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November 28, 2006

Board of Directors
Itokah Valley Townhomes Assn., Inc.
c/o Multiventure Properties, Inc.
Attention: Steve Klappa
7400 Metro Boulevard, Suite 380
Edina, MN 55439

Re: Itokah Valley Townhomes Association, Inc. (General Matters)
Our File No.: 14845.0001

Dear Board of Directors and Mr. Klappa:

Enclosed please find a copy of the recorded Amendment to Declaration of Common Interest Community Number 185, Itokah Valley Townhomes. The Amendment was recorded November 22, 2006, and is effective as of that date. Please provide a copy of the recorded Amendment to each member of Itokah Valley Townhomes Association, Inc. ("Association"), and advise the members of the effective date of the Amendment.

If you have any questions or concerns regarding this matter, please do not hesitate to contact me.

Very truly yours,

HELLMUTH & JOHNSON, PLLC

Nancy T. Polomis
Attorney at Law

NTP/cor
Enclosure

cc: Chad A. Johnson, Esq. (w/o enc.)

s:\ItokahValley\THA\Inc\General\Letters\BOD Ltr 06

DOC #

FILED

10.15.06

ABSTRACT COPY
DAKOTA COUNTY

11-22-06

**AMENDMENT TO DECLARATION OF
COMMON INTEREST COMMUNITY NUMBER 185**

**ITOKAH VALLEY TOWNHOMES
(condominium)**

THIS AMENDMENT TO DECLARATION OF COMMON INTEREST COMMUNITY is made as of this 24 day of October, 2006, by Itokah Valley Townhomes Association, Inc. ("Association").

RECITALS

The Declaration of Common Interest Community Number 185, Itokah Valley Townhomes, February 16, 1996, was recorded with the County Recorder for Dakota County, Minnesota, on May 24, 1996, as Document Number 1350774, and amended from time to time thereafter (hereinafter, collectively, the "Declaration") as to the property set forth on Exhibit A attached hereto and incorporated herein by reference.

The Association obtained consent from the Owners to whom at least sixty seven percent (67%) of the votes in the Association are allocated in order to amend the Declaration as set forth herein.

No mortgage holder has submitted a written request to the Association to be notified of any proposed action requiring consent of mortgage holders, and thus no mortgagee consent is required.

NOW THEREFORE, the Association hereby amends the Declaration as follows:

Section 16 of the Declaration is deleted in its entirety, and the following inserted in its stead:

16. RENTAL RESTRICTIONS

16.1 Except as provided herein, no Owner shall be permitted to lease his or her Unit; each Unit shall be occupied by the Owner of said Unit or shall remain vacant. Notwithstanding the foregoing, any Owner who leases his or her Unit as of the date of the recording of this Declaration shall be permitted to continue to lease his or her respective Unit for (i) a period of three (3) years from the date this amended Declaration is recorded, (ii) as long as the current owner continues to own such Unit. At such time as any such Owner shall transfer ownership of

DATE RECEIVED November 22, 2006
DAKOTA COUNTY
TREASURER-AUDITOR *Kc*

his or her Unit or the three-year time period expires (whichever shall *first* occur), the right to continue leasing such Unit shall immediately terminate.

For those Units which are permitted to be leased under the terms of this section, such leasing is subject to reasonable regulation by the Association, and subject to the following conditions: (i) no lease shall be for less than the entire Unit; (ii) no Unit shall be leased for transient or hotel purposes; (iii) no Unit may be subleased; (iv) all leases shall be in writing; (v) no lease shall be for a term of less than thirty (30) days; and (vi) all leases shall provide that they are subordinate and subject to the provisions of the Governing Documents, the Rules and Regulations and the Act, and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. The Association may impose such reasonable Rules and Regulations as may be necessary to implement procedures for the leasing of Units, consistent with this Section.

This Amendment to the Declaration shall be effective upon recording with the County Recorder for Dakota County, Minnesota. Except as expressly amended hereby, the Declaration shall continue in full force and effect.

IN WITNESS WHEREOF, the Association has executed this Amendment to the Declaration of Common Interest Community Number 185, Itokah Valley Townhomes, as of the date above first written.

ITOKAH VALLEY
TOWNHOMES ASSOCIATION, INC.

By: Shelly Volden

Its: Secretary

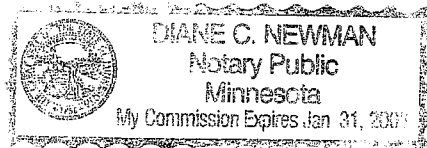
STATE OF MINNESOTA)
COUNTY OF Dakota } ss.

The foregoing instrument was acknowledged before me this 3rd day of November 2006, by Shelly Volden, the Secretary of Itokah Valley Townhomes Association, Inc., a Minnesota non-profit corporation, on behalf of the corporation.

Diane C. Newman
Notary Public

This instrument was drafted by:

HELLMUTH & JOHNSON, PLLC
10400 Viking Drive, Suite 500
Eden Prairie, MN 55344
(952) 941-4005



s:\Itokah Valley THA\General\Gov Doc Amendment\Decl Amendment(leasing restriction).doc

CERTIFICATE OF SECRETARY

ITOKAH VALLEY TOWNHOMES ASSOCIATION, INC.

Shelly Volden, the Secretary of the Itokah Valley Townhomes Association, Inc. hereby certifies that a meeting of the Owners was duly conducted on October 24, 2006, and that the Association obtained consent from the Owners to whom at least sixty-seven percent (67%) of the votes in the Association are allocated in order to amend the Declaration as set forth herein

I further certify that no mortgage holder has submitted a written request to the Association to be notified of any proposed action requiring consent of mortgage holders, and thus no mortgagee consent is required.

ITOKAH VALLEY TOWNHOMES ASSOCIATION, INC.

By: Shelly Volden
Its: Secretary

STATE OF MINNESOTA)
COUNTY OF Dakota } ss.

The foregoing instrument was acknowledged before me this 3rd day of November 2006, by Shelly Volden, the Secretary of Itokah Valley Townhomes Association, Inc., a Minnesota non-profit corporation, on behalf of the corporation.

Diane C. Apurman
Notary Public

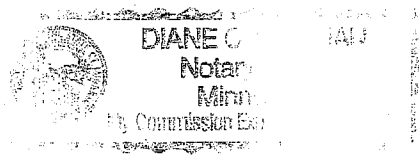


EXHIBIT A
to
FIRST AMENDMENT TO DECLARATION OF
COMMON INTEREST COMMUNITY NUMBER 185

ITOKAH VALLEY TOWNHOMES

Common Interest Community Number 185, Itokah Valley Townhomes, Dakota County,
Minnesota.

COMMON INTEREST COMMUNITY NUMBER 185
(CONDOMINIUM)

DECLARATION OF
ITOKAH VALLEY TOWNHOMES
D.R. HORTON, INC.-MINNESOTA
DECLARANT

Prepared by

Leonard, Street and Deinard (EHG)
Professional Association
Suite 2300
150 South Fifth Street
Minneapolis, Minnesota 55402

ITOKAH VALLEY TOWNHOMES
Common Interest Community
A Condominium

TABLE OF CONTENTS

	<u>Page</u>
DECLARATION	1
1. DEFINITIONS	1
2. IDENTITY OF REAL ESTATE AND CIC	2
3. CIC PLAT	2
4. UNITS AND UNIT IDENTIFIERS	2
5. BOUNDARIES	2
6. USE OF UNITS	3
7. LIMITED COMMON ELEMENTS	3
8. ALLOCATION OF COMMON ELEMENT INTERESTS AND EXPENSES	3
9. ASSESSMENTS	3
10. PROGRAM	4
11. ENCROACHMENT EASEMENT	5
12. ASSOCIATION MAINTENANCE RESPONSIBILITY.	5
13. OWNERS' MAINTENANCE.	5
14. INSURANCE, CASUALTY AND EMINENT DOMAIN	6
15. ARCHITECTURAL RESTRICTIONS	7
16. RENTAL RESTRICTIONS	8
17. GENERAL RESTRICTIONS	9

18. FIRST MORTGAGEES	11
19. SPECIAL DECLARANT RIGHTS.	12
20. ADDITIONAL REAL ESTATE	12
21. AMENDMENTS	13
22. WORKING CAPITAL FUND	14
23. MISCELLANEOUS	15

Common Interest Community Number 185

ITOKAH VALLEY TOWNHOMES
Common Interest Community
A Condominium

DECLARATION

BY THIS DECLARATION, made as of this 16th day of FEBRUARY, 199 , pursuant to the provisions of the Minnesota Common Interest Ownership Act, Minnesota Statutes Chapter 515B (the "Act"), as amended, D.R. Horton, Inc.-Minnesota, a Delaware corporation, ("Declarant"), creates Itokah Valley Townhomes, a condominium, and declares that the real property owned in fee simple by Declarant described in Section 2.4 of this Declaration (the "Real Estate"), together with the buildings and improvements to be constructed on it, is subject to the Act and to this Declaration, which shall run with the Real Estate and be binding upon all parties having any right, title or interest in the Real Estate, their heirs, successors and assigns, and which shall inure to the benefit of each Unit Owner, and the heirs, successors and assigns of each Unit Owner.

1. DEFINITIONS. Words defined in the Act shall have the meaning ascribed to them in the Act. The following are supplemental definitions.

- a. "Additional Real Estate" means that certain real property situated in the City of Burnsville, in the County of Dakota, in the state of Minnesota, legally described on Exhibit A of this Declaration. The Owner of any Unit created by the addition of Additional Real Estate shall become a Member of the Association upon the recording of the appropriate instrument that creates the new Unit.
- b. "Association" means Itokah Valley Townhome Association, Inc., a Minnesota nonprofit corporation, which Declarant incorporated as a Minnesota nonprofit corporation under Minnesota Statutes, Chapter 317A to act as the association of Unit Owners required by section 515B.3-101 of the Act.
- c. "Board of Directors" or "Board" means the board of directors of the Association.
- d. "Common Element" means all portions of the Condominium other than the Units including, but not limited to, the following: The wood sub-flooring, concrete slab, or bituminous material under each Unit; the ceiling joists, the masonry perimeter walls and the studs and plates of non-masonry perimeter walls; roof; foundations and main walls; exterior planes of doors and windows of building(s) and Units;

entrance stoops at the front and back entrances to Units; those portions of bearing walls and columns, pipes, vents, flues, chutes, chimneys, wires, chases, conduits and other utility installations which may lie partially within and partially without the designated boundaries of a Unit, but which serve more than one Unit or any portion of the Common Elements; landscaped areas; and any other area, facility, fixture or element which is designed or intended for common use.

- e. "Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association together with any allocations for reserves including, but not limited to, the following: premiums for any and all insurance maintained by the Association including any deductible or co-insurance amount not covered by insurance; water and sewer charges; legal and accounting fees; the unpaid portion of any assessment against a Unit that is acquired pursuant to a mortgage foreclosure proceeding or a deed in lieu of foreclosure and not required to be paid by such acquiror; deficits remaining from any prior assessment period; the cost of all fidelity bonds required by the Board; all costs for the maintenance, operation, alteration, improvement and replacement of the Common Elements; and any other expenses for the administration, operation and management of the Association and the Condominium determined and assessed by the Board.
- f. "Member" means any person or entity holding membership in the Association.
- g. "Owner" means Declarant, for so long as it owns a Unit, and each person to whom ownership of a Unit has been conveyed or transferred, but does not include a holder of an interest in a Unit as security for an obligation.

2. IDENTITY OF REAL ESTATE AND CIC. This declaration establishes Common Interest Community No. 185, Dakota County, Minnesota, under the name Itokah Valley Townhomes, A Common Interest Community. It is a condominium (and not a planned community or cooperative), and is not subject to a master association. The real estate included within this CIC is legally described as follows:

Lot 1, Block 1, Itokah Valley First Addition, Dakota County, Minnesota, together with the easement rights set forth in Documents Nos. _____.

3. CIC PLAT. The CIC Plat for this CIC is being recorded simultaneously with, and as a part of, this declaration.

4. UNITS AND UNIT IDENTIFIERS. This CIC consists of 8 units. The unit identifier of each Unit is the street address for the Unit, as shown on the CIC Plat.

5. BOUNDARIES. The Unit boundaries shall be the walls, floors and ceilings of each Unit, as described in further detail in Section 515B.2-102(b) of the Act.

6. **USE OF UNITS.** All Units are restricted to residential use EXCEPT Unit Nos. _____, which Declarant may use for sales office and model home uses. The following activities in a residential Unit shall not be considered a violation of this restriction:

- a. The maintenance by the Association or its manager of an office for purposes of management of this condominium.
- b. The use of a Unit by an Owner for home office or studio uses which are incidental to the principal residential use of the Unit, which comply with applicable zoning, and which do not invite or generate regular or frequent visit by clients, customers, employees, coworkers or the public.

7. **LIMITED COMMON ELEMENTS.** Certain portions of the common elements are allocated for the exclusive use of one or more but fewer than all of the Units. In addition to the limited common elements specified in Section 515B.2-102(d) and (f) of the Act, certain limited common elements, and the Units to which each is allocated, are depicted in the CIC Plat.

8. **ALLOCATION OF COMMON ELEMENT INTERESTS AND EXPENSES.** The undivided interests in the Common Elements and Common Expense liabilities are allocated equally among the Units, including any Units added pursuant to Section 20 of this Declaration, provided, the Association, pursuant to Section 515B.3-115(h) of the Act, may assess any Common Expense benefiting fewer than all of the Unit(s) against the Unit or Units benefited by the item of improvement, maintenance, repair or alteration giving rise to such expense, equally among such benefited Units.

9. **ASSESSMENTS.** Section 515B.3-115 of the Act specifies how assessments are assessed and collected. Section 515B.3-116 specifies how the lien for assessments is created and enforced, and to which interests it is either superior or subordinate. The following provisions are in addition to those statutory provisions:

9.1 **Special Assessments.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any unforeseen or unbudgeted common expense, including without limitation the unexpected construction, reconstruction, repair or replacement of a capital improvement and including fixtures and personal property related thereto, provided that any such assessment shall have the assent of not less than two-thirds (2/3) of the voting power of members who are voting in person or by proxy at a meeting duly called for this purpose.

9.2 **Commencement of Initial Annual Assessments.** The annual assessments provided for herein shall commence as to all Units not later than 60 days after the conveyance of the first Unit to an Owner other than Declarant. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year.

9.3 **Commencement of Annual Assessments.** By November 30 of each year the Board shall fix the amount of annual assessments against each Unit for the following fiscal year and shall send written notice thereof to each Owner. The due date for payment of annual assessments shall be as set by the Board. At the time the Board fixes the amount of annual assessments it shall adopt a budget for the following fiscal year and cause a copy of such budget in reasonable detail to be furnished to each Owner.

10. **PROGRAM.** The Declarant hereby establishes a program of the type described in Section 515B.3-115(a)(1) of the Act. Specifically, the Declarant covenants to pay during the Guaranty Period (defined below), in lieu of all common expense assessments otherwise payable on Declarant's Units during such period, the excess, if any, of (a) common expenses over (b) monthly assessments payable by Owners other than Declarant, subject to the following conditions:

- a. The payments of excess expenses made by Declarant under this guaranty will not exceed \$10.00 per Unit owned by Declarant per month nor an aggregate of \$240.00 for any one Unit owned by Declarant.
- b. The Owners other than Declarant shall be responsible for any expenses not covered by this guaranty.
- c. The Guaranty Period will commence at the time the first common expense assessment is levied, which shall be no later than 60 days after the first conveyance of a Unit to an Owner other than Declarant. Prior to that time, Declarant will pay all accrued common expenses.
- d. The Guaranty Period will extend for a minimum of twelve calendar months and a maximum of twenty-four calendar months.
- e. The Declarant may not commence or recommence this alternative assessment program at any time other than at the time the first common expense assessment is levied.
- f. This alternative assessment program will have no effect on the level of services for items set forth in the Association's budget.
- g. The Declarant shall give Owners at least 60 days prior notice of the termination of the Guaranty Period, which, however, shall not end within its first twelve months.
- h. This alternative assessment plan will have no effect on Declarant's obligation to fund the reserves disclosed in the Association's budget included in the disclosure statement or otherwise approved by the Association.

11. ENCROACHMENT EASEMENT. The existing physical boundaries of a Unit, or of a Unit reconstructed in substantial accordance with the description contained in the original declaration, are its legal boundaries, regardless of vertical or lateral movement of the building or minor variances due to shifting or settling.

12. ASSOCIATION MAINTENANCE RESPONSIBILITY.

12.1 Common Elements. The Association shall be responsible for the maintenance and repair of the common elements, including limited common elements, the expense of which shall be allocated as described in the Act and this declaration. The Association shall have the exclusive right to manage, maintain and alter the common elements.

12.2 Services. The Association may obtain and pay for the services of any persons or entities, to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Real Estate, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Real Estate or the enforcement of this declaration. The Association may arrange with others to furnish trash collection and other common services to each Unit.

12.3 Personal Property and Real Estate for Common Use. The Association may acquire and hold for the use and benefit of all of the Owners tangible and intangible personal property and real estate and may dispose of the same by sale or otherwise. Such beneficial interest shall not be transferable except with the transfer of title to a Unit, provided that an Owner may delegate his right of enjoyment of such property to residents of his Unit. A transfer of title to a Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Unit under foreclosure shall entitle the purchaser to the beneficial interest in such property associated with the foreclosed Unit.

13. OWNERS' MAINTENANCE.

13.1 Upkeep and Maintenance. Each Owner shall be responsible for the upkeep and maintenance of his Unit, and to the extent not otherwise maintained by the Association, the assigned limited common elements, and each Owner shall maintain the same free of hazardous substances, vermin, cockroaches, pests and debris which may pose a threat to the health or safety of occupants of other Units. Every Owner must perform promptly all cleaning, maintenance and repair work within his Unit, which, if omitted, would affect another Unit or Units, being expressly responsible for the damages and liabilities that his failure to do so may engender. Without limiting the generality of the foregoing, the Association may require an Owner to remove offending items, or to use a professional exterminator, and upon failure of the Owner so to do, Association after reasonable notice may enter the Unit with a professional exterminator or other appropriate contractor and take corrective action, charging the Owner of such Unit for the

reasonable cost thereof. An Owner shall do no act nor any work that will impair the structural soundness or integrity of the building, or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the common elements, the other Units, or their Owners.

13.2 **Heating of Units.** For the purpose of preventing damage to and breakage of water, sewer and other utility lines and pipes in a Unit which might result in damage to an adjoining Unit, all Owners shall maintain the temperature in their Units, at all times, at least at 55 degrees Fahrenheit (or such other reasonable temperature or standard as the Board of Directors may from time to time specify by written rule), subject, however, to the inability to maintain such temperature due to causes beyond the Owner's reasonable control. Any damage resulting from the refusal or failure of an Owner so to maintain such minimum temperature may be repaired by the Association and (unless due to causes beyond the Owner's reasonable control) the cost thereof assessed against the Unit of the refusing or failing Owner. However, if the failure to maintain such minimum temperature is due to causes beyond the Owner's reasonable control, the cost of such repair shall be a common expense. The Association may by rule require Units which are unoccupied for substantial periods of time during winter to use alarms which will detect abnormally low temperatures.

14. INSURANCE, CASUALTY AND EMINENT DOMAIN.

14.1 **Association's Policies:** Section 515B.3-113 of the Act requires the Association to maintain casualty insurance coverage on the common elements and Units. The same section also requires general liability coverage, authorizes the Association to carry any other insurance it considers appropriate, specifies minimum notice from an insurer prior to cancellation, specifies other provisions for such insurance, requires the Association or an insurance trustee to adjust all losses, and describes the Association's duty with respect to repair or rebuilding after casualty to common elements or Units. The provisions of the Act described in this paragraph may not be varied or waived, but are hereby supplemented, as follows:

- a. Such policy or policies of insurance as are required under the Act shall include such additional endorsements, coverages and limits with respect to the hazards specified in the Act and other hazards as may be required from time to time by the regulations of the Federal National Mortgage Association ("FNMA"), the Federal Housing Administration ("FHA") or the Veterans Administration ("VA") as a precondition to their insuring, purchasing or financing a mortgage on a Unit. The Board may also, on behalf of the Association, enter into binding written agreements with a mortgagee, insurer or servicer, including without limitation the VA, FIAA or FNMA, obligating the Association to keep certain specified coverages or endorsements in effect.
- b. The Association shall carry workers compensation insurance whenever it has eligible employees.

- c. The Association may carry fidelity insurance and shall do so whenever required by a holder, insurer or guarantor of a mortgage on any Unit.
- d. The Association may enter into binding agreements with one or more holders, insurers or guarantors of mortgages obligating the Association to keep specified coverages in effect for specified periods and to notify a holder, insurer or guarantor of any changes to coverage.

14.2 Owners' Individual Policies. Each Owner should carry insurance for his own benefit insuring his personal liability and his carpeting, wallcovering, fixtures, furniture, furnishings, and other personal real estate, and fixtures and other real estate supplied or installed by him or a previous Owner or tenant, provided that all such policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any such additional insurance carried by any Owner.

14.3 Betterments. In all events, betterments or improvements made subsequent to the original construction by any Owner to his Unit shall be the responsibility of the Owner to insure separately (or by rider to a blanket policy at the consent of the Association) if he desires the same insured. If the Trustee or mortgagee undertakes the reconstruction or remodeling of a Unit as above provided, the same need be restored only to substantially the same condition as the Unit was as of the completion of original construction.

14.4 Eminent Domain. As in the case of physical damage or destruction, the Association shall represent all Unit Owners with respect to any condemnation involving all or any part of the condominium, including the condemnation proceedings, and any negotiations, settlements, or agreements as part of the condemnation or in lieu of the condemnation, and all proceeds shall be payable in the first instance to the Association or an insurance trustee, for the benefit of Owners and mortgage holders.

15. ARCHITECTURAL RESTRICTIONS.

15.1 Association Control. The Association shall have the exclusive control of the common elements (including limited common elements) and no change shall be made to the common elements or to the exterior of any Unit, including changes in appearance or color, except by the Association or with the authorization of the Association.

15.2 Glass. No films or coatings shall be applied to the interior or exterior of exterior windows which darken, make reflective or otherwise change the color or appearance of such windows as viewed from outside the Unit.

15.3 **Awnings.** No awnings or shades shall be erected over and outside of the windows, nor shall any articles or structures be hung or placed on any outside window sills without the prior written consent of the Association.

15.4 **Balconies.** No shades, awnings or other types of sun screen or privacy fence shall be installed or placed on an enclosed balcony except of a type approved by the Association. The color of the siding or trim within an enclosed balcony shall not be changed from standard building colors. No double glass window inserts, sash inserts, extra screens, solid or opaque panels, frosted, colored or patterned glass, or other additions or changes to the original balcony enclosures shall be permitted, except in the case of a uniform modification to the entire building as authorized by the Association.

15.5 **Wiring or Penetrations.** No exterior wiring shall be installed nor shall there be penetrations of the walls, window frames or roofs of the exterior of the building except as authorized by the Association.

15.6 **Mechanical and Electrical Equipment.** No additional air conditioning or air cooling Unit shall be installed or placed in any part of a Unit other than that which was originally installed, without the prior written consent of the Association. In no case shall air conditioning or heating devices or equipment be installed or kept on the enclosed balconies, except for ceiling fans. All ceiling fans and all other electrical fixtures installed in a Unit must comply with all applicable building codes and underwriting standards and other reasonable standards adopted by the Association.

15.7 **Structures on the Common Elements.** No building, fencing or other structures shall be erected or maintained on the common elements except structures for common use (including leasing or assignment to Owners) authorized by the Association.

15.8 **Antennae.** Except with prior written approval of the Association, no exterior television, radio, satellite, or microwave antenna of any sort shall be erected or maintained upon the common elements or the exterior of a Unit.

16. RENTAL RESTRICTIONS.

16.1 Any lease between an Owner and a lessee shall provide that the terms of the lease shall be subject in all respects to the provisions of this declaration, the Articles of Incorporation and the Bylaws, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease enforceable by the Association as well as the landlord. A lease must be for an entire Unit, not a portion thereof. All leases shall be in writing and a copy shall be filed with the Association prior to commencement of the term. No lease may be for a period of less than thirty days, nor provide for hotel type services. Other than the foregoing, there shall be no restrictions on the right of any Owner to lease his Unit. All leases shall be deemed to include, for the term of the Lease, all of the Owner's rights to use the recreational facilities, common

rooms and open spaces of the condominium, and no Owner shall be permitted the use thereof unless in residence in a Unit.

17. GENERAL RESTRICTIONS.

17.1 **Prohibition of Damage and Certain Activities.** Nothing shall be done or kept on any Unit or any part thereof which would increase the rate of insurance on the Real Estate or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association. Nothing shall be done or kept on any Unit or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the exterior of the Real Estate and building shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused to the Association or other Owners by such Owner or the Owner's invitees. No noxious, destructive or offensive activity shall be allowed on any Units or any part thereof, nor shall anything be done thereon which may be or may become a nuisance to any other Owner or to any other person at any time lawfully residing on the Real Estate. No heating devices, refrigeration equipment, or other machinery which causes vibrations detectable from outside the Unit, is fuel-fired, or is otherwise inherently dangerous, noxious, or noisy, shall be installed or operated within any Unit.

17.2 **No Unsightly Uses.** No clothes, sheets, blankets, laundry of any kind, or other articles shall be hung out on any portion of a Unit so as to be visible from outside the Unit, nor shall a clothesline (including retractable clothes line) be installed or maintained on the common elements, on a balcony or on the exterior of any Unit.

17.3 **Pets.** No animals (including, but not limited to, dogs, cats, reptiles, rabbits, livestock, fowl or poultry of any kind) shall be raised, bred or kept in any Unit or in the Common Elements, except that dogs, cats or other household pets may be kept in Units, subject to rules and regulations adopted by the Board, provided that they are not kept, bred or maintained for any commercial purpose, provided further, that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the property upon 3 days written notice from the Board.

17.4 **Signs.** No Unit Owner or occupant shall post any advertisements, posters or signs of any kind in or on the condominium, except as authorized by Section 19 of this declaration or the Association, nor shall signs, billboards, notices or other advertising matter of any kind be placed on the exterior of any residential Unit, or on the common corridor side of an entry door, or in the interior of any residential Unit so as to be visible from the outside of the Unit.

17.5 **Noises.** Unit Owners and occupants shall not make noises, play instruments or operate radios, televisions, or amplifiers in a way that may disturb other residents, or otherwise create disturbances to the peace and tranquility of the building. No nuisance shall be allowed on the condominium nor shall any use or practice be allowed which is a source of annoyance to the

other Owners or which interferes with the peaceful possession or proper use of the condominium by all Unit Owners.

17.6 Outside Storage. Outside storage of any items, including but without limiting the generality of the foregoing, sporting equipment, toys, outdoor cooking equipment (except seasonal furniture and one gas or charcoal grill per Unit if allowable by applicable ordinance), yard and gardening tools and equipment, and trash and garbage containers shall not be allowed.

17.7 Vehicle Storage. No boats, snowmobiles, trailers, camping vehicles, buses, camper tops, "all-terrain vehicles," tractor/trailers or trucks in excess of 9,000 pounds gross vehicle weight, or unlicensed or inoperable vehicles shall at any time be stored or parked on the common elements without the express written approval of the Board of Directors, which may be withheld without stated reason.

17.8 Moving of Furniture. The building manager shall be notified in advance of all moving of furniture, substantial quantities of household goods, major appliances, carpeting and construction materials into or out of a residential Unit and he shall have authority to specify the hours and routing within the Real Estate of such moving.

17.9 Repairs to Vehicles. Save for emergency repairs, no repairs or adjustments to motor vehicles may be carried out on the common elements including garage spaces.

17.10 Landscaping. No one shall harm, mutilate, destroy, alter or litter any of the landscaping work or improvements on the common elements, including grass, trees, and flower beds.

17.11 Designated Areas for Vehicles. No motor vehicle shall be driven or parked on any part of the common elements other than on a driveway or parking space.

17.12 No Obstructions. The sidewalks, walkways, halls, passages, entrances, corridors, stairways, elevators, and driveways shall not be obstructed or used for any other purpose than ingress to and egress from the Units and parking areas within the common elements.

17.13 Flammable or Hazardous Materials. No stores of coal or any combustibles, flammable or hazardous goods, provisions or materials shall be kept on any part of the Real Estate except for reasonable quantities and kinds of usual household materials and reasonable quantities of fireplace wood.

17.14 Non-Interference. No part of the common elements shall be used by anyone in such a manner so as to interfere with the use and enjoyment of the Units or the common elements. No part of the common elements shall be used by the Owners for the erection, placing or maintenance of clotheslines, incinerators, garbage disposal equipment, recreation or athletic equipment, tents, fences or other barriers or for the placing or disposal of rubbish, garbage or waste without the prior written consent of the Board of Directors.

17.15 **Cable System Access.** In the event the Board of Directors authorizes any sort of master, cable or community television or data system, each Owner hereby authorizes access to his Unit upon reasonable notice for the purpose of installing the conduits and fixtures necessary to serve such Unit, without regard to whether the Owner then elects to subscribe to or use such system.

17.16 **Rules and Regulations.** The Board of Directors may from time to time adopt, promulgate and publish other rules of conduct reasonably relating to the enjoyment of the condominium by Owners and occupants, including rules for the use of residential recreational facilities and amenities, if any.

17.17 **No Additional Units.** Neither the Declarant nor any other Unit Owner is permitted to create any additional Units by subdivision or conversion under Section 515B.2-112 of the Act.

17.18 **No Time Shares.** Time shares, as defined in the Act, are not permitted in this CIC.

18. FIRST MORTGAGEES.

18.1 **Precedence.** The provisions of this Article take precedence over any other conflicting provisions of this declaration.

18.2 **Notice of Action.** Any mortgagee and any insurer or guarantor of a first mortgage on a Unit who has advised the Association in writing of its name and address and the address of the Unit covered by such mortgage, and in said writing has requested the Association to notify it of any of the following, will be entitled to timely written notice of:

- a. Any condemnation loss or any casualty loss which affects a material portion of the project or any Unit on which there is a first mortgage held, insured, or guaranteed by such mortgage holder or insurer or guarantor, as applicable;
- b. Any delinquency in the payment of assessments or charges owed, or any other default in the performance of any obligation under the Declaration, Bylaws, or Articles of Incorporation by an Owner of a Unit subject to a first mortgage held, insured, or guaranteed by such holder or insurer or guarantor, which remains uncured for a period of 60 days;
- c. Any lapse, cancellation or material modification of any insurance policy maintained by the Association;
- d. Any proposed action which would require the consent of a specified percentage of mortgage holders as specified in Section 20.03 below.

18.3 **Examination of Books and Records.** First mortgagees and holders, insurers and guarantors of first mortgages shall have the right to examine the books and records of the Association, as set forth more fully in the Bylaws.

18.4 **Designation of Representative.** Any holder of a first mortgage on a Unit may designate a representative to attend meetings of members.

19. **SPECIAL DECLARANT RIGHTS.** Declarant hereby reserves the following rights (referred to in the Act as Special Declarant Rights) for its benefit:

- a. the right to complete improvements indicated on the CIC Plat;
- b. the right to create Units by this declaration;
- c. the right to maintain sales and/or rental offices and management offices, should it so desire, and models and signs advertising Units in the Condominium until all Units therein have been sold, pursuant to Section 515B.2-116 of the Act;
- d. the right to use easements through the common elements for the purpose of making improvements within the CIC;
- e. the right to appoint or remove any officer or director of the Association during the period of declarant control, which shall expire on the earliest of the following events:
 1. surrender of the right of control by the Declarant;
 2. 60 days after the conveyance of 75% of the Units to Owners other than Declarant; and
 3. three years from the first conveyance of a Unit to an Owner other than Declarant;
- f. the right to rent Units;
- g. the right to add all or a portion the Additional Real Estate to the Condominium.

20. **ADDITIONAL REAL ESTATE.**

20.1 **Reservation of Rights to Add Additional Units.** The Declarant hereby reserves the right to add all or any portion of the Additional Real Estate to the Condominium. The Declarant's right to add any portion of the Additional Real Estate to the Condominium will terminate ten (10) years following the date of recording of this Declaration. Portions of the Additional Real Estate may be added at different times. The Declarant reserves the right to create no more than 156 Units on the Additional Real Estate. All buildings built and Units created on the Additional Real Estate shall be restricted to residential use and shall be compatible with the Units constructed on the Real Estate in terms of architectural style, quality of construction, and principal materials employed in construction. Notwithstanding any provision set forth in this

Declaration to the contrary, Units constructed on the Additional Real Estate may vary in size (including the number of stories) from Units constructed on the Real Estate. All restrictions contained in this Declaration affecting the use, occupancy, ownership and alienation of Units will apply to Units on the Additional Real Estate that may be made subject to this Declaration. None of the assurances regarding the Real Estate contained in this Declaration shall apply to any portion of the Additional Real Estate not subjected to this Declaration pursuant to this Article. The Declarant makes no other assurances with regard to the Additional Real Estate pursuant to Minn. Stat. § 515B.2-106.

20.2 Amended Declaration. The Declarant may add all or any portion of the Additional Real Estate to the Condominium at any time within the time limit set forth in Section 515B.2-106 of the Act by recording an Amended Declaration identifying that portion of the Additional Real Estate that is being subjected to this Declaration. Declarant shall substantially complete all improvements on any portion of the Additional Real Estate being subjected to this Declaration by such an amendment before recording such amendment. Before recording any amendment adding Additional Real Estate to the CIC, Declarant shall serve notice of its intention to add Additional Real Estate, as required in the Act, and shall obtain any written approvals required by the FHA or VA.

20.3 Treatment of Additional Real Estate. The Additional Real Estate shall not be subject to the provisions of this Declaration unless and until added to the Condominium by the filing of an Amended Declaration as described in this Article, but once added, shall be treated in the same manner as the Real Estate.

21. AMENDMENTS. The following are requirements for amending the Declaration, in addition to requirements specified in the Act and this declaration:

21.1 Declarant's Joinder. The written joinder and consent of the Declarant shall be required for any amendment of either the declaration or Bylaws which shall abolish, diminish or restrict Declarant's rights to complete improvements, to maintain sales and management offices and models or to maintain signs and advertise the project, until the last conveyance of a Unit to an Owner other than Declarant. This right may be waived in whole or part at any time only by recording a written waiver executed and acknowledged by Declarant.

21.2 Mortgagee Approval. In addition to all other requirements set forth herein, and except when a higher percentage is required by law or this declaration, amendments to this declaration of a material nature must be agreed to by Unit Owners who represent at least 67% of the total allocated votes in the Association and by mortgage holders who have submitted a written request to the Association to be notified of any proposed action requiring consent of mortgage holders, who represent at least 51% of the votes ascribed to Units that are subject to mortgages held by such mortgage holders. A change to any of the provisions governing the following matters would shall be deemed material:

- a. voting rights;
- b. increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
- c. reductions in reserves for maintenance, repair, and replacement of common elements;
- d. responsibility for maintenance and repairs;
- e. reallocation of interests in the general or limited common elements, or rights to their use;
- f. redefinition of any Unit boundaries;
- g. convertibility of Units into common elements or vice versa;
- h. expansion or contraction of the project, or the addition, annexation, or withdrawal of property to or from the project;
- i. hazard or fidelity insurance requirements;
- j. imposition of any restrictions on the leasing of Units;
- k. imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;
- l. a decision by the Association to establish self management if professional management had been required previously by the holder of a first mortgage on a Unit;
- m. restoration or repair of the project (after damage or partial condemnation) in a manner other than that specified in the declaration; or
- n. any provisions that expressly benefit mortgage holders, insurers, or guarantors.

22. WORKING CAPITAL FUND.

22.1 Establishment. The Declarant shall establish a working capital fund intended to meet unforeseen expenditures or to purchase any additional equipment or services. The Declarant shall establish the working capital fund with funds collected by Declarant at the closing for each Unit sold by Declarant in an amount equal to two months' assessments on each Unit. The contribution from each Unit to the working capital fund is measured by two months' assessments, but amounts

paid into the fund are not advance payments of regular assessments. At the time control of the Association is transferred to Owners, the working capital fund shall be transferred to the Association for deposit in a segregated fund.

22.2 Declarant's Accounting. The Declarant may not use working capital funds to defray any of its expenses, reserve contributions or construction costs or to make up any budget deficits while it is in control of the Association. When unsold Units are sold, however, the Declarant may reimburse itself from funds collected at a Unit closing for money it paid the Association for that Unit's share of the working capital fund.

23. MISCELLANEOUS.

23.1 Right to Cure. In the event that any Owner violates any covenant or fails to perform any condition contained in this declaration, the Association may perform the act, remove the defect or correct the violation upon thirty (30) days written notice to the Owner. If the Association so acts on behalf of an Owner, the Association may levy an assessment against the Owner's Unit for the cost of the performance or correction.

23.2 Association Acts through Board. The power and authority of the Association as provided in the applicable Statutes, the Declaration, Bylaws, and Rules and Regulations shall be vested in a Board of Directors elected by the Owners in accordance with the Bylaws of the Association. The Association shall act through the Board of Directors and the officers elected by the Board; accordingly, all references in this declaration and the Bylaws to action by the Association shall mean the Board of Directors acting for the Association, unless action by the vote of the Owners, members or mortgagees is expressly required by the Declaration or Bylaws.

23.3 Notices. Any notice required to be sent to any member of the Association (or Owner) under the provisions of this declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such member appearing on the records of the Association at the time of such mailing. In the case of multiple Owners of a Unit, notice to any one of such Owners shall be deemed notice to all.

23.4 Captions. The headings in this declaration are intended for convenience only and shall not be given any substantive effect.

23.5 Construction. In the event of an apparent conflict between this declaration and the Bylaws, the provisions of this declaration shall govern. The use of pronouns such as "his", "he" and "him" are for literary purposes and mean whenever applicable the plural and female forms.

23.6 Not Subject to Ordinance. This condominium is not a conversion condominium within the meaning of Minnesota Statutes Section 515B. 1-106 (c), and is therefore not subject to any ordinance of the type authorized or permitted by said statute.

23.7 Rights of Action. In addition to all other remedies and rights set forth in the act, the Association, and any one or more aggrieved Unit Owners, shall have the right of action against Unit Owners who fail to comply with the provisions of the declaration and Bylaws or the decisions of the Association, and one or more Unit Owners shall also have such rights of action against the Association for any failure to comply with or enforce such provisions.

23.8 Declarant's Rights and Obligations. The Declarant shall enjoy the same rights and shall be deemed to have assumed the same duties with respect to its unsold Units in the condominium as any other Owner, except as modified or extended by the alternate assessment program and the special declarant rights described in this declaration.

23.9 Waiver. No waiver of any term, condition, covenant, provision or remedy under this Declaration, or delay in the enforcement of any remedy under this Declaration in any one instance shall be deemed to be (i) a waiver of any other term, condition, covenant, provision or remedy in said or any other instance or (ii) the waiver of said waived term, condition, covenant or provision or of said delayed remedy in any other instance.

COMMON INTEREST COMMUNITY NUMBER 185
ITOKAH VALLEY CONDOMINIUM

EXHIBIT A

DESCRIPTION OF ADDITIONAL REAL ESTATE