

COMMON INTEREST COMMUNITY NUMBER 49

(Planned Community)
DEACON'S WALK
AMENDED AND RESTATED
MASTER DECLARATION

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THIS AMENDED AND RESTATED MASTER DECLARATION OF PLANNED COMMUNITY is made in the County of Anoka, State of Minnesota, on this 3rd day of December, 1998 ("Master Declaration"), by SIENNA CORPORATION, a Minnesota corporation ("Declarant"), and is consented to by THE ROTTLUND COMPANY, INC., a Minnesota corporation ("Rottlund"), GORHAM BUILDERS, INC., a Minnesota corporation ("Gorham"), and CENTEX HOMES, a Nevada general partnership ("Centex") (Rottlund, Gorham and Centex are sometimes herein referred to as the "Builders"), pursuant to the provisions of Minnesota Statutes, Chapter 515B, known as the Minnesota Common Interest Ownership Act (the "Act"), for the purpose of creating Deacon's Walk, a planned community. (The Builders are parties to this Master Declaration solely for the purpose of consenting hereto as current owners of real estate subject to this Master Declaration and not as co-declarants.)

WITNESSETH:

WHEREAS, Declarant made a declaration of planned community by filing the Deacon's Walk Master Declaration dated July 9, 1998 (the "Original Master Declaration") in the office of the Anoka County Recorder on July 15, 1998 as Document No. 1356789 and in the office of the Registrar of Titles for Anoka County on July 15, 1998 as Document No. 315867; and

WHEREAS, the Original Master Declaration covered all of the real property described as the "Initial Real Estate") on Exhibit A attached hereto; and

WHEREAS, a Supplementary Declaration of Covenants, Conditions, Easements and Restrictions (the "Supplementary Declaration") to the Original Master Declaration was dated July 22, 1998 and filed in the office of the Anoka County Recorder on July 30, 1998 as Document No. 136062; and

WHEREAS, the Supplementary Declaration subjected the real property described as the "Additional Real Estate" on Exhibit A attached hereto to the Original Master Declaration; and

WHEREAS, the Additional Real Estate was replatted as a part of TPC Second Addition, Anoka County; and

WHEREAS, portions of the Initial Real Estate and the Additional Real Estate have been further subdivided by replatting into TPC Third Addition, TPC Fourth Addition, TPC Fifth Addition and TPC Sixth Addition all in Anoka County, Minnesota as of the date of this Amended and Restated Master Declaration; and

WHEREAS, all of the real estate that is subject to this Amended and Restated Master Declaration is described with its current platted legal description on Exhibit B hereto and made a part hereof; and

WHEREAS, Declarant has sold certain parcels of the real property described on Exhibit B attached hereto, to the Builders; and

WHEREAS, Declarant and the Builders have determined that it is desirable to amend and restate the Original Master Declaration for Deacon's Walk and that all real property owned by the Builders and the Declarant which is described on Exhibit B should be subject to this Amended and Restated Master Declaration (the "Master Declaration"); and

WHEREAS, Declarant and Builders are the owners of the real property described on Exhibit B to this Master Declaration upon which Declarant and Builders contemplate the future development of a residential community known as Deacon's Walk ("Deacon's Walk") containing low-, medium- and high-density residential components, including single family detached homes and homes constructed such that they share or have contiguous walls, siding or roofs; and

WHEREAS, Declarant and Builders recognize that the Act (as defined in Article I) requires that the Builders and other home builders selected by Declarant who build Dwellings within the boundaries of Units that share or have contiguous walls, siding or roofs create Sub-Associations and make such Units subject to Sub-Association Declarations; and

WHEREAS, Declarant and Builders desire to provide for the preservation of the values and amenities of the residential development in Deacon's Walk through this Master Declaration by establishing (i) a mechanism for installation, maintenance, improvement or repair of common entrance monuments, common amenities and associated landscaping or landscape plantings defining and unifying the appearance of Deacon's Walk; (ii) a system of architectural controls for present and future residential developments in Deacon's Walk; and (iii) covenants and restrictions on the use of the real property within Deacon's Walk; and

WHEREAS, to this end Declarant and Builders desire to subject the real property hereinafter described and all improvements thereon (the "Property") to the Act and to the easements, restrictions,

covenants, conditions, charges and liens set forth in this Master Declaration, each and all of which is and are for the benefit of the Property and each owner thereof; and

WHEREAS, Declarant had deemed it desirable for the efficient preservation of the values and amenities in the community to create an agency to which should be delegated and assigned the power of administering and enforcing the covenants and restrictions contained in this Master Declaration and collecting and disbursing the assessments and charges created by this Master Declaration; and

WHEREAS, Declarant, on July 8, 1998, has incorporated, under the laws of the State of Minnesota, Minnesota Statutes, Chapter 317A, as a nonprofit corporation, The Deacon's Walk Home Owners Association, Inc., for the purpose of exercising these functions; and

WHEREAS, other than The Deacon's Walk Home Owners Association, Inc., the Property is not subject to any other master association (as that term is defined in the Act).

NOW, THEREFORE, Declarant declares (and the Builders consent to such declaration) that the real property described on Exhibit B is, and shall be, held, transferred, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions"), which covenants and restrictions shall run with the real property and be binding on all parties having any right, title or interest in the real property described on Exhibit B or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

The following words, when used in this Master Declaration (unless the context shall prohibit), shall have the following meanings:

Section 1. Act: The Minnesota Common Interest Ownership Act, Minnesota Statutes, Chapter 515B.

Section 2. Architectural Control Committee or ACC: The permanent committee of the Master Association created for the purpose of establishing and enforcing criteria for the construction of improvements within the Property.

Section 3. Assessment Obligation: This term is defined in Article I, Section 38.

Section 4. Club Owner: The owner of the Golf Club Property on which the Golf Club is located, and its successors and assigns with respect thereto.

Section 5. Declarant: Sienna Corporation, a Minnesota corporation, and any successor or assign thereto.

Section 6. Development: The development on the Property known as Deacon's Walk.

Section 7. Development Detached Units: This term is defined in Article I, Section 38.

Section 8. Dwelling: A building or a part of a building consisting of one or more floors, designed and intended for occupancy as a single family residence and located within the boundaries of a Unit.

Section 9. Eligible Mortgagees: Any person owning a mortgage on any Unit, which mortgage is first in priority upon foreclosure to all other mortgagees that encumber such Unit, and which has requested the Master Association, in writing, to notify it regarding any proposed action which requires approval by a specified percentage of Eligible Mortgagees.

Section 10. Golf Club: The golf course and related club facilities of Tournament Players Club of the Twin Cities developed by Club Owner in conjunction with and adjacent to the Property, including the 18-hole golf course, golf driving range, putting green, golf cart path, clubhouse, golf pro shop, locker room facilities, food and beverage facilities and other related facilities. Related facilities may include tennis courts, swimming pool, health club and a tennis pro shop. The Golf Club shall not be part of the Master Common Elements nor shall it be governed by the provisions of this Master Declaration except as specifically provided herein. No Owner nor the Master Association shall have any rights in and to, or obligations with respect to, the Golf Club except as expressly and specifically provided herein.

Section 11. Golf Club Manager: Tournament Players Club of the Twin Cities, L.L.C., its successors and assigns.

Section 12. Golf Club Property: That certain property on which the Golf Club is located being more particularly described on Exhibit D attached hereto and incorporated herein by this reference.

Section 13. Golf Course Units: The Units within the Property which are immediately adjacent to the Golf Club Property.

Section 14. Governing Documents: Deacon's Walk Amended and Restated Master Declaration, the Articles of Incorporation of Deacon's Walk Home Owners Association, Inc. and any Bylaws adopted thereby, all of which apply to and govern the activities of Members and Owners.

Section 15. Master Association: Deacon's Walk Home Owners Association, Inc., a Minnesota nonprofit corporation, and its successors and assigns.

Section 16. Master Board: The Board of Directors of the Master Association.

Section 17. Master Bylaws: The Bylaws of the Master Association as they may be amended from time to time, also referred to herein as the "Bylaws".

Section 18. Master Common Elements: Those portions of the Property described in Exhibit C together with any improvements existing or hereinafter made thereon. Title to all Master Common Elements in Deacon's Walk is or shall be vested in the Master Association. Maintenance responsibility for Master Common Elements is governed by Article X. The designation of any land or improvements as Master Common Elements shall not mean or imply that the public-at-large acquires any easement of use or enjoyment therein.

Section 19. Master Common Expenses: All expenditures made or liabilities incurred by or on behalf of the Master Association and incident to its operation, including, without limitation, allocations to reserves and those items specifically identified as Master Common Expenses in the Master Declaration or Bylaws.

Section 20. Master Community: This Development, including all of its Units and Master Common Elements. All of the Master Community is subject to the Master Declaration. The Master Community is a common interest community under the Act.

Section 21. Master Declaration: This document as it may be amended from time to time.

Section 22. Master Plan: The land use plan for the development of Deacon's Walk attached as Exhibit E, prepared by Pioneer Engineering, P.A., as it may be amended, which plan includes the property described on Exhibits.

Section 23. Master Plat: The Common Interest Community plats of TPC First Addition and TPC Second Addition on file or of record at the office of the County Recorder/Registrar of Titles in and for Anoka County together with such other future plats as may be recorded by platting outlets contained within the plats of TPC First Addition and TPC Second Addition.

Section 24. Member: Each Owner entitled to membership in the Master Association pursuant to the provisions of Article IV.

Section 25. Owner: The record owner or contract vendee of the fee simple title to any Unit, but excluding contract vendors, mortgagees or any others having such interest merely as security for the performance of an obligation.

Section 26. Property: The real property subject to this Master Declaration more particularly described on Exhibit B attached hereto including the Dwellings and all other structural improvements located thereon now or in the future.

Section 27. Residential Units: This term is defined in Article I, Section 38.

Section 28. Rules and Regulations: The Rules and Regulations established, adopted and enforced by the Board of Directors of the Master Association according to the provisions of Article VI of this Master Declaration.

Section 29. Single Family Detached Units: This term is defined in Article I, Section 38.

Section 30. Sub-Association: An association created under Section 515B.3-101 of the Act to govern each Sub-Association Common Interest Community created by Declarant or a home builder selected by Declarant which is part of the Master Community, or a property owners association not subject to the Act (because of the application of Section 515B.1-102(e)(2)) created by Declarant or a home builder selected by Declarant for Units which are located within the Master Community. Each Sub-Association will be a non-profit corporation organized under the laws of the State of Minnesota in existence on the day that Sub-Association is created. Each Sub-Association is the association of Owners of the Units subject to the Declaration creating that Sub-Association pursuant to the Act. All Units within each Sub-Association are subject to the provisions of this Master Declaration.

Section 31. Sub-Association Common Elements: The portions of any Sub-Association Common Interest Community designated in the Sub-Association Declaration as common elements. Title to all Sub-Association Common Elements in each Sub-Association Common Interest Community shall be vested in that Sub-Association. Maintenance of the Sub-Association Common Elements shall be the responsibility of the Sub-Association except as otherwise provided in this Master Declaration.

Section 32. Sub-Association Common Element Units: This term is defined in Article I, Section 3 8.

Section 33. Sub-Association Common Expenses: The expenses for the operation of any Sub-Association.

Section 34. Sub-Association Common Interest Community: Each common interest community created by Sub-Association Declaration by Declarant or a home builder selected by Declarant and which is located within the Master Community.

Section 35. Sub-Association Declaration: The document creating each Sub-Association which is part of Deacon's Walk, including any amendments.

Section 36. Sub-Association Development Units: This term is defined in Article I, Section 38.

Section 37. Sub-Association Dwelling Units: This term is defined in Article I, Section 38.

Section 38. Unit: Except for the platted outlets that are described on Exhibit C and defined as Master Common Elements, each platted lot or outlet described on Exhibit B, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use and occupancy as an attached or detached residence for a single family, or for subdivision into more than one attached or detached residence for a single family, or for the creation of Sub-Association Common Elements. The term Unit refers to the land as well as any improvements thereon. The term Unit includes, by way of illustration but not limitation, condominium units, townhouse units and single-family detached homes on separately platted lots, as well as platted outlets designated to be subdivided on the Master Plan but which have not yet been subdivided into Residential Units, as defined below. In order to comply with the provisions of the Act as it exists at the date hereof, and in light of the fact that the Act in its current form does not adequately address the development of a project like Deacon's Walk, certain additional definitions are used herein to define different types of Units.

The Master Community will contain residences that are single family detached ("Single Family Detached Units") and residences that are single family attached (e.g., townhouse or condominium) constructed within a Sub-Association Common Interest Community ("Sub-Association Dwelling Units"). The Master Community, when completed, will consist of a total of 747 Single Family Detached Units and Sub-Association Dwelling Units (together the Single Family Detached Units and Sub-Association Dwelling Units are sometimes referred to as "Residential Units"). Because not all of the Property has been subdivided into platted lots to be used for Residential Units there are platted outlots upon which Declarant or a home builder selected by Declarant will build more than one Residential Unit and, in some cases, upon which Sub-Association Common Elements will be created. Those platted outlots are designated as "Sub-Association Development Units," "Development Detached Units" or "Sub-Association Common Element Units". Thus, within the definition of "Unit" there are five subdefinitions as follows:

1. Single Family Detached Units
2. Sub-Association Dwelling Units
3. Sub-Association Development Units
4. Development Detached Units
5. Sub-Association Common Element Units

Sub-Association Development Units and Development Detached Units will be subdivided into the number of Residential Units set forth on Exhibit B and in some cases the subdivision of a Sub-Association Development Unit may also result in the creation of Sub-Association Common Element Units. It is also possible that the subdivision of a particular Development Detached Unit will result in the creation of Single Family Detached Units and a remaining new Development Detached Unit, and likewise it is possible that the subdivision of a particular Sub-Association Development Unit will

result in the creation of Sub-Association Dwelling Units (and perhaps, Sub-Association Common Elements) and a remaining new Sub-Association Development Unit.

The Act contemplates and allows the creation of Master Common Elements and therefore the Declarant may designate any portion of Development Detached Units or Sub-Association Development Units as Master Common Elements. Any subdivision of a Development Detached Unit or a Sub-Association Development Unit shall be done in accordance with Section 2-112 of the Act and an amendment to this Master Declaration shall be prepared and filed as well as an amendment to the Master Plat.

The voting rights and obligation for payment of Annual General Assessments ("Assessment Obligation") of each Unit are set forth on Exhibit B. In the event of a subdivision of any Unit the number of votes and the Assessment Obligation allocated to the resulting components of such subdivided Unit shall equal the number of votes and the Assessment Obligation allocated to that Unit prior to the subdivision.

The Property includes a parcel which is registered land. In some cases a Residential Unit will contain both registered land and abstract property, in which case the laws of the State of Minnesota require that separate legal descriptions be maintained for each type of land. Therefore some Residential Units will consist of two legal descriptions (for example Lots 9A and 9B, Block 1, TPC Fourth Addition). Notwithstanding the fact that a Residential Unit has two legal descriptions such Residential Unit will have only one vote and be responsible for one share of the Assessment Obligation.

Although designated as Units herein, all Sub-Association Common Element Units shall have a special allocation of no voting rights and no Assessment Obligation because those are the only Units that upon completion of the Master Community will not be Residential Units and because such Sub-Association Common Elements will be operated and administered by the Sub-Association to which they belong.

Upon completion of the Master Community there will be 747 Residential Units which will have equal voting rights and obligation for payment of Master Common Expenses and there will be some Sub-Association Common Element Units which have no voting rights or obligation for Master Common Expenses.

ARTICLE II PROPERTY SUBJECT TO THIS MASTER DECLARATION

Section 1. Property Subject to this Master Declaration. The real estate subject to this Master Declaration is located in Anoka County, Minnesota, and is described on Exhibit B attached hereto, all of which property shall hereinafter be referred to as "Property." Each Sub-Association which is a part of Deacon's Walk, and which is subject to this Master Declaration is or will be organized as a common interest community in order to provide for a separate governance role for each Sub-Association, as described in each Sub-Association Declaration. Seven Hundred Forty-

Seven (747) Residential Units may be constructed on the Property to be used exclusively for residential purposes. The types of Units and the method of subdivision thereof are defined and described in Article I, Section 38.

Section 2. Golf Club Property: Club Owner intends to develop the Golf Club on the Golf Club Property. The Golf Club shall be a private club, separate and distinct from the Master Association, and governed by its own rules, regulations, and requirements. The Golf Club and the Golf Club Property shall not be part of the Master Common Elements, and neither the Master Association nor any Owner shall have any right or privilege in and to the Golf Club or the amenities contained therein, including the right to enter upon or use the Golf Club facilities, except under such conditions and requirements as may be established by the Club Owner or Golf Club Manager, in their discretion, from time to time.

ARTICLE III DESCRIPTION OF UNITS AND APPURTENANCES

Section 1. Unit Identifiers. Each Unit constitutes a separate parcel of real estate. The locations of the Units are as shown on the Master Plat, as it may be amended, which is incorporated herein by reference. The Unit identifier shall be the lot and block numbers and the subdivision name or the condominium number as shown on the recorded plat thereof. The proposed location of Residential Units in parcels located within the Property which have not yet been subdivided into platted lots is set forth on the Master Plan.

Section 2. Unit Boundaries. The front, rear and side boundaries of each Unit shall be the boundary lines of the platted lot upon which the Dwelling is located or intended to be located as shown on the Master Plat. For a condominium, the unit boundaries for each Unit shall be the walls, floors and ceiling of each Unit, as described in further detail in Section 515B.2-102(b) of the Act as shown on the condominium plat. All spaces, walls and other improvements within the boundaries of a Unit are a part of the Unit.

Sections. Utility and Maintenance Easements. Each Unit shall be subject to and shall be the beneficiary of appurtenant easements for all services and utilities servicing the Units and the Property, and for maintenance, repair and replacement as described in Article XIII

Section 4. Encroachment Easements. Each Unit shall be subject to and shall be the beneficiary of the appurtenant easements for encroachments as described in Article XIII

Section 5. Declarant's Easements. Declarant shall have and be the beneficiary of easements for construction and sales activities as described in Article XIV.

Section 6. Recorded Easements. The Property shall be subject to such other easements as may be recorded against it or otherwise shown on the Master Plat.

Section 7. Easements are Appurtenant. All easements and similar rights burdening or benefiting a Unit or any other part of the Property shall be appurtenant thereto, and shall be permanent, subject only to termination in accordance with the Act or the terms of the easement. Any recorded easement benefiting or burdening the Property shall be construed in a manner consistent with, and not in conflict with, the easements created by this Master Declaration.

Section 8. Impairment Prohibited. No person shall materially restrict or impair any easement benefiting or burdening the Property; subject to the Master Declaration and the right of the Master Association to establish and enforce reasonable Rules and Regulations governing the use of the Property.

Section 9. Master Common Elements. The Master Common Elements and their characteristics are as follows:

- (a) The Master Common Elements are those parts of the Property described in Exhibit C together with any improvements existing or hereafter made thereon or designated as Master Common Elements on the Master Plan attached as Exhibit E or in the Act. The Master Common Elements are owned by the Master Association for the benefit of the Owners.
- (b) The Master Common Elements shall be subject to certain easements as described in Article XIII.
- (c) Subject to Article X, all maintenance, repair, replacement, management and operation of the Master Common Elements shall be the responsibility of the Master Association.
- (d) Master Common Expenses for the maintenance, repair, replacement, management and operation of the Master Common Elements shall be assessed and collected from the Owners in accordance with Article VII.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS IN THE MASTER ASSOCIATION

Section 1. Membership. Each Owner of a Unit is a Member of the Master Association. Membership shall be appurtenant to and may not be separated from ownership. If title to a Unit is held by more than one person, each such person shall be a Member. An Owner of more than one Unit shall be entitled to one membership for each such Unit. Each such membership shall be appurtenant to the Unit upon which it is based and shall transfer automatically by voluntary or involuntary conveyance of the title of that Unit. No person or entity other than an Owner or Declarant may be a Member of the Master Association, and a membership in the Master Association may not be transferred except in connection with the transfer of title to that Unit.

Section 2. Voting. The Master Association shall have one (1) class of voting Membership with one vote per Unit, except that while there are Development Detached Units and Sub-Association Development Units, such Units shall have that number of votes allocated on Exhibit B and further provided that Sub-Association Common Element Units shall have no vote. When more than one person or entity shares ownership of a Unit, the vote shall be exercised as they determine among themselves.

Section 3. Suspension of Voting Rights. In the event any Member shall be in arrears in the payment of any amount due under any of the provisions of this Master Declaration for a period of thirty (30) days, or shall be in default in the performance of any of the terms of this Master Declaration for a period of thirty (30) days, such Member's right to vote as a Member of the Master Association may be suspended by the Master Board and shall remain suspended until all payments are brought current and all defaults remedied.

Section 4. Agreements. Except as provided in Section 3-105 of the Act, all agreements and determinations lawfully authorized by the Master Board during the period of Declarant control shall, following the expiration or surrender of such control, be binding upon all Owners, their heirs, legal representatives, successors, and assigns, and all others having an interest in the Development or the privilege of possession and enjoyment of any part of the Development. In performing its responsibilities hereunder, the Master Association, through its Master Board, shall have the authority to delegate to persons of its choice such duties of the Master Association as may be determined by the Master Board. In furtherance of the foregoing, and not in limitation thereof, the Master Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Master Association shall deem necessary or desirable for the proper operation of the Development, whether such personnel are furnished or employed directly by the Master Association or by any person or entity with whom or with which it contracts. All costs and expenses incident to employment of a manager shall be a Master Common Expense. During the term of such management agreement, such manager may, if authorized by the Master Board, exercise all of the powers and shall be responsible for the performance of all the duties of the Master Association, excepting any of those powers or duties specifically and exclusively reserved to the directors, officers, or members of the Master Association by this Master Declaration or the Bylaws. Such manager may be an individual, corporation, or other legal entity, as the Master Board shall determine, and may be bonded in such a manner as the Master Board may require, with the cost of such bond to be a Master Common Expense. In addition, the Master Association may pay for, and the Master Board may hire and contract for, such legal, accounting or other professional services as the Master Board may deem necessary or desirable in connection with the operation of the Development or the enforcement of this Master Declaration, the Bylaws, or the Rules and Regulations of the Master Association.

Section 5. Management Agreement with Declarant or Affiliate. Declarant and/or an affiliate of the Declarant may be employed as the manager of the Master Association and the Development pursuant to a separate agreement, the terms of which may extend beyond the expiration or surrender of any period of Declarant control of the Master Association but which in all cases will be subject to the provisions of the Act, including without limitation Section 3-105 of the Act.

ARTICLE V ADMINISTRATION

Section 1. General. The operation and administration of the Master Association shall be governed by the Governing Documents, the Rules and Regulations, and the Act. The Master 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 Master Common Elements and for the application and enforcement of the provisions of the Governing Documents and the Rules and Regulations. The Master Association shall have all powers described in the Governing Documents, the Act and the Minnesota Nonprofit Corporation Act. All power and authority of the Master Association shall be vested in the Master Board, unless action or approval by the individual Owners is specifically required by the Governing Documents or the Act. All references to the Master Association shall mean the Master Association acting through the Master Board unless specifically stated to the contrary.

Section 2. Operational Purposes. The Master Association shall operate for the purposes of (i) administering and enforcing the covenants, restrictions, easements, charges and liens and other provisions set forth in the Governing Documents and the 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 Master Community.

Sections. Master Association Responsibilities. The Master Association shall be responsible for (i) the levy and collection of the assessments provided herein; (ii) the enforcement of the covenants and restrictions contained in this Master Declaration, including the architectural controls imposed by Article IX and the land use controls and prohibited uses imposed by Article VIII; and (iii) the maintenance obligations or optional maintenance required or allowed to be performed by the Master Association as set forth in Article X.

Section 4. Binding Effect of Actions. All agreements and determinations made by the Master 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, and subject to Section 3-105 of the Act.

Section 5. Bylaws. The Master Association shall have Bylaws. The Bylaws and any amendments thereto shall govern the administration of the Master Association.

Section 6. Management. The Master Board may delegate to a manager or managing agent the management duties imposed upon the Master Association's officers and directors by the Governing Documents and the Act; provided 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.

Section 7. Enforcement. Enforcement of the covenants and restrictions and of the provisions contained in the Governing Documents or the Act may be by any proceeding at law or in equity, instituted by the Master Association or by any Owner against any owner or person (including the Master Association) violating or attempting to violate any covenant or restriction, either to restrain violation, to compel compliance, or to recover damages, and against the land, to enforce any lien created by these covenants; and failure by the Master Association or by any Owner to enforce any covenant or restriction herein contained in a particular instance shall in no event be deemed a waiver of the right to do so thereafter. Attorneys' fees and costs of any such actions to restrain violation or to recover damages as determined by the Court shall be assessable against and payable by any persons violating the terms contained herein.

Section 8. Master Association Assets; Surplus Funds. All funds and real or personal property acquired by the Master 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 Master Common Expenses and reserves shall be credited against future assessments or added to reserves as determined by the Master Board.

ARTICLE VI RULES AND REGULATIONS

Section 1. Adoption by Master Board. The Master Board of the Master Association shall have the power to approve, implement and enforce such reasonable Rules and Regulations it deems necessary from time to time for the purpose of operating and administering the affairs of the Master 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; and further provided that each Sub-Association shall also have rule making powers with respect to each Sub-Association Common Interest Community so long as such rules do not conflict with this Master Declaration and Rules and Regulations made by the Master Association. 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 ten (10) days after notice thereof has been given to the Owners.

Section 2. Notice. Notification of special meetings shall be given and voting thereat shall be in accordance with the notice and voting provision of the Bylaws of The Deacon's Walk Home Owners Association, Inc. Copies of Rules and Regulations and any amendments thereto shall be furnished by the Secretary of the Master Association to each Member prior to the time when they shall become effective.

ARTICLE VII ASSESSMENTS

Section 1. Creation of Assessments. The Declarant, for each Unit owned by it, hereby covenants, and each Owner of any Unit, by acceptance of a deed for a Unit, whether or not it shall be so expressed in the deed or any conveyance, is deemed to agree to pay to the Master Association: (a) Annual General Assessments which shall include assessments for Master Common Expenses; (b) Individual Unit Maintenance Assessments if and when levied; and (c) a Unit Transfer Fee, all in accordance with the terms hereof.

Section 2. Reserve for Replacements. Assessments for Master Common Expenses shall include an adequate reserve fund to cover the replacement or repair of those parts of the Property that the Master Association is obligated to maintain, repair or replace. The reserve fund shall be funded by annual payments and not by extraordinary special assessments.

Sections. Individual Unit Maintenance Assessments. In the event that an Owner or a Sub-Association fails to maintain any portion of the Property for which they are responsible and the Master Association performs such maintenance pursuant to Article X, Section 4, then the Master Association shall assess all costs relating thereto against the Units benefited by such maintenance. Such assessment shall be an Individual Unit Maintenance Assessment which shall be immediately due and payable upon notice thereof. The Master Association may also assess any Unit for damages to the Master Common Elements caused by the negligent acts of the Owners or their guests; such assessment shall be allocated to the Owner who caused, or whose guest, caused the damage and shall be deemed to be an Individual Unit Maintenance Assessment.

Section 4. Purpose of Annual General Assessments. The Annual General Assessments shall be levied for the purpose of paying the costs associated with the incidental costs of operating the Master Association and performance of the maintenance and other association functions described below.

Section 5. Duties of the Master Board; Preparation of Annual Budget: Certificate by Master Association. The Master Board shall prepare an annual budget for the Master Association and shall fix the date for the commencement of monthly installments of Annual General Assessments ("Commencement Date") and the total amount of the assessment against each Unit for each assessment period at least thirty (30) days in advance of such Commencement Date and shall at that time prepare a roster of the properties and assessments applicable thereto, which shall be kept in the office of the Master Association and shall be open to inspection by any Owner. An assessment shall become a lien against a Unit on the date when the same becomes due and payable, as fixed by the Master Board, as herein provided. Written notice of the assessment shall thereupon be sent to every Owner subject thereto; provided, however, that failure to send such written notice shall not render any assessment invalid.

The failure or delay of the Master Board to prepare the proposed annual budget and to levy assessments upon each Member as provided above shall not constitute a waiver or release in any manner of such Member's obligation to pay annual assessments, whenever the same shall be

determined, and in the absence of any annual budget, each Member shall continue to pay the monthly assessment at the then existing monthly rate until such Member has received notice of the new annual or special assessment levied.

The Master Association shall, upon demand, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Master Association setting forth whether such assessment has been paid. Said certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 6. Commencement of Assessments. Annual Assessments on the Units shall commence at a date specified by the Master Board. The first Annual Assessment shall be adjusted according to the number of months remaining in the fiscal year.

Section 7. Allocation of Assessment Obligations to Units during Development of Master Community. Upon full completion of all residential dwellings in the Master Community there will be 747 Residential Units which will have equal voting rights and equal Assessment Obligations in the Master Association. The only other Units in existence at that time will be Sub-Association Common Element Units which have no voting rights or Assessment Obligations. Pending completion of the Master Community there are, however, Units designated as Development Detached Units and Sub-Association Development Units which have voting rights and Assessment Obligations based upon the number of Residential Units that will be created by the subdivision thereof, all as described in Article I, Section 38 and Exhibit B attached hereto. For purposes of this Master Declaration and in particular the application of the provisions in this Article YE the allocation of Assessments to a "Unit" while there are Development Detached Units or Sub-Association Development Units in existence shall be deemed to mean the Assessment Obligation for those Units as described Article I, Section 38 and Exhibit B attached hereto.

Section 8. Maximum Limit of Annual General Assessments. The maximum Annual General Assessment through December 31, 1998 shall be Fifteen Dollars (\$15.00) per month per Unit. From and after January 1, 1999, the maximum Annual General Assessment may be increased each year in an amount not to exceed five percent (5%) of the maximum assessment for the previous year, or an increase equal to the increase in the Consumer Price Index for the Twin Cities during said period, whichever is greater, without a vote of the membership. The maximum Annual General Assessment may be increased in an amount exceeding the above-stated maximum by affirmative vote of fifty-one percent (51%) of the votes of those Owners voting in person or by proxy at a meeting of the Master Association called for that purpose.

Section 9. Basis of Assessments. Individual Unit Maintenance Assessments shall be levied against the Unit or Units against which the same are payable, in an amount and upon such terms as the Master Board shall establish as provided elsewhere herein. Annual General Assessments shall be levied on each Unit subject thereto equally on the basis of one (1) expense share per Unit (except as otherwise provided on Exhibit B attached hereto; provided, however Units owned by Declarant shall be assessed twenty-five percent (25%) of the Annual General Assessments until the first day of the month following the issuance of a certificate of occupancy. This alternative assessment program shall terminate upon the earlier of: (i) three (3) years from the date of the first

conveyance of a Unit to an Owner other than Declarant, or (ii) sixty (60) days after conveyance of seventy-five percent (75%) of the Units to Owners other than Declarant. The alternative assessment program will have no effect on the level of services for items set forth in the budget of the Master Association.

Section 10. Unit Transfer Fee. At the closing of a sale or resale of any Unit upon which a Dwelling has been completed, the purchaser of said Unit (meaning the new Owner) shall pay to the Master Association a Unit Transfer Fee, in an amount equal to twenty-five percent (25%) of the Annual General Assessment in effect for that Unit at the time of the closing. The purpose of the Unit Transfer Fee shall be to allow the Master Association to complete the book work necessary to reflect the transfer of ownership and to provide the Master Association with working capital.

Section 11. Effect of Nonpayment of Assessment; Remedies of Master Association. The Annual General Assessments and Individual Unit Maintenance Assessments shall be established as provided in this Master Declaration. If any such assessment is not paid when due, it shall become delinquent. In the event of a default of more than thirty (30) days in payment of any assessment or installment thereof, the Master Board may accelerate the remaining installments of the assessment due in the current assessment year upon notice thereof to the Owner, and thereupon the entire unpaid balance of the assessment with all accrued interest and penalties shall become due and payable upon the date stated in the notice. If any assessment is not paid by the 10th of the month in which it is due, the Master Board may assess a service charge not to exceed the greater of Fifteen Dollars (\$5.00) or ten percent (10%) per annum and there shall be a continuing lien in favor of the Master Association on the Unit against which assessed and the improvements thereon, and the Master Association (or any Owner acting in the name and for the benefit of the Master Association) may bring an action at law or equity against the person personally obligated to pay the same, including costs and reasonable attorneys' fees for any such action, which shall be added to the amount of such assessment and included in any judgment rendered in such action, and the Master Association may also enforce and foreclose any lien it has or which may exist for its benefit. There shall be no right of set-off against the Master Association based upon a failure to provide services or for money owned by the Master Association to the Owners. There shall be no right of set-off for non-use or abandonment of the Unit. The lien may be enforced and foreclosed by action or by advertisement in the same manner in which mortgages may be foreclosed in Minnesota. Each Owner, by acceptance of a deed for any Unit, shall be deemed to give full and complete power of sale to the Master Association and to consent to a foreclosure of the lien by advertisement. The lien for assessments is prior to all other liens and encumbrances on the Units except: (i) liens and encumbrances recorded before the recordation of the Master Declaration, (ii) any recorded first mortgage on the Unit, and (iii) liens for real estate taxes and other governmental assessments or charges against the Unit. (This provision does not affect the priority of mechanics' or materialmen's liens.) Fees, charges, fines, late charges and interest charges pursuant to this Master Declaration are enforceable as assessments.

The recording of this Master Declaration constitutes record notice and perfection of the lien effective as of the date payment is due, and no further recordation of any claim or lien assessment under this Article is required.

Section 12. Fines. The Master Association may levy reasonable fines against Owners for violations by Owners, or by Owners' family members, lessees, guests, licensees, invitees, employees or agents, of the provisions contained in this Master Declaration, the Articles of Incorporation, the Bylaws, and the Rules and Regulations promulgated by the Master Association from time to time. The Master Association may levy fines according to a schedule of fines to be adopted by the Master Board. Owners who violate any of the foregoing documents or rules shall be entitled to notice and a hearing before the Master Board, prior to the imposition of any fine. Fines are individual assessments and shall be collectible as such and upon any delinquency in the payment of any fine the Association shall have all rights as set forth in Article VII of this Master Declaration, including, without limitation, lien rights against the Owner.

ARTICLE VIII COVENANTS AND RESTRICTIONS ON USE OF PROPERTY

All Owners and occupants, and all secured parties, by their acceptance or assertion of an interest in the Property, or by their occupancy of a Unit, covenant and agree that, in addition to any other restrictions which may be imposed by the Act or the Governing Documents, the occupancy, use, operation, alienation and conveyance of the Property shall be subject to the following restrictions:

Section 1. General. The Property shall be owned, conveyed, encumbered, leased, used and occupied subject to the Governing Documents and the Act, as amended from time to time. All covenants, restrictions and obligations set forth in the Governing Documents are in furtherance of a plan for the Property, and shall run with the Property and be a burden and benefit to all Owners and occupants and to any other person acquiring or owning an interest in the Property, their heirs, personal representatives, successors and assigns.

Section 2. Landscape Plan. Each Owner shall, prior to installation of the landscaping surrounding a Dwelling, submit a landscape plan to the ACC for approval (hereinafter, "Landscape Plan") which will specify the areas to be planted, sodded, mulched, or retained as natural areas. Should an Owner fail to carry out the Landscape Plan, the Master Association reserves the right to carry out such Landscape Plan on such Unit and shall have an access easement for the purpose. The amount of any such expenditure shall be the personal, joint and several obligation of the Owner or Owners and shall be a lien against the Unit which may be enforced as an Individual Unit Maintenance Assessment under Article VII hereof.

Sections. Subdivision. No Unit (except Development Detached Units and Sub-Association Development Units as described in Article I, Section 38) shall be subdivided or split by any means whatsoever into any greater number of Residential Units, nor into any residential lots of smaller size, without the express written consent of the ACC and appropriate government entities, except that if the Owner of a Residential Unit desires to construct a Dwelling using an area larger than the area of any one single Unit as originally platted, then, subject to the jurisdiction of the appropriate governmental units, the adjoining Unit may be divided and part thereof added to any one or more adjoining single Units solely for the purpose or result of increasing the area on which a single-family Dwelling will be erected. No Dwelling shall be erected on a Unit which contains a lesser

area than any original Unit as platted without the express written consent of the ACC and appropriate governmental entities. If any such division of a Unit occurs and results in diminishing the number of Units in the Development, those Units to which parts of the divided Unit were added shall pay the Unit's share of all Annual General Assessments, however, no voting rights shall exist for the Unit that was divided.

Section 4. Residential Use. The Residential Units shall be used by Owners and occupants and their guests exclusively as private, single family residential dwellings, and not for transient, hotel, commercial, business or other non-residential purposes, except as provided in Section 5 below. Any lease of a Unit (except for occupancy by guest with the consent of the Owner) for a period of less than seven (7) days, or any occupancy which includes any services customarily furnished to hotel guests, shall be presumed to be for transient purposes.

Section 5. Business Use Restricted. No business, trade, occupation or profession of any kind, whether carried on for profit or otherwise, shall be conducted, maintained or permitted in any Units except: (i) an Owner or occupant residing in a Unit may keep and maintain his or her business or professional records in such Unit and handle matters relating to such business by telephone or correspondence therefrom, provided that such uses are incidental to the residential use, do not involve physical alteration of a Unit and do not involve any observable business activity such as signs, advertising displays, bulk mailings, deliveries, or visitation or use of the Unit by customers or employees; (ii) the Master Association may maintain offices on the Property for management and related purposes; and (iii) as provided in Section 15 of this Article VIII. No Unit may be used to operate a daycare of child care facility (whether licensed or unlicensed) without the prior approval of the Master Association, at its sole discretion.

Section 6. Nuisances. No noxious or offensive activities shall be carried on upon any Unit. No clothes lines or drying yards or pet control lines shall be permitted unless concealed by hedges or screen acceptable to the ACC.

Section 7. Animals. No animals, livestock, or poultry shall be raised on any Unit, except household domesticated animals. No animals may be kept or bred on the Property for commercial purposes. The Master Board shall have the authority to prohibit and regulate keeping of animal on the property. For purposes of this section, "animal" is defined as any living creature except humans. All pets shall be kept off the Golf Club Property at all times, and shall be kept on a leash whenever not on the pet owner's property.

Section 8. Garbage and Rubbish. No Unit may be used as a dumping ground for rubbish or trash, except during construction of improvements on such Unit and then only with respect to the improvements to be constructed on such Unit.

Section 9. Storage of Motor Vehicles. There shall be no outdoor storage, on any part of the Unit, including the driveway, of any motor vehicle, snowmobile, snowmobile trailer, motorcycle, off-road vehicle, motor home, or any other motorized vehicle, including any boat, personal watercraft, boat trailer or personal watercraft trailer. The storage of any vehicle for more than seventy-two (72) hours shall violate this provision.

Section 10. Detached Storage Structures. No storage building or structure detached from the Dwelling shall be permitted within Deacon's Walk. Storage of firewood, refuse, rubbish, and cuttings will be contained within the garage or screened to prevent view from the street, side and rear yard of adjacent properties, Master Common Elements and the Golf Club Property.

Section 11. Leases and Timeshares. No Owner may lease less than the entire Unit and no lease shall provide an initial term (exclusive of extensions or options to renew) of less than ninety (90) days. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Governing Documents and that any failure by the lessee to comply with the terms of such Governing Documents shall be a default under the lease. All leases shall be in writing. Other than the foregoing, there is no restriction on the right of any Owner, including the Declarant to lease any Unit. Timeshares of Units are not permitted.

Section 12. Signs. No sign of any kind may be displayed to the public view on any Unit except that one sign no larger than six (6) square feet in area may be placed on each Unit advertising the Unit for sale, unless the Unit is a corner Unit, in which case one such sign for each street frontage is permitted. The Declarant, so long as it owns any Property, shall be exempt from these signage restrictions. Any home builder approved by Declarant shall also be exempt so long as it owns any Unit. Subdivision identification entrance monuments may be installed by Declarant and entrance and advertising signs may be installed and maintained by Declarant so long as Declarant owns one Unit. During the construction of the Development, the Declarant may place such directional and advertising signs as it deems necessary or desirable for the sale of Units.

Section 13. Architectural Standards. The ACC, in its sole discretion, shall have the right to specify standards for:

- (a) The minimum square footage of any Dwelling;
- (b) The minimum setback requirements;
- (c) The size and architectural style of any Dwelling;
- (d) Materials which may be used for the exterior of any Dwelling;
- (e) The roof line pitch;
- (f) Fencing surrounding any Unit; and
- (g) The exterior lighting of any Unit or Dwelling.

Section 14. Soil Removal. No sod, soil, sand or gravel shall be sold or removed from any Unit, except for the purpose of excavating for the construction or alteration of a dwelling or for the proper grading thereof.