, social guests, tenants and invitees, are those limited Common Elements specified as follows: The balconies and patios adjoining each Unit and designated parking spaces and garages on the Floor Plans are Limited Common Elements appurtenant to the Unit to which they are adjacent and as described in M.S.A. §515A.2-102.

ARTICLE II.

1. Description. The real estate described in Exhibit "A" attached hereto, and all improvements thereon, shall be Condominium Property.

2. Name and Purpose. The Property is to be identified by the name Valhalla Twelve, and the Units will be used for residential purposes.

ARTICLE III.

1. Definitions. Unless the context indicates otherwise, for purposes of this Declaration and By-laws, the definitions set forth in M.S.A. §515A.1-103 are incorporated herein by reference.

2. Voting Percentages. Each unit owner shall have voting rights for purposes of this Declaration and the By-Laws of the Association as set forth and established in Article XV. of the Declaration.

3. Conveyance of Units. The Units, which shall be individually conveyed, are as shown on the Floor Plans; with their respective numbers, their location, approximate area, number of rooms and immediate Common Elements to which each has access. The respective undivided interest to be conveyed to each Unit cannot be changed, except as provided by the Act, and the grantor, and the grantees, and their respective heirs, representatives, successors and assigns, covenant and agree that the fee title to each freehold estate shall include both the area contained within the Unit and the respective undivided interest in the Common Elements, which shall not be separated or separately conveyed, and each individual interest shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the Unit, all as provided by M.S.A. §515A.2-104.

ARTICLE IV.

Further Covenants and Agreements of Parties. By and through this Declaration, Declarant, its successors and assigns, all present and future owners of the Units, by their acceptance of their respective deeds, further covenant and agree as follows:

1. Subdivision. The Common Elements shall remain undivided, and neither the owners, the Declarant, nor the Association shall seek to partition or subdivide the same unless the real estate has first been removed from the Act. Units may be subdivided pursuant to M.S.A. §515A.2-115.

2. Use and Restrictions. The purposes for which the Condominium and each Unit are intended and restricted for use are as follows: The Condominium shall be used for single family residential dwellings, and Units shall be occupied and used by unit owners, their families, social guests and invitees, provided that the Declarant may maintain a business and sales office, model units and other development facilities during the sales period. The sales period shall end when the sales of all Units offered for sale by the Declarant have been closed.

No structural changes or alterations shall be made in any Unit without the prior written approval of the Board of Directors which would adversely affect the structural soundness of the Condominium in which the Unit is located. In acting upon any request for such change or alteration, the Board of Directors may impose such reasonable and uniformly imposed requirements as it deems appropriate, such as the submission of proposed plans and specifications.

During the period of Declarant's control, Declarant retains and shall have the right to enter into the Condominium in order to: (i) complete any site amenities or landscaping; (ii) complete finishing work, such as application of floor and wall coverings and installation of fixtures in unsold Units; and (iii) such other deeds and acts to further the development of the Units and all Common Elements not inconsistent with the Declaration and By-Laws of the Association; all of the above to be done in a manner which does not unreasonably interfere with the use and enjoyment by the unit owners with their Unit or with the Common Elements and facilities.

3. Encroachments. If any portion of the Common Elements encroach upon the Units, or if any Unit encroaches upon the Common Elements or another Unit, 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 is partially or totally destroyed and then rebuilt, the unit owners agree that minor encroachment of Units and of parts of the Common Elements due to construction shall be permitted and that valid easements for said encroachments and the maintenance thereof shall exist.

4. Encumbrances. The interests of the unit owner and mortgagee of each Unit shall be subject to any encumbrance set out on the deed executed in connection with the purchase of such Unit.

ARTICLE V.

1. Association Membership. A unit owner shall automatically be a member of the Association and shall remain a member of said Association until such time as his ownership ceases for any reason, at which time his membership in said Association shall automatically cease.

2. Control and Administration of Real Estate. Control and administration of the real estate shall be vested in the Association and its Board of Directors in accordance with the provisions of this Declaration, the Articles of Incorporation of the Association (the "Articles"), and the By-Laws of the Association (the "By-Laws"), copies of which documents are attached hereto as Exhibits, and such rules and regulations as may be promulgated by the Association. The Association, through the Board, may establish such rules, regulations, and procedures to govern and operate the real estate as it deems reasonable and necessary.

3. Compliance and Binding Effect. Each unit owner or occupant of a Unit, or any other person having a present or future interest therein, shall be bound by and shall comply with the provisions of this Declaration, the Articles, the By-Laws, and such rules, regulations, determinations and resolutions as may be promulgated and made by the Association from time to time, and failure to comply with any such provisions, rules, regulations, determinations, or resolutions, shall be grounds for action, legal or otherwise, by the Board to enforce the rights of the Association.

4. Amendment of Declaration. This Declaration shall not be amended unless unit owners having seventy-five (75%) or more of the vote, and seventy-five percent (75%) of the holders of mortgages of record covering the Units (based upon one vote for each mortgage owned), agree to such amendment by a duly signed and recorded instrument; provided, however, that any change in the respective undivided interest shall only be made pursuant to the Act.

This Declaration shall not be revoked except upon compliance with the requirements of the Act for removal of the real estate from the provisions of the Act.

5. Obligation for Common Expenses. No unit owner may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of his Unit, nor may a unit owner withhold payment of his contribution or assessment because of a disputed claim concerning services, damages, management or maintenance.

ARTICLE VI.

1. Maintenance and Alterations. The responsibility for the maintenance of the real estate, and the obligations related thereof, are as follows:

A. The Association. Except to the extent otherwise provided by the Declaration or Section §515A.3-112(d), the Association is responsible for maintenance, repair and replacement of the Common Elements and each unit owner is responsible for maintenance, repair and replacement of his Unit. Each unit owner shall afford to the Association and the other unit owners, and to their agents or employees, access through his unit reasonably necessary for these purposes. The Association shall make repairs and replacements only of Limited Common Elements and the unit owner shall be responsible for routine maintenance of the same. All damage caused to a Unit by authorized work on the Common Elements and Limited Common Elements shall be promptly repairs at the expense of the Association.

In the event of damages to the Condominium caused by storm, wind, flood or other natural causes, the Association shall be responsible for the repair of the structural damages, but repair of damages within a Unit such as repainting, replastering, or replacement of personal property shall be the responsibility of the unit owner.

Liability for damage to Common Elements and Limited Common Elements by causes other than natural causes shall be borne by the party or parties directly causing the same and, if no liability is found, then by the Association, the same as if such damage was from natural causes.

B. The Unit Owner. The unit owner shall maintain, repair, and replace at his expense all portions of his Unit as defined by the Act, except the portions to be maintained, repaired and replaced by the Association. Such maintenance shall be performed without disturbing the rights

of other unit owners and in such manner as not to affect the safety or soundness of the Condominium. All unit owners shall promptly report to the Board of Directors any defect or need for repairs the responsibility of which is the Association's.

Anticipated repairs or changes of a Unit should be documented, accompanied with an approximate date and time required to do the work. Any repairs or changes that effect the value of the Unit shall be reviewed by the Board of Directors.

C. Alterations and Improvements in General. No unit owner shall make any alterations in the portions of the Condominium which are to be maintained by the Association or remove any portion thereof, or do or cause to be done any work on his Unit which would jeopardize the safety or soundness of the Unit or Condominium, or impair any easement, without first obtaining approval of the Association.

No unit owner shall modify, decorate or change the appearance of any portion of the exterior of the Condominium, the hallways, the windows or the balconies so as to cause any Unit to violate the architectural scheme of the Condominium or to appear in any way different from any other.

Unit owners of Units on the top floor may extend chimneys through the roof top to vent a fireplace constructed in the Unit; such unit owner shall be solely responsible for the installation of same and shall be personally liable for damages and maintenance to the structure which result from the installation of the chimney.

ARTICLE VII.

Assessments. Assessments against the unit owners shall be made annually by the Board of Directors for the common expenses based upon a budget adopted at least annually by the Association pursuant to the By-Laws and subject to the following provisions:

1. Share of Common Expenses. Each unit owner shall be liable for a proportionate share of the common expenses in the percentage of his interest in the Common Elements assigned to his Unit in the Floor Plans. Such expenses may be apportioned as provided by Section §515A.3-114(D).

2. Payment. All sums assessed by the Association, through the Board or otherwise, for annual and special assessments shall be payable as designated by the Board of Directors.

3. Interest. Assessments and installments thereon not paid on or before ten (10) days after the date when payable shall bear interest at a rate of interest determined by the Board of Directors from the date when payable until paid. All payments on accounts shall first be applied to interest and then to the assessments payment first due.

4. Emergencies. Assessments for emergencies, unexpected or irregular expenses, which cannot be paid from the assessments for normal recurring expenses shall be made by the Board of Directors. After notice and upon approval in writing of a majority of the unit owners, the assessments shall become effective and shall be payable after thirty (30) days' notice thereof in such manner as the Board of Directors may require.

5. Liability of Transferee for Assessments. Unit owners at times an assessment is payable are personally liable to the Association for the payment of assessments. In a disposition of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments to the Association against the latter for grantor's share of the common expenses 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. However, such grantee shall be entitled to a statement from the Board of Directors setting forth the amount of the unpaid assessments in accordance with M.S.A. §515A.4-107 and the grantee shall not be liable for, nor shall the Unit conveyed be subject to, a lien for any unpaid assessments made by the Association against the grantor in excess of the amount therein set forth.

6. Assessment Liens and Foreclosures. All sums assessed by the Association, both for annual and special assessments, for the share of the common expenses chargeable to any Unit shall constitute a lien on such Unit for the full amount of the assessments, effective as of the date the amount of the assessment is payable by the Board, prior to all other liens except for (1) liens and encumbrances recorded before the recordation of the Declaration; (2) any recorded mortgage on the Unit securing a first mortgage holder; and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. This subsection does not affect the priority of mechanics' or materialmen's liens. Such assessments, while it or any installment is so delinquent for more than thirty (30) days, may be declared due and payable in full by the Board and such assessments lien, with interest, may be foreclosed by suit by the Board, acting on behalf of the unit owners, in like manner as a mortgage of real property containing a Power of Sale. In any such foreclosure the unit owner shall also be required to pay the costs of such foreclosure, including reasonable attorney's fees. Redemption rights shall be six (6) months.

The Association shall have power to bid on the Unit at the foreclosure sale, and shall otherwise have the rights provided by law upon foreclosure of mortgage having a Power of Sale. Any proceeding to enforce an assessment must be instituted within three (3) years after the last installment of the assessment becomes payable.

The Association at the request of a mortgagee of a Unit shall report in writing to the mortgagee any unpaid assessments payable from the unit owner.

7. Liability Upon Mortgage Foreclosure. Where the mortgagee of record or other purchaser of a Unit obtains title to the Unit as a result of foreclosure of a mortgage, or by transfer of title in lieu of foreclosure, such acquirer of title, its (or his) heirs, representatives, successors and assigns shall not be liable for the assessments by the Association chargeable to such Unit which accrue prior to the acquirer's acquisition of title to such Unit; proceeds of any foreclosure sale over and above the balance of said mortgage and reasonable costs and expenses of foreclosure shall be applied against any unpaid assessments chargeable to said Unit. Any remaining portion of unpaid assessments shall accrue as a common expense collectible from all the unit owners, including such acquirer, its (or his) heirs, representatives, successors and assigns. For purposes hereof, title to such Unit shall be deemed acquired by foreclosure upon expiration of the applicable period of redemption or upon delivery of a deed in lieu of foreclosure.

ARTICLE VIII.

1. Insurance. Insurance upon the Units shall be governed by Section §515A.3-112 and the Association shall provide not less than \$1,000,000 liability insurance and coverage to cover each unit owner for tort liability arising out of his ownership of the Common Elements.

A. Responsibility and Benefit. The Board shall have the authority to and shall obtain insurance for the Condominium (including the right to levy a special assessment if funds are not available), with coverage as set forth in the paragraphs below for 80% of the full insurable replacement costs of the Common Elements and Limited Common Elements and the Units. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Association as trustee for each of the unit owners, and their respective mortgagees, as their interests may appear in the percentages of the Common Elements. Provisions for such insurance shall be without prejudice to the right of each unit owner to insure his own Unit and his personal property at his own expense. The insurance shall be carried in blanket policy form naming the Association the insured, as trustee for all of the unit owners, which policy or policies shall provide that standard mortgage clause in favor of each mortgagee. It shall also provide that the policy cannot be cancelled until after at least ten (10) days prior written notice is first given to the Association and each mortgagee. The cost of obtaining the insurance coverage authorized above is declared to be a common expense as are any other fees and expenses incurred which may be necessary or incidental to carrying out these provisions.

B. Coverage. The following insurance coverage shall be maintained in full force and effect by the Association covering the Condominium and the operation and management thereof, to-wit:

(1) Casualty insurance covering all of the Units, Common Elements and Limited Common Elements, in an amount equal to not less than eighty percent (80%) of the replacement value thereof, exclusive of excavation and foundation costs, as determined annually by the insurance carrier; such

coverage is to afford protection against (i) loss or damage by fire, windstorm and other hazards covered by a standard extended coverage endorsement; (ii) such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to buildings similar in construction, location, and use, including vandalism, malicious mischief; and (iii) such other insurance coverages, as to the extent available, which may from time to time be deemed by the Board to be necessary and proper and in the best interests of the Association and the unit owners.

(2) Public liability and property damage insurance in such amounts, and in such form as shall be required by the Board to protect the Association and the unit owners, including such insurance coverages as may from time to time be deemed by the Board to be necessary and proper and in the best interests of the Association and the unit owners. All liability insurance maintained by the Association shall contain cross liability endorsements to cover liability of all unit owners as a group to each unit owner.

(3) Workmen's Compensation insurance to meet the requirements of law.

(4) Boiler insurance, if any.

(5) Such other insurance coverage, other than title insurance, as the Board, in its sole discretion, may determine from time to time to be in the best interests of the Association and the unit owners.

C. Insurance Trustee. All policies of casualty insurance covering the Condominium shall provide for the insurance proceeds covering any loss to be payable to the Board of Directors of the Association, as trustee, and the insurance proceeds from any casualty loss shall be held and distributed for the use and benefit of the Association and the unit owners, and their respective mortgagees, as their interests may appear. The Association is hereby declared to be and appointed as authorized agent for the unit owners of all Units for the purpose of negotiating and agreeing to a settlement as to the value and extent of any loss which may be covered under any policy of casualty insurance, and is granted full right and authority to execute in favor of an insurer a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property.

2. Damage to or Destruction of Condominium. In the event of damage to or destruction of the Units or the real estate, the following provisions shall apply:

Any portion of the Condominium damaged or destroyed shall be promptly repaired or replaced by the Association unless (1) the Condominium is terminated and the Association votes not to repair or replace all or part thereof, (2) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (3) 80 percent of the unit owners, including every owner and first mortgagee of a Unit or assigned Limited Common Elements which will not be rebuilt, vote not to rebuild. The cost of repair or replacement of a Unit or the

common area in excess of insurance proceeds and reserves shall be a common expense. If less than the entire Condominium is repaired or replaced, (1) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium, (2) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the owners of those Units and the holders of an interest as security for an obligation of those Units to which those Limited Common Elements were assigned, as their interests may appear, and (3) the remainder of the proceeds shall be distributed to all the unit owners and holders of an interest as security for an obligation as their interests may appear in proportion to their common element interest. In the event the unit owners vote not to rebuild a Unit, that Unit's entire common element interest, votes in the Association, and common expense liability are automatically reallocated upon the vote as if the Unit had been condemned under Section §515A.1-107(a), and the Association shall promptly prepare, execute and record an Amendment to the Declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, if the Condominium is terminated, insurance proceeds not used for repair or replacement shall be distributed in the same manner as sales proceeds pursuant to Section §515A.2-120.

(1) Contract for Restoration. In the event of an insured loss, the Board shall, within sixty (60) days after the insurance proceeds are deposited in trust in accordance with Article VIII, paragraph 1C, enter into a firm contract with a qualified builder providing for the restoration of the damaged or destroyed portion of the Condominium to substantially the same condition as existed immediately prior to the insured loss; provided, however, that no contract shall be entered into by the Board for an amount in excess of the insurance proceeds then held in trust until the Board has provided, through assessments of common expenses or otherwise, for funds sufficient to cover such excess costs. Said restoration shall be commenced and completed with due diligence, and the unit owners of all Units agree to cooperate with the Board in all matters affecting such restoration.

(2) Failure to Contract. In the event the Board fails to enter into a contract as provided in the above paragraph for the restoration of the Condominium, or in the event that restoration is not commenced as provided above, then any unit owner or mortgagee of record shall have the right, but not the obligation, within thirty (30) days after the expiration of the 60-day period specified in the above paragraph to enter into those contracts which it deems necessary to complete said restoration, and shall have the right to have said insurance proceeds, plus accrued interest, applied in satisfaction of any obligations incurred pursuant to said contracts, without liability of any kind to the Board or any unit owner.

In case of fire or other disaster, if 80% of the unit owners and first mortgagees vote not to rebuild the Condominium within 180 days from the date of the damage or destruction, the rights and obligations of the parties shall be determined in accordance with Section §515A.2-120 of the Act as amended from time to time.

3. Individual Insurance Coverage. The unit owner of each Unit may, at his own expense, obtain insurance coverage for loss of or damage to any furniture, furnishings, personal effects and other personal property belonging to such unit owner, and may, at his own expense and option, obtain insurance coverages against personal liability for injury to the person or property of another while within such unit owner's Unit or upon the Common Elements or Limited Common Elements. All such insurance obtained by the unit owner shall, wherever such provision shall be available, provide that the insurer waives its right to subrogation as to any claims against other unit owners, the Association, and the respective servants, agents and guests of other unit owners and Association. Although the obligation to obtain such waiver of subrogation shall be enforceable, the failure to obtain such endorsement shall not constitute a defense in the event the unit owner has not obtained such waiver of subrogation. Risk of loss of or damage to any furniture, furnishings, personal effects and other personal property (other than such furniture, furnishings and personal property constituting a portion of the Common Elements) belonging to or carried on the person of the unit owner, or which may be stored in any Unit, or in, to or upon Common Elements or Limited Common Elements, shall be borne by the unit owner.

All furniture, furnishings and personal property constituting a portion of the Common Elements and held for the joint use and benefit of all unit owners shall be covered by such insurance as shall be maintained in force and effect by the Association as herein provided. A unit owner shall have no personal liability for any damage caused by the Association in connection with the use of the Common Elements or Limited Common Elements. A unit owner shall be liable for injuries or damages resulting from an accident in his own Unit to the same extent and degree that the owner of a home would be liable for an accident occurring within the home.

ARTICLE IX.

1. Other Liens. All taxes, assessments and charges which may become liens prior to a mortgage under local law shall relate only to the individual Unit and not to the Condominium as a whole. All liens against a Unit other than for permitted mortgages, taxes or special assessments shall be satisfied or otherwise removed within sixty (60) days from the date of the lien attachment. All taxes and special assessments upon a Unit shall be paid before they become delinquent.

A. Notice of Liens. A unit owner shall give notice to the Board of any lien against his Unit other than permitted mortgages, taxes and special assessments within thirty (30) days after the lien attaches.

B. Notice of Lawsuit. A unit owner shall give notice to the Board of any lawsuit or other proceedings which may affect the title to his Unit; such notice to be given to the Board within five (5) days after the unit owner received notice.

ARTICLE X.

1. Declarant's Rights and Privileges. Notwithstanding anything herein to the contrary, Declarant shall have the following rights and privileges:

A. Sales Activity. The Declarant is irrevocably empowered to sell, lease or rent Units, subject to resale, including any Unit reacquired by the Declarant. Declarant or its successors or assigns shall have the right to transact in the Condominium any business necessary to consummate sales of Units, including but not limited to the right to maintain models, post signs, maintain employees in a sales office, use the Common Elements and show Units it owns. During the period of Declarant's control, neither the unit owners nor the Association nor their use of the Condominium shall interfere with the Declarant's disposition of its Units. A sales office, signs and all items pertaining to sales shall not be considered Common Elements and shall remain the property of the Declarant until vacated. In the event there are unsold Units, the Declarant retains the right to be the owner thereof, under the same terms and conditions as other owners save for this right to sell, lease or rent, subject to resale, as contained in this paragraph. The maximum number of Units which may be created by the subdivision or conversion of Units owned by the Declarant pursuant to Section §515A.2-115(c) is two for one.

B. Voting Rights. That during the period of Declarant's control, Declarant or persons designated by him, may elect members of the Board of Directors until such time as the terms of office of such Board members are terminated as prescribed by Statute §515A.3-103.

C. Share of Common Expenses. Until the Association levies a common expense assessment, the Declarant shall pay all actual expenses of the Condominium to such date. Garage rents can be used by the Declarant to offset its obligation for actual common element expenses incurred prior to the Association levying a common element expense assessment. Thereafter, the Declarant shall pay with respect to unsold Units the same amount of common expenses assessed against other unit owners. Neither the Association nor any other unit owner shall be liable for paying the assessment with respect to any Unit owned, directly or indirectly by the Declarant.

D. Management of the Real Estate. During the period of its control, the Declarant shall have the right to manage the Condominium and shall be entitled to receive management fees therefor in an amount customarily paid for such services; provided, however, that such management contract and any such contract entered into thereafter shall be subject to termination by either party on ninety (90) days' written notice.

ARTICLE XI.

Remedies for Breach of Covenants, Restrictions and Regulations.

1. The violation of any restriction or condition or regulation adopted by the Board or the breach of any covenant herein contained or contained in

the Articles, By-Laws, or such rules and regulations as may be promulgated by the Board, shall give the Board the right, in addition to any other right herein contained: (i) to enter upon that part of the Condominium where such violation or breach exists and summarily abate and remove at the expense of the defaulting unit owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof; or (ii) to enjoin, abate or remedy by appropriate legal proceedings either at law or in equity, the continuance of any such breach; and (iii) all expenses of the Board in connection with such action and proceedings and all court costs and attorneys' fees and other fees and expenses, and all damages liquidated or otherwise, together with interest at the rate of eight percent (8%) per annum until paid shall be charged to and assessed against such defaulting unit owner and shall be a part of his respective share of the common expenses and shall be a lien for all the same upon the Unit of the defaulting unit owner and upon all of his additions and improvements thereto. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

ARTICLE XII.

General Provisions.

1. Each unit owner and each subsequent grantee by the acceptance of a deed of conveyance and all occupants of Units accept the same subject to all restrictions, conditions, covenants, reservations, liens and charges in the jurisdiction, rights and powers created or reserved by this Declaration and all rights, benefits and privileges of every character hereby granted, reserved or declared or imposed by the Act, by the Articles, or the By-Laws, or by such rules and regulations as may be promulgated by the Association, shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in any Unit and in the Condominium and shall inure to the benefit of each unit owner in like manner as the provisions of the Declaration, Articles, By-Laws or such rules and regulations as may be promulgated by the Association, as the case may be, were recited and stipulated at length in each and every deed of conveyance.

2. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration, the Articles, By-Laws or contained in such rules and regulations as may be promulgated by the Association shall be deemed to have been abrogated or waived by reason of any failure to enforce the same regardless of the number of violations or breaches which may occur.

3. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration or of the Articles, By-Laws, or of such rules and regulations as may be promulgated by the Association, or any part of the same shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

4. If any of the options, privileges or rights created by this Declaration, the Articles, By-Laws, or such rules and regulations as may be promulgated by the Association would otherwise be unlawful or void for violation of: (i) the rules against perpetuities or some analogous statutory provisions; (ii) the rule restricting restraints or alienation or; (iii) any other statutory or common law rules imposing time limits, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of Dennis Weestrand, Rochester, Minnesota.

5. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a condominium.

6. Termination. The Condominium may be removed from the Act in the following manner:

A. Agreement. The termination of the Condominium may be affected pursuant to the provisions of Section §515A.2-120 of the Act, as amended from time to time.

7. Notices. All notices to be given pursuant to this Declaration shall be in writing and shall be mailed by U.S. mail, postage prepaid, or personally delivered to the intended recipient at his or its address as set forth in the unit owners' register maintained by the Association.

8. Construction of Declaration. The provisions hereof shall be deemed independent and severable, and the invalidity, or partial invalidity, or enforceability of any one provision or portion thereof as to any person or circumstances, as may be determined by a court of competent jurisdiction, shall not affect the validity or enforceability or any other provisions hereof, or of the invalid or unenforceable provision or portion thereof, as to any other person or circumstances.

The provisions of this Declaration are set forth to comply with the requirements of Section §515A.1-101 to Section §515A.4-117 Minnesota Statutes (the "Minnesota Uniform Condominium Act") and any amendments thereto and shall be in addition to and supplemental to said Act and all other provisions of law. If any of the provisions herein conflict with the provisions of said Statute, it is hereby agreed and accepted that the provisions of the Statute will control.

ARTICLE XIII.

The following provisions take precedence over all other provisions of this Declaration and in the event of any inconsistency or contradictions, the following provisions shall control. EXCEPT THAT IN NO EVENT SHALL THESE PROVISIONS OF ARTICLE XIII, APPLY TO UNITS OWNED BY DECLARANT OR A TRANSFEREE OF SPECIAL DECLARANT RIGHTS.

A. A first mortgagee of a Unit or its assigns upon request will be entitled by written notification from the Association of any default in the performance by the unit owner of any obligation under this Declaration or By-Laws which is not cured within sixty (60) days.

B. A first mortgagee or its assigns who obtains title to a unit pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure will be exempt from any "rights of first refusal" which may be contained in the Declaration or By-Laws.

C. A first mortgagee or its successors in interest who obtains title to a unit pursuant to the remedies provided in the mortgage or foreclosure will not be liable for unpaid assessments against such unit which accrued prior to the acquisition of the title to such unit by the mortgagee or its successors in interest in the case of a deed, or prior to the expiration of the statutory period of redemption in the case of a mortgage foreclosure.

D. The owners of units shall not be entitled to do the following acts unless at least eighty percent (80%) of the first mortgagees of the units or their assigns (based upon one vote for each first mortgage owned), and of the unit owners based upon the voting power allocated to the units have given their prior written approval:

1. by act or omission, seek to abandon or terminate the Condominium;
2. change the pro-rata interest or obligations of any individually unit for the purpose of:
 - (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or
 - (ii) determining the pro-rata share of ownership of each unit in the common elements;
3. partition or subdivide any unit;
4. by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the Condominium shall not be deemed a transfer within the meaning of this clause);
5. use hazard insurance proceeds for losses to any Condominium property (whether to units or to

common elements) for other than the repairs, replacement or reconstruction of such Condominium property, except as provided by statute in case of substantial loss to the units and/or common elements of the Condominium.

E. First mortgagees of units and their successors in interest shall have the right to examine all books and records of the Association and the Condominium.

F. Condominium assessments against unit owners for common expenses shall include an adequate fund for maintenance, repairs and replacement of those common areas and facilities that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments.

G. All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual units and not to the Condominium as a whole.

H. No provision of this Declaration or the By-Laws shall be deemed to give a unit owner, or any other party, priority over any rights of first mortgagees of units or their successors in interest, pursuant to their mortgages in the case of a distribution to the unit owners of insurance proceeds or condemnation awards for losses to or a taking of units and/or common elements.

I. First mortgagees of units, and their successors and assigns, will be given notice in writing by the Association (a) of any loss to, or taking of, the common elements of, in the event that such loss or taking exceeds \$10,000, and (b) of any damage to a unit, if that damage exceeds \$1,000 and if it is known to the Association that the first mortgage upon that unit has been purchased in whole or in part by the Federal Home Loan Mortgage Corporation (FHLMC).

J. Any agreement for professional management services on units between Declarant and the Association shall provide for termination by no more than ninety (90) days' written notice given to one (1) of the parties to the other and shall have a term of no more than two (2) years from the date of its execution.

K. This Article XIII shall not be amended without the prior written consent of all first mortgagees of units. The provisions of this Article are intended for the benefit of first mortgagees of units and may be waived by them.

ARTICLE XIV.

1. Water and Sewer Services. Water shall be supplied to all of the Units and Common Elements and facilities through one or more meters,

and the Association shall pay, as a common expense, all charges for water consumed in the Condominium, together with all related sewer charges or rents arising therefrom, promptly after the bills for the same shall have been rendered.

2. Gas and Fuel Oil. Gas and fuel oil shall be supplied as necessary for the Condominium, and the Association shall pay, as common expenses, the bills for the same. Except that the charge for any gas provided to a single Unit and separately metered only for that Unit shall be paid for by that unit owner.

3. Power. Electric power shall be supplied directly to each Unit through a separate meter, and each unit owner shall pay the bills for electric power consumed or used in his or their Unit and in the Limited Common Elements appurtenant thereto. The electric power serving the Common Elements shall be separately metered, and the Association shall pay all bills for electric power consumed therein as a common expense.

ARTICLE XV.

Unit owner/owners shall collectively have one (1) vote on all matters affecting the Condominium. Where there is more than one (1) unit owner, either all the unit owners may collectively cast the vote, or all the unit owners may designate, by appropriate certification delivered prior to a meeting, one (1) of their number to cast their vote for all purposes at the meeting.

ARTICLE XVI.

Common expenses shall be assessed according to the percentage of each Unit in the undivided interest in the Common Elements (Exhibit D); however, a portion of each common expense may be allocated on the basis of equality and the remainder on the basis of area or volume of each Unit by a majority vote of the Association, and need not be allocated the same for all purposes.

ARTICLE XVII.

Notwithstanding any other provision herein, the percentages of the undivided interests in the Common Elements are set forth in Exhibit "D" attached hereto and incorporated into the Floor Plans by reference.

EXHIBIT "A"

Legal Description

Lot Twelve (12) and Lot Thirteen (13), Block Four (4), Valhalla Fourth
Subdivision, Olmsted County, Minnesota, according to the Plat thereof on file
and of record in the office of the County Recorder in and for said County.

EXHIBIT "B"

Floor Plans

EXHIBIT "C"

By-Laws

EXHIBIT "D"

A fractional 1/64 undivided interest in the Common Elements is allocated
to each Unit.