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**DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS
AND EASEMENTS**

Wilderness Park

This Declaration is made in the County of Crow Wing, State of Minnesota, on this _____, 2023 by Wilderness Park Home Owners Association (collectively, the “Declarant”), pursuant to the provisions of Minnesota Statutes Chapter 515B, known as the Minnesota Common Interest Ownership Act, hereinafter referred to as the “Act”, for the purposes of creating “Wilderness Park” a planned residential community.

WHEREAS, Declarant is the Owner of certain real property located in Cass County, Minnesota, legally described in Exhibit A-1 attached hereto, and Declarant desires to submit said real property and all improvements thereon (collectively the “Property”) to the Act and;

WHEREAS, Declarant desires to establish on the property a plan for a residential community to be owned, occupied and operated for the use, health, safety and welfare of its Owners and Occupants, and their guests and for the purpose of preserving the value, the structural quality, and the architectural and aesthetic character, of the Property and;

WHEREAS, the Property is not subject to an ordinance referred to in Section 515B.1-106 of the Act, governing common interest ownership, and is not subject to a master association as defined in the Act.

WHEREAS, the Property has been subject to prior covenants (Document NO. A000226108 and A000226109) but these covenants shall completely supercede and replace all prior covenants.

THEREFORE, Declarant makes the Declaration and submits the Property to the Act as a planned community under the name “Wilderness Park”, consisting of the Units referred to in Section 2, declaring that this Declaration shall constitute covenants to run with the Property, and that the Property shall be owned, used, occupied, and conveyed subject to the covenants,

restrictions, easements, charges, and liens set forth herein, all of which shall be binding upon all Persons owning or acquiring any right, title or interest herein, and their heirs, personal representatives, successors and assigns.

SECTION 1 **DEFINITIONS**

The following words when used in the Governing Documents shall give the following meanings (unless the context indicates otherwise):

1.1 **“Association”** shall mean Wilderness Park Home Owners Association, a nonprofit corporation which has been created pursuant to Chapter 317A of the laws of the State of Minnesota and Minnesota Statutes Section 515B.3-101, whose members consist of all Owners as defined herein.

1.2 **“Board”** shall mean the Board of Directors of the Association as provided for in the By-Laws.

1.3 **“Building”** shall mean any structure located within the boundaries of a Unit.

1.4 **“By-Laws”** shall mean the By-Laws governing the operation of the Association, as amended from time to time.

1.5 **“Common Elements”** shall mean all parts of the Property except the Units, including all improvements thereon, owned by the Association for the common benefit of the Owners and Occupants. The Common Elements are legally described in Exhibit B attached hereto.

1.6 **“Common Expenses”** shall mean and include all expenditures made or liabilities incurred by or on behalf of the Association and incident to its operation, including without limitation allocation to reserve those items specifically identified as Common Expenses in the Declaration or By-Laws.

1.7 **“Development”** shall mean and refer to the Property and all improvements located or constructed thereon.

1.8 **“Dwelling”** shall mean and refer to any portion of a building, shed, camper or mobile home situated upon the Subject Property designated and intended for use and occupancy as one residential unit.

1.9 **“Governing Documents”** shall mean this Declaration, and the Articles of Incorporation and By-Laws of the Association, as amended from time to time, all of which shall govern the use and operation of the Property.

1.10 **“Improvements”** shall mean and refer to all structures of any kind, including but not limited to any building, wall, fence, sign, paving, grading, screen enclosure or screening

of any type, sewer, drain, driveway, sidewalk, decorative building, planting, landscaping, landscaping device or object or any or all types of structures or improvements, whether or not the purpose thereof is purely decorative or otherwise, and any and all additions, alterations, modifications, or changes thereto or thereof.

1.11 **“Lot”** shall mean and refer to any platted lot within any plat set forth in Exhibit A-1.

1.12 **“Member”** shall mean all persons who are members of the Association by virtue of being Owners as defined in this Declaration. The words “Owner” and Member” may be used interchangeably in the Governing Documents.

1.13 **“Occupant”** shall mean any person or persons, including, without limitation, any owner, or any guest, invitee or tenant occupying or otherwise using a Unit within the Development.

1.14 **“Owner”** shall mean a person who owns a Unit, but excluding contract for deed vendors, mortgagees and other secured parties within the meaning of Section 515B.1-103(29) of the Act. The term “Owner” includes, without limitation, contract for deed vendees and holders of life estates.

1.15 **“Person”** shall mean a natural individual, corporation, Limited Liability Company, partnership, trustee, or other legal entity capable of holding title to real property or having legal identity before a Minnesota Court of Law.

1.16 **“Plat”** shall mean all the plats set forth in Exhibit A-1.

1.17 **“Property”** shall mean all of the real property submitted to this Declaration, including the Buildings and all other structures and improvements located thereon now or in the future. The Property as of the date of this Declaration is legally described in Exhibit A-1 attached hereto.

1.18 **“Unit”** shall mean and refer to anyone or entity who owns a Lot. In other words, an owner may have 10 Lots in common ownership with the Plat or just 1 lot; either way that shall be just 1 Unit.

Any terms used in the Governing Documents, and defined in the Act, and not in this section, shall have the meaning set forth in the Act.

SECTION 2
DESCRIPTION OF UNITS
AND APPURTENANCES

2.1 **Units.** See Section 1.18 above.

2.3 **Access Easements.** Each Unit shall be the beneficiary of an appurtenant easement for access to a public street or highway on or across the Common Elements as shown on the Plat, subject to any restriction set forth in the Declaration.

SECTION 3 **COMMON ELEMENTS**

3.1 **Common Elements.** The Common Elements and their characteristics are as follows:

3.1.1 All of the property not included within the Units constitutes Common Elements. The Common Elements include those parts of the Property described in Exhibit B; designated as Common Elements on the Plat or in the Act. The Common Elements are owned by the Association for the benefit of the Owners and Occupants.

3.1.2 The Common Elements shall be subject to appurtenant easements for services, public and private utilities, access, use and enjoyment in favor of each Unit and its Owners and Occupants, and their guests; subject to (I) the rights of Owners and Occupants Units and (ii) the right of the Association to establish reasonable Rules and Regulations governing the use of the Property.

3.1.3 Subject to Sections 5, 6, and 8, all maintenance, repair, replacement, management and operation of the Common Elements shall be the responsibility of the Association.

3.1.4 Common Expenses for the maintenance, repair, replacement, management and operation of the Common Elements shall be assessed and collected from the Owners in accordance with Section 6.

SECTION 4 **ASSOCIATION MEMBERSHIP: RIGHTS AND OBLIGATIONS**

Membership in the Association and the allocation to each Unit of a portion of the votes in the Association and a portion of the Common Expenses of the Association shall be governed by the following provisions:

4.1 **Membership.** Each Owner shall be a member of the Association by virtue of their ownership of a Unit, and the membership shall be transferred with the conveyance of the Owner's interest in the Unit. An Owner's membership shall terminate when the Owner's ownership terminates. When more than one Person is an Owner of a Unit, all such Persons shall be members of the Association, but multiple ownership of a Unit shall not increase the voting rights allocated to such Unit nor authorize the division of the voting rights.

4.2 **Voting and Common Expenses.** Voting rights and Common Expense obligations are allocated equally among the Units; except that special allocations of Common Expenses shall be permitted as provided in Section 6.1. Each Unit is allocated one (1) vote in the Association.

4.3 **Appurtenant Rights and Obligations.** The ownership of a Unit shall include the voting rights and Common Expense obligations described in Section 4.2. Said rights, obligations and interest, and the title to the Units, shall not be separated or conveyed separately. The allocation of the rights, obligations and interests described in this section may not be changed, except in accordance with the Governing Documents and the Act.

4.4 **Authority to Vote.** The Owner, or some other natural person designated to act as proxy on behalf of the Owner, may cast the vote allocated to such Unit at meetings of the Association; provided, that if there are multiple Owners of a Unit, only the Owner or other Person designated pursuant to the provisions of the By-Laws may cast such vote. The voting rights of Owners are more fully described in Section 3 of the By-Laws.

SECTION 5 **ADMINISTRATION**

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

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

5.2 **Operational Purposes.** The Association shall operate and manage the Property for the purposes of (i) administering and enforcing the covenants, restrictions, easements, charges and liens set forth in the Governing Documents and Rules and Regulations; (ii) maintaining, repairing and replacing those portions of the Property for which it is responsible; and (iii) preserving the value and architectural uniformity and character of the Property.

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

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

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

5.6 **Rules and Regulations.** The Board shall have exclusive authority to approve and implement such reasonable Rules and Regulations as it deems necessary from time to time for the purpose of operating and administering the affairs of the Association and regulating the use of the Property; provided that the Rules and Regulations shall not be inconsistent with the Governing Documents or the Act. The inclusion in other parts of the Governing Documents of authority to approve Rules and Regulations shall be deemed to be in furtherance, and not in limitation, of the authority granted by this section. New or amended Rules and Regulations shall be effective only after reasonable notice has been given to the Owners.

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

SECTION 6 **ASSESSMENTS FOR COMMON EXPENSES**

6.1 **General.** Assessments for Common Expenses shall be determined and assessed against the Units by the Board, in its discretion; subject to the limitations set forth in Sections 6.2 and 6.3, and the requirements of the By-Laws. Assessments for Common Expenses shall include annual assessments and may include Special Assessments. Assessments shall be allocated among the Units according to the Common Expense allocations set forth in Section 4.2, subject to the following qualifications:

6.1.1 The Costs of insurance may be assessed in proportion to value, risk or coverage.

6.1.2 Reasonable attorney's fees and other costs incurred by the Association in connection with (i) the collection of assessments and (ii) the enforcement of the Governing Documents, the Act, or the Rules and Regulations, against an Owner or Occupant or their guests, may be assessed against the Owner's Unit.

6.1.3 Fees, charges, late charges, fines and interest may be assessed as provided in Section 515B.3-116(a) of the Act.

6.1.4 Assessments levied under Section 515B.3-116 of the Act to pay a judgment against the Association may be levied against the Units existing at the time the judgment was entered, in proportion to their Common Expense liabilities.

6.1.5 If any damage to the Common Elements or another Unit is caused by the act or omission of any Owner or Occupant, or their guests, the Association may assess the costs of repairing the damage exclusively against the Owner's Unit to the extent not covered by insurance.

6.1.6 If any installment of an assessment becomes more than 30 days past due, then the Association may, upon 10 days written notice of the Owner, declare the entire amount of the assessment immediately due and payable in full.

6.2 **Annual Assessment.** Annual assessments shall be established and levied by the Board, subject only to the limitations set forth in Section 6.2 and 6.3. Each annual assessment shall cover all of the anticipated Common Expenses of the Association for that year. Annual assessments shall provide, among other things, for contributions to a separate reserve fund sufficient to cover the periodic cost of maintenance, repair and replacement of the Common Elements and those parts of the Units for which the Association is responsible.

6.2.1 Until a Common Expense assessment is levied, Declarant shall pay all accrued expenses of the common interest community.

6.2.2 After a Common Expense assessment is levied, the annual assessment may be subsequently increased by the Board, subject to Section 6.2.3.

6.2.3 The increase in the annual assessment for any year shall not exceed the greater of 5% of the total annual assessment for the Association's previous fiscal year, unless such increase is approved by the vote of a majority of those Owners voting, in person or by proxy, at a meeting called for that purpose. Written notice of the meeting shall be sent to all Owners not less than 21 days nor more than 30 days in advance of the meeting.

6.2.4 Starting in 2024, each Unit shall be assessed \$400.00.

6.3 **Special Assessment.** In addition to annual assessments, and subject to the limitations set forth hereafter, the Board may levy in any assessment year a special assessment against all Units for the purpose of defraying in whole or in part (i) the cost of any unforeseen or non-budgeted Common Expense; (ii) general or specific reserves for

maintenance, repair or replacement; and (iii) the maintenance, repair or replacement of any part of the Property, and any fixtures or other property related thereto. Notwithstanding the foregoing, any special assessment shall be subject to approval by the vote of a majority of those Owners voting, in person or by proxy, at a meeting called for that purpose. Written notice of the meeting shall be sent to all Owners not less than 21 days nor more than 30 days in advance of the meeting.

6.4 **Capital Improvement Fund.** The Association shall establish a capital improvement fund to meet expenditures for improvements to the Common Elements as approved by the Association. The funds shall be deposited into the Association's account, and Declarant may not use the funds to defray any of its expenses, reserve contributions, or to make up any budget deficit while Declarant is in control of the Association.

6.5 **Liability of Owners for Assessment.** The obligations of an Owner to pay assessments shall commence at the later of (i) the recording of the Declaration or amendment thereto which creates the Owner's Unit, or (ii) the time at which the Owner acquires title to the Unit, subject to the alternative assessment program described in Section 6.6. The Owner at the time an assessment is payable with respect to the Unit shall be personally liable for the share of the Common Expenses assessed against such Unit. Such liability shall be joint and several where there are multiple Owners of the Unit. The liability is absolute and unconditional. No Owner is exempt from liability for payment of their share of Common Expenses by right of set-off, by waiver of use or enjoyment of any part of the Property, by absence from or abandonment of the Unit, by the waiver of any rights, or by reason of any claim against the Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents or the Act. The Association may invoke the charges, sanctions and remedies set forth in Section 14, in addition to any remedies provided elsewhere in the Governing Documents or by law, for the purpose of enforcing its rights hereunder.

6.6 **Assessment Lien.** The Association has a lien on a Unit for any assessment levied against that Unit from the time the assessment becomes due. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. Fees, charges, late charges, fines and interest charges imposed by the Association pursuant to Sections 515B3-102(a)(10), (11) and (12) of the Act are liens, and are enforceable as assessments, under this section. Recording of the Declaration constitutes record notice and perfection of any lien under this section, and no further recordation of any notice of or claim for the lien is required.

6.7 **Foreclosure of Lien & Remedies.** A Lien for Common Expenses may be foreclosed against a Unit under the laws of the State of Minnesota (i) by action, or (ii) by advertisement as a lien under a mortgage containing a power of sale. The Association, or its authorized representative, shall have the power to bid in at the foreclosure sale and to acquire, hold, mortgage and convey any Unit so acquired. The Owner and any other Person claiming an interest in the Unit, by the acceptance or assertion of any interest in the Unit, grants to the Association a power of sale and full authority to accomplish the foreclosure.

The Association shall, in addition, have the right to pursue any other remedy at law or in equity against the Owner who fails to pay any assessment or charge against the Unit.

6.8 **Lien Priority & Foreclosure.** A lien under this section is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before the Declaration, (ii) any first mortgage on the Unit, and (iii) liens for real estate taxes and their governmental assessments or charges against the Unit. Notwithstanding the foregoing, if a first mortgage on a Unit is foreclosed and no Owner redeems during the Owner's period of redemption provided by Minnesota Statutes, Chapters 580 581, or 582, then the holder of the Sheriff's Certificate of Sale from the foreclosure of the first mortgage shall take title to the Unit subject to unpaid assessments for Common Expenses levied pursuant to Sections 515B.3-115(a), (h)(1) to (3), (I), and (1) of the Act which became due, without acceleration, during the six months immediately preceding the first day following the end of the Owner's Period of Redemption.

SECTION 7 **RESTRICTIONS ON USE OF PROPERTY**

7.1 Uses: Each Unit or Lot in the subdivision shall be used for one single family residence shall follow the Cass County Ordinances and obtain the required permits with Cass County.

7.2 Approval of Construction Plans: No building or other structure shall be constructed, erected, or maintained on any parcel, nor shall any addition thereto or change or alteration therein be made until the complete plans and specifications (including, but not limited to, the floor elevation, plot and grading plans; the specifications of principal exterior materials, color accents, dew and the location, character and method of utilization of all utilities) have been submitted and approved by Cass County.

7.3 Driveways: All construction of driveways shall follow the Cass County Ordinances.

7.4 Signs: No advertising sign(s) of any kind shall be displayed to the public view on any parcels, except for "For Sale" signs may be displayed.

7.5 Water and Sewer: Such structure designed for occupancy by human beings shall connect to an approved domestic water source and approved sewage disposal system. In the event a central water and/or sewage system is not available, the owner shall install and use their own domestic well and/or septic system. Such well and/or sewage disposal system must have all necessary public regulatory approval by Cass County Environmental Services.

7.6 Trash: No trash, ashes, or other refuse shall be thrown or dumped on any land within the subdivision. Each property owner shall provide suitable receptacles for the temporary storage and collection of refuse and all such receptacles shall be screened from public view and protected from disturbance.

7.7 Livestock: No animals, livestock, poultry, free range, and rooster, allowed (except dogs, cats, and other pets for household enjoyment and not for commercial purposes). All pets must contain

on owners property and shall be kept leashed off the property. The owner is responsible to cleaning up their animal waste. There is no raising or breeding in the subdivision.

7.8 Trees: No clear cutting is allowed within or on lots in Wilderness Park. The living trees that are naturally existing upon a lot shall remain, except to the extent necessary for construction purpose, trimming or removal of dead trees from the properties.

7.9 Set Back Requirements: There is a minimum building set-back line from any lot facing on any lake in the subdivision referred to Cass County Environment Ordinances. . The minimum set-back on any sewage system on any lot facing on any lake in the subdivision shall be 150 feet. The lots facing on a right of way without Lake Frontage shall be a minimum set-back requirement of 50 feet. The minimum set-back on a sewage system on any lot facing on a right of way without Lake Frontage is 50 feet (for current set back requirements refer to Cass County Ordinance).

7.10 Temporary Structures: No temporary structure, excavation, basement, trailer or tent shall be permitted in the subdivision, except as may be determined to be necessary during construction and specifically authorized by Cass County, except that owner may camp on their property, using a tent, camper or temporary trailer for a period not to exceed 90 days in any calendar year.

7.11 Renting: No Lot or Unit shall be rented out for the use by a non-owner. All Units are intended to be used and possessed by their Owners. No rental of Units is allowed.

7.12 Continuity of Construction: All structures commenced in the subdivision shall be prosecuted diligently to completion and shall be completed within 24 months of commencement unless some exception is granted by Cass County.

7.13 Nuisance and Firearms: No noxious or offensive activity shall be carried on within the subdivision; nor shall anything be done or permitted which shall constitute a public nuisance therein: No firearms shall be discharged in the subdivision and no hunting is allowed in the subdivision.

SECTION 8 **MAINTENANCE**

8.1 **Maintenance by Association.** The Association shall provide for all maintenance, repair or replacement (collectively referred to as “maintenance”) of the Common Elements.

8.2 **Maintenance by Owner.** All maintenance of the Buildings and Units shall be the sole responsibility and expense of the Owners thereof. The Owners and Occupants shall have a duty to promptly notify the Association of defects in or damage to those parts of the Property which the Association is obligated to maintain.

8.3 **Damage Caused by Owner.** Notwithstanding any provision to the contrary in this section, if, in the judgment of the Association, the need for maintenance of any part of the Property is caused by the willful or negligent act or omission of an Owner or Occupant, or their guests, or by a condition in a Unit which the Owner or Occupant has willfully or

negligently allowed to exist, the Association may cause such damage or condition to be repaired or corrected (and enter upon any Unit to do so), and the cost thereof may be assessed against the Unit of the Owner responsible for the damage.

SECTION 9 **INSURANCE AND CONDEMNATION**

9.1 Insurance.

9.1.1 The Board of Directors or its duly authorized agents shall have the authority to and shall obtain and continue in effect adequate property insurance, in such form as the Board deems appropriate, for the benefit of the Association and insuring all insurable improvements in and to the Common Elements against loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism, and malicious mischief, such coverage to be in an amount sufficient to cover the full replacement cost (without depreciation but subject to such deductible levels as are deemed reasonable by the Board) of any repair or reconstruction in the event of damage or destruction from any such hazard.

9.1.2 The Board or its duly authorized agents shall have the authority to and shall obtain and continue in effect a public liability policy covering all the Common Elements and all damage or injury caused by the negligence of the Association, its members, its directors and officers, or any of its agents. Such public liability policy shall provide such coverage as is determined to be necessary by the Board of Directors.

9.1.3 The Board or its duly authorized agents shall have the authority to and may obtain: (i) worker's compensation insurance to the extent necessary to comply with any applicable laws; and (ii) such other types and amounts of insurance as may be determined by the Board to be necessary or desirable, including, without limitation, directors' and officers' errors and omissions insurance or fidelity bonds.

9.1.4 All such insurance coverage obtained by the Board of Directors shall be written-in the name of the Association as trustee for each of the owners and costs of all such coverage shall be a Common Expense. Exclusive authority to adjust losses under policies obtained by the Association and hereafter in force with respect to the Development shall be vested in the Board of Directors; provided, however, that no mortgagee or other security holder of the Common Elements having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto. Insofar as permitted by law, the Association shall be required to make every effort to secure insurance policies with the provisions hereinafter set forth:

9.1.4.1 All policies shall be written with a company licensed to do business in the State of Minnesota and holding a rating of A-XI or better in such financial categories as established by Best's Insurance Reports, if such a company is available or if not available, its equivalent rating or the best rating possible.

9.1.4.2 All property insurance policies shall be for the benefit of the owners and their Mortgagees as their interests may appear.

9.1.4.3 All policies shall contain a waiver of the insurer's right to cancel without first giving thirty (30) days, prior written notice of such cancellation to the Association and to any mortgagee to which a mortgagee endorsement has been issued.

9.1.4.4 In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners or their mortgagees, and all policies shall contain a provision that the "other insurance" clauses in such policies exclude from consideration policies obtained by individual owners or their mortgagees.

9.1.4.5 All policies shall contain a waiver of subrogation by the insurer as to any claims against the Association, the Association's directors and officers, the Owners, and their respective families, servants, agents, tenants, guests, and invitees, including, without limitation, the Association's manager.

9.1.4.6 All policies shall contain a provision that no policy may be canceled, invalidated, or suspended on account of the conduct of one or more of the individual owners, or their respective families, servants, agents, employees, tenants, guests, and invitees, or on account of the acts of any director, officer, employee, or agent of the Association or of its manager, without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured.

9.1.4.7 All liability insurance shall contain cross-liability endorsements to cover liability of the Association to an individual owner and shall also name the Declarant as an additional insured, for so long as Declarant owns any Lot in the Property.

9.1.5 It shall be the individual responsibility of each Owner at their own expense to provide public liability, property damage, title, and other insurance with respect to their own Lot and Building.

9.2 **Damage or Destruction to Common Elements.** Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Elements covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance, and, in any such event, the Board shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section 9, means repairing or restoring the damaged property to substantially the same condition in which it existed prior-to the fire or other casualty. Unless within sixty (60) days following any damage or destruction to all or a part of the Common Elements, together with at least seventy-five percent (75%) of the total vote of the Members of the Association, shall otherwise agree, the Association shall restore or replace such damaged improvements. If the insurance proceeds, if any, for such damage or destruction are not sufficient to defray the cost thereof, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a special assessment against all Owners, such special assessment to be in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such special assessment shall be levied against the Owners equally in the same manner as General Assessments are levied, and additional assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and assessments shall be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with such method of distribution as is established by the Board of Directors. Any proceeds remaining after defraying such costs shall be retained by and for the benefit of the Association. If it is determined that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, such proceeds shall be retained by and for the benefit of the Association, and the ruins of the Common Elements damaged or destroyed by fire or other casualty shall be cleared and the Common Elements left in a clean, orderly, safe, and sightly condition.

9.3 **Damage or Destruction to Units or Buildings.** In the event of damage or destruction by fire or other casualty to any Lots or Buildings, and in the further event that the Owner of such Lot or Building responsible for the repair and replacement of such Lot or Building, as the case may be, elects not to repair or rebuild the damaged or destroyed Lot or Building, such Owner making such elections shall promptly clear away the ruins and debris of any damaged improvements or vegetation and leave such Lot or Building in an orderly, safe, and sightly condition. Should such owner elect to repair or rebuild such Lot or Building, or other improvements, such Owner shall repair or rebuild such Lot, Building, or other improvements to substantially the same condition as existed prior to such fire or other casualty and in accordance with all applicable standards, restrictions, and provisions of this Declaration and all applicable zoning, subdivision, building, and other governmental regulations. All such work of repair or construction shall be commenced promptly following such damage or destruction and shall be carried through diligently to conclusion.

9.4 Condemnation of Common Elements. Whenever all or any part of the Common Elements of the Development shall be taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof by the Board acting on the agreement of at least seventy-five percent (75%) of the total vote of the Members of the Association, the award or proceeds made or collected for such taking or sale in lieu thereof shall be payable to the Association and shall be disbursed or held as follows:

9.4.1 If the taking or sale in lieu thereof involves a portion of the Common Elements on which improvements have been constructed, then, unless within sixty (60) days after such taking with at least seventy-five percent (75%) of the total Members of the Association, shall otherwise agree, the Association shall restore or replace such improvements so taken, to the extent practicable, on the remaining land included in the Common Elements which is available therefore, in accordance with the plans approved by the Board of Directors and the A.R.C. If the awards or proceeds are not sufficient to defray the cost of such repair and replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a special assessment against all Owners, such special assessment to be in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such a special assessment shall be levied against the Owners equally in the same manner as general assessments are levied, and additional special assessments may be made at any time during or following the completion of any repair or reconstruction. If such improvements are not to be repaired or restored, the award or proceeds shall be retained by and for the benefit of the Association.

9.4.2 If the taking or sale in lieu thereof does not involve any improvements to the Common Elements, or if there are net funds remaining after any such restoration or replacement of such improvements is completed, then such award, proceeds, or net funds shall be retained by and for the benefit of the Association.

9.4.3 If the taking or sale in lieu thereof includes all or any part of a Lot or Building and also includes any part of the Common Elements, then a court of competent jurisdiction shall apportion such award or proceeds and such award or proceeds shall be disbursed to the Association and the Owners so affected so as to give just compensation to the Owners of any Lot or Building taken for their interest in such Lot or Building; provided, however, such apportionment may instead be resolved by the agreement by and among: (i) the Board of Directors; (ii) the Owners of all Lots or Buildings, wholly or partially taken or sold, together with the mortgagees for each such Lot or Building; and (iii) Declarant, if such taking occurs during any period of Declarant control of the Association pursuant to Section 15.6 hereof.

SECTION 10
**RECONSTRUCTION, CONDEMNATION
AND EMINENT DOMAIN**

10.1 **Reconstruction.** The obligations and procedures for the repair, reconstruction or disposition of the Property following damage to or destruction thereof shall be governed by the Act. Any repair or reconstruction shall be substantially in accordance with the plans and specifications of the Property as initially constructed and subsequently improved upon. Notice of substantial damage or destruction shall be given pursuant to Eligible Mortgagees.

10.2 **Condemnation and Eminent Domain.** In the event of a taking of any part of the Property by condemnation or eminent domain, the provisions of the Act govern; provided that the notice shall be given pursuant to Eligible Mortgagees shall be entitled to priority for condemnation awards in accordance with the priorities established by the Act and the Governing Documents, as their interests may appear.

10.3 **Notice.** All Eligible Mortgagees shall be entitled to receive notice of any condemnation proceedings or substantial destruction of the Property and the Association shall give written notice thereof to an Eligible Mortgagee.

SECTION 11
EASEMENTS

11.1 **Easement for Maintenance, Repair, Replacement and Reconstruction.** Each Unit, and the rights of the Owners and Occupants thereof, shall be subject to the rights of the Association to an exclusive, appurtenant easement on and over the Units for the purposes of maintenance, repair, replacement and reconstruction of the Units, and utilities serving the Units, to the extent necessary to fulfill the Association's obligations under the Governing Documents.

11.2 **Utility Easements.** The Property shall be subject to non-exclusive, appurtenant easements for all utilities, water and sewer, and similar services, which exist from time to time, as constructed or referred to in the Plat, or as otherwise described in this Declaration or any other duly recorded instrument. Each Unit and the rights of the Owners and Occupants thereof, shall be subject to a non-exclusive easement in favor of the other Units for all such services, including, without limitation, any sewer or water lines servicing other Units. Each Unit shall also be subject to an exclusive easement in favor of the Association and all utility companies providing service to the Units for the installation and maintenance of utility metering devices.

11.3 **Continuation and Scope of Easements.** Notwithstanding anything in this Declaration to the contrary, in no event shall an Owner or an Occupant be denied reasonable access to their Unit or the right to utility services thereto. The easements set forth in this section shall supplement and not limit any easements described elsewhere in this Declaration or recorded, and shall include reasonable access to the easement areas

through the Unit and the Common Elements for purposes of maintenance, repair, replacement and reconstruction.

SECTION 12 **COMPLIANCE AND REMEDIES**

Each Owner and Occupant, and any other Person owning or acquiring any interest in the Property, shall be governed by and comply with the provisions of the Act, the Governing Documents, the Rules and Regulations, the decisions of the Association, and such amendments thereto as may be made from time to time. A failure to comply shall entitle the Association to the relief set forth in this section, in addition to the rights and remedies authorized elsewhere by the Governing Documents and the Act.

12.1 **Entitlement to Relief.** The Association may commence legal action to recover sums due, for damages, for injunctive relief or to foreclose a lien owned by it, or any combination thereof, or an action for any other relief authorized by the Governing Documents or available at law or in equity. Legal relief may be sought by the Association against any Owner, or by an Owner against the Association or another Owner, to enforce compliance with the Governing Documents, the Rules and Regulations, the Act or the decisions of the Association. However, no Owner may withhold any assessments payable to the Association, or take (or omit) other action in violation of the Governing Documents, or the Rules and Regulations or the Act, as a measure to enforce such Owner's position, or for any other reason.

12.2 **Sanctions and Remedies.** In addition to any other remedies or sanctions, expressed or implied, administrative or legal, the Association shall have the right, but not the obligation, to implement any one or more of the following actions against Owners and Occupants, and/or their guests, who violate the provisions of the Governing Documents, or the Rules and Regulations or the Act.

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

12.2.2 Impose late charges of \$25 per month for every month in default.

12.2.3 In the event of default of more than 30 days in the payment of any assessment or installment thereof, all remaining installments of assessments assessed against the Unit owned by the defaulting Owner may be accelerated and shall then be payable in full if all delinquent assessments, together with all costs of collection and late charges, are not paid in full prior to the effective date of the acceleration. Reasonable advance written notice of the effective date of the acceleration shall be given to the defaulting Owner.

12.2.4 Impose reasonable fines, penalties or charges for each violation of the Act, the Governing Documents or the Rule and Regulations of the Association.

12.2.5 Suspend the rights of any Owner or Occupant and their guests to use any Common Element amenities; provided, that this limitation shall not apply to Limited Common Elements or deck, balcony or patio easements, appurtenant to the Unit, and those portions or the common Elements providing utility services and access to the Unity. Such suspensions shall be limited to periods of default by such Owners and Occupants in their obligations under the Governing Documents, and for up to 30 days thereafter, for each violation.

12.2.6 Restore any portions of the Common Elements or Limited Common Elements damaged or altered, or allowed to be damaged or altered, by any Owner or Occupant, or their guests in violation of the Governing Documents, and to assess the cost of such restoration against the responsible Owners and their Units.

12.2.7 Enter any Unit or Limited Common Element in which, or as to which, a violation or breach of the Governing Documents exists which materially affects, or is likely to materially affect in the near future, the health or safety of the other Owners of Occupants, or their guests, or the safety or soundness of any Building or other part of the Property or the property of the Owners, Occupants and or their guests, and to summarily abate and remove, at the expense of the offending Owner or Occupant, any structure, thing or condition in the Unit or Limited Common Elements which is causing the violation; provided, that any improvements which are a part of a Unit may be altered or demolished only pursuant to a court order or with the agreement of the Owner.

12.2.8 Foreclose any lien arising under the provisions of the Governing Documents or under law, in the manner provided for the foreclosure of mortgages by action or under a power of sale as allowed by law.

12.3 **Rights to Hearing.** In the case of imposition of any of the remedies authorized by Section 14.2.4, .5 or .6, the Board shall, upon written request of the Offender, grant to the offender a fair and equitable hearing as contemplated by the Act. The Offender shall be given notice of the nature of the violation and the right to a hearing, and at least 10 days within which to request a hearing. The hearing shall be scheduled by the Board and held within thirty days of receipt of the hearing request by the Board, and with at least 10 days prior written notice to the offender. If the offending Owner fails to appear at the hearing then the right to a hearing shall be waived and the Board may take such action as it deems appropriate. The decision of the Board and the rules for the conduct of hearings established by the Board shall be final and binding on all parties. The Board's decision shall be delivered in writing to the offender within ten days following the hearing, if not delivered to the offender at the hearing.

12.4 **Lien for Charges, Penalties, Etc.** Any assessments, charges, fines, penalties or interest imposed under this section shall be a lien against the Unit of the Owner or Occupant against whom the same are imposed and the personal obligation of such Owner in the same manner and with the same priority and effect as assessments under Section 6. The lien shall attach as of the date of imposition of the remedy, but shall not be final as to violations

for which a hearing is held until the Board gives written notice following the hearing. All remedies shall be cumulative, and the exercise of, or failure to exercise, any remedy shall not be deemed a waiver of the right to pursue any others.

12.5 **Costs of Proceeding and Attorney's Fees.** With respect to any collection measures, or any measures or action, legal, administrative, or otherwise, which the Association takes to enforce the provisions of the Act, Governing Documents or Rules and Regulations, whether or not finally determined by a court arbitrator, the Association may assess the violator and their Unit with any expenses incurred in connection with such enforcement, including without limitation fines or charges previously imposed by the Association, reasonable attorney's fees, and interest (at the highest rate allowed by law) on the delinquent amounts owed to the Association.

12.6 **Liability for Owners' and Occupants' Acts.** An Owner shall be liable for the expense of any maintenance, repair or replacement of the Property rendered necessary by such Owner's acts or omissions, or by that of Occupants, or guests in the Owner's Unit, to the extent that such expense is not covered by the proceeds of insurance carried by the Association or such Owner or Occupant. However, any insurance deductible amount and or increase in insurance rates, resulting from the Owner's acts or omissions may be assessed against the Owner responsible for the condition and against their Unit.

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

SECTION 13 **AMENDMENTS**

This Declaration may be amended by the consent of (i) Owners of Units to which are allocated at least 51% of the votes in the Association. Consent of the Owners may be obtained in writing or at a meeting of the Association duly held in accordance with the By-Laws. Consent of Eligible Mortgagees and the Declarant shall be in writing. Any amendment shall be subject to any greater requirements imposed by the Act. The Amendment shall be effective when recorded as provided in the Act. The Amendment shall be effective when recorded. An affidavit by the Secretary of the Association as to the outcome of the vote, or the execution of the foregoing agreements or consents, shall be adequate evidence thereof for all purposes, including without limitation, the recording of the amendment.

SECTION 14 **MISCELLANEOUS**

14.1 **Severability.** If any term, covenant, or provision of this instrument or any exhibit attached hereto is held to be invalid or unenforceable for any reason whatsoever, such determination shall not be deemed to alter, affect or impair in any manner whatsoever any other portion of this instrument or exhibits.

14.2 **Tender of Claims.** In the event that any incident occurs which could reasonably give rise to a demand by the Association against Declarant for indemnification pursuant to the Act, the Association shall promptly tender the defense of the action to its insurance carrier, and give Declarant written notice of such tender, the specific nature of the action and an opportunity to defend against the action.

14.3 **Notices.** Unless specifically provided otherwise in the Governing Documents or the Act, all notices required to be given by or to the Association, the Board of Directors, the Association officers or the Owner or Occupants shall be in writing and shall be effective upon hand delivery, or mailing if properly addressed with postage prepaid and deposited in the United States mail or any e-mail if an Owner has so provided.

14.4 **Conflicts Among Documents.** In the event of any conflict among the provisions of the Act, the Declaration, the By-Laws or any Rules or Regulations approved by the Association, the Act shall control. As among the Declarations, By-Laws and Rules and Regulations, the Declaration shall control, and as between the By-Laws and Rules and Regulations, the By-Laws shall control.

IN WITNESS WHEREOF, the undersigned has executed this instrument the day and year first set forth in accordance with the requirements of the Act.

WILDERNESS PARK HOME OWNERS ASSOCIATION

_____)
By

STATE OF MINNESOTA)
)ss
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2023 by _____, the president of Wilderness Park Home Owners Association, a Minnesota nonprofit corporation.

Notary Public

This Document Was Drafted By:
Breen & Person, Ltd.
PO Box 472
Brainerd, MN 56401

EXHIBIT A-1
TO DECLARATION

The Property subject to this Declaration:

Wilderness Park Estates
Wilderness Park Estates First Addition
Wilderness Park Estates Second Addition
Wilderness Park Estates Third Addition
Wilderness Park Estates Fourth Addition
Wilderness Park Estates Fifth Addition
Wilderness Park Estates Sixth Addition
Wilderness Park Estates Seventh Addition
Wilderness Park Estates Eighth Addition
Wilderness Park Estates Ninth Addition

EXHIBIT "B"
TO DECLARATION

Legal description of Common Elements:

All streets, road or other rights or way as dedicated in any plat described in Exhibit A-1

Lot 1, Block 2, Wilderness Park Estates

Outlot C and Lot 42, Block 7, Wilderness Park Estates 2nd Addition

Lot 15, Block 6, Wilderness Park Estates 2nd Addition

Outlot B, Wilderness Park Estates 2nd Addition