

**Declaration of Protective
Conditions, Covenants and
Restrictions**

TWIN PONDS

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THIS DECLARATION, made on this 9th day of September, 1993, by Twin Ponds, Inc., a Minnesota Corporation, hereinafter referred to as "Declarant,"

WITNESSETH

WHEREAS, Declarant is the owner of the real estate described in Article II of this Declaration, hereinafter referred to as "Twin Ponds" and desires to create thereon a community of compatible and complementary single family residential homes for the benefit of the residents of Twin Ponds and to protect the value and desirability of Twin Ponds; and

WHEREAS, Declarant has deemed it desirable for the preservation of Twin Ponds and for the assurance of consistent quality and architectural design to establish certain conditions, restrictions and covenants as to how Twin Ponds may be developed and maintained; and

WHEREAS, Declarant deems it desirable for the purpose of efficiency to create an Architectural Review Committee to which shall be delegated and assigned the powers of administering and enforcing certain of the conditions, covenants, and restrictions contained and referred to herein;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above, known as Twin Ponds, including such additions thereto as may hereinafter be brought within the scope of Twin Ponds shall be held, transferred, sold, conveyed and occupied subject to the restrictions, covenants and conditions hereinafter set forth which are for the purpose of protecting the value and desirability of the real property, and which shall run with the real property and be binding upon all parties including their heirs, successors and assigns, having any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof and his heirs, successors and assigns.

Article I

DEFINITIONS

- 1.1 **Definitions:** The following terms, when used in this Declaration, shall have the following definitions, except as otherwise specifically provided:
- 1.2 **"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot subject to the Declaration, but shall not mean or refer to the Present Property Owner hereinafter defined nor to the mortgagee of any such lot unless and until such mortgagee has acquired title pursuant to foreclosure of said mortgage and the period within which the fee owner may redeem from such foreclosure has terminated. Where any such lot is being sold by the fee owner to a contract vendee who is entitled to possession of the lot, the contract vendee shall be considered the "owner" of the lot.
- 1.3 **"Present Property Owner"** shall mean and refer to Declarant.

- 1.4 **"Properties"** shall mean and refer to that certain real property described in the Declaration and such additions thereto as may hereafter be brought within the jurisdiction of this Declaration.
- 1.5 **"Lot"** shall mean and refer to any individual parcel of land shown upon any recorded plat or subdivision map of the properties whenever such plat or subdivision map, as amended, replatted or further subdivided, shall be made of record.
- 1.6 **"Declarant"** shall mean and refer to Twin Ponds, Inc., a Minnesota Corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from Declarant for the purpose of Development.
- 1.7 **"Mortgage"** shall mean any mortgage or other security instrument by which a lot or any part thereof is encumbered.
- 1.8 **"Mortgagee"** shall mean any person named as the mortgagee under any such mortgage or any successors to the interest of such person under such mortgage.
- 1.9 **"Living Unit"** shall mean a detached single residential housing unit consisting of a group of rooms and hallways which are designed or intended for use as living quarters for one family.

Article II

PROPERTY SUBJECT TO THIS DECLARATION

- 2.1 **Properties.** The real estate which is and shall be held, transferred, sold, conveyed, occupied, and used subject to this Declaration is located in the City of Savage, Scott County, State of Minnesota and is more particularly described as follows:

All platted lots in Twin Ponds according to the map or plat thereof on file or of record in the offices of the County Recorder and or Registrar of Titles in and for Scott County, Minnesota, together with such other property as may be made subject to this Declaration by amendments hereto, all of which real estate is heretofore and hereinafter referred to as "Twin Ponds." All future urbanized lots, platted within Twin Ponds, subsequent the Date of Declaration.

Article III

ADDITIONAL PROPERTY SUBJECT TO THIS DECLARATION

- 3.1 **Additions to Existing Property.** The Declarant, its successors and assigns, as defined herein shall have the right, without consent of the mem-

bers, to bring within the scheme of this Déclaration any additional real property, or any part thereof, which is contiguous with the real property described hereinabove, and by this reference incorporated herein for all purposes, in future stages of development.

- 3.2 **Matter of Annexation.** Additions authorized under this Article shall be made by filing an Amendment to the Declaration of Covenants, Conditions and Restrictions with respect to the additional property and, after such filing, such additional property shall be subject to the covenants and restrictions of this Declaration. Such Amendment to Declaration shall contain such complimentary additions and modifications of the Covenants and Restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and shall not be inconsistent with the scheme of this Declaration. In no event, however, shall such Amendment to Declaration revoke, modify, or add to the covenants established by this Declaration within the existing property.

Article IV

GENERAL RESTRICTIONS, OBLIGATIONS AND PROPERTY RIGHTS OF OWNERS

- 4.1 **Living Unit Restrictions.** No living unit shall be used for purposes other than as a single family residence, nor shall any trade or business of any kind be carried on within a living unit or upon a lot, provided that none of the following activities shall be considered a violation of this covenant:
- (a) The maintenance of model homes and sales offices by Declarant, or others authorized at the sole discretion of the Declarant, during the construction and sales periods, which use shall end at such time as Declarant has sold the last lot in Twin Ponds and such additional property as may be brought within the jurisdiction of this Declaration pursuant to Article III.
 - (b) The maintenance by an owner of an office within the home provided that such office does not involve in-home appointments or meetings resulting in levels of traffic exceeding that which would be customarily for a single family residence.

Article V

ARCHITECTURAL CONTROL

- 5.1 **Review by Committee.** No building, structure, fence, wall, patio, swimming pool, tennis court or other structure shall be commenced, constructed, altered or maintained upon any lot, or portion thereof, nor shall

any exterior addition to or change or alteration therein be made, unless and until the plans and specifications, proposals, and site plans showing the nature, kind, shape, height, materials, color, surrounding landscaping, and location of the same (hereinafter collectively referred to as "plans") shall have been filed in writing with and have been approved in writing by the Architectural Review Committee hereinafter referred to as "The Committee". These submitted plans shall contain details of design, elevation, site grade, fencing and location and dimensions of structures, walks and driveways and shall also state the type of construction and exterior materials to be used in construction.

The primary responsibility of the Committee shall be to maintain existing home values, and the rights of neighboring homeowners. The Committee shall not unreasonably withhold approval of any plan submitted pursuant hereto; provided, however, that failure to meet the covenants and restrictions, and conditions contained herein shall be grounds for the Committee's reasonable disapproval of such plans. Plans approved by the Committee shall permit the owner of a lot to construct in accordance with said plans and in conformity with the applicable codes of the City of Savage, Scott County, Minnesota.

Tree or dirt removal, excavation or construction shall not be commenced until approval therefore has been received from the Committee in writing, or in the form of an approved signature upon said plans. All buildings, structures, or improvements, including installation of sod or seed over areas disturbed from construction activities, must be completed within twelve (12) months of the approval of commencement of construction by the Committee; otherwise, all approvals become null and void.

Any deviation in construction on any lot from approved plans, which in the judgment of the Committee is of substantial detriment to the appearance of the structure or the surrounding area, shall be corrected to conform to the approved plans at the expense of the owner of that lot.

Material specifications: Siding shall be of natural color tones in woods such as cedar or redwood, or premium quality steel or aluminum siding materials painted an acceptable color with use of brick, stone, or stucco also allowed. Composition-type siding shall not be allowed. Shingles shall be either cedar shake or upgraded asphalt, i.e. 260 lb. wt. The plan must include specific information as to type and colors of roofing materials, siding and brick, and such submission of roofing materials, siding and brick shall be subject to approval by the Committee.

The Committee must approve any and all fences prior to their construction.

In the event, unauthorized construction activity commences for any reason, prior to Architectural Review and approval, the Architectural

Review Committee shall have the authority to stop construction and/or order removal of any unapproved materials or structures through any measure available and at law or in equity. The party deemed responsible for any violation of these covenants shall be liable for all cost of enforcement.

- 5.2 **Committee Membership.** The Architectural Review Committee shall have three members. The initial members shall be appointed by and serve at the pleasure of the Declarant, and the Declarant shall have the authority and power to appoint successors and/or replacements until Declarant has sold all of the lots which are platted as of the date of recording of this instrument in Twin Ponds, or sooner at the option of the Declarant. At that time the members of the Architectural Review Committee shall be deemed to have resigned. Upon such resignation, the then record owners of a majority of the lots in Twin Ponds shall have the power to elect successors and/or new members to the Architectural Review Committee.
- 5.3 **Architectural Liability.** Driveways, parking and lawn areas shall conform to natural grades, with wooded areas preserved and native growth protected. Prior to construction, the Architectural Review Committee reserves the right to require, at its sole discretion, that a tree assessment be conducted and certified by a qualified forester. Neither Declarant nor any member of the Architectural Review Committee shall be liable for damages to anyone who has submitted plans for approval, nor to any Owner by reason of mistaken judgment, negligence, or nonfeasance of themselves, their agents or employees arising out of or in connection with the approval or disapproval of any such plans. The Architectural Review Committee shall be concerned about aesthetic characteristics only and do not assert specific architectural expertise. It is the sole duty and responsibility of the applicant to employ an architect or other person to design the requested modifications in a safe and architecturally sound manner.
- 5.4 **Compensation.** Members of the Architectural Review Committee shall not be entitled to compensation for services performed by them pursuant to this Article.

Article VI

LAND USE REQUIREMENTS

- 6.1 **Residential Structures.** No lot within Twin Ponds shall be used except for residential purposes, except that the declarant or its designee shall be entitled to maintain model homes upon the lots. No building or structure shall be erected, altered, placed or permitted to remain on any lot except one detached single family dwelling with a private attached garage

designed to accommodate a minimum of three automobiles, together with accessory structures thereto on any level.

6.2 Building Size. The size of any building or structure exclusive of one story open porches, basements and garages shall be:

- (a) A one-story residence must have an above-grade finished floor area above a full basement and within the main structure of no less than two thousand (2,000) square feet exclusive of garage, basement, open porch or accessory structures thereto.
- (b) A split-level or split entry residence must have an above-grade finished floor area above a full basement and within the main structure of no less than two thousand (2,000) square feet exclusive of garage, basement, open porch or accessory structure thereto.
- (c) A story and a half residence must have above grade finished floor area above a full basement and within the ground floor of the structure of no less than fourteen hundred (1,400) square feet exclusive of garage, open porch, or accessory structure thereto, and a total on the ground floor and second floor of not less than two thousand three hundred (2,300) square feet of floor area with minimum ceiling height of seven feet (7').
- (d) A two-story residence must have above-grade finished floor area on the ground floor of no less than one thousand two hundred fifty (1,250) square feet; and a total of the ground floor and second floor finished area must be not less than two thousand five hundred (2,500) square feet.
- (e) In the case of either a story and a half residence or a two story residence, finished square footage with ceiling height equal to or greater than seventeen feet (17'), shall count as double square footage under the total square footage restrictions contained therein.
- (f) The determination as to any plan being a one story, two story, split level, story and a half or split entry shall rest solely with the Architectural Review Committee.

6.3 Building Height. No building or structure shall be constructed, altered, or maintained on any lot which is more than two stories in height from ground to eave line. For purpose of building height, an exposed walkout basement shall not be included as part of the building height. Certain lots with suitable topography and architectural design may be evaluated by the Architectural Review Committee to consider any exception.

6.4 Easement Areas. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat, unless vacated by action of the municipal authority. Within these easements, no structure, planting or other materials shall be placed or

permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the flow of drainage channels in the easement, or which may obstruct or retard the flow of water through drainage channels in the easement. The easement area of each lot shall be maintained continuously by the owner of the lot except for improvements made by a public authority or utility company.

- 6.5 **Mail Boxes.** The design and construction of the mail box shall be at the discretion of the Committee. The Committee shall endeavor to maintain uniformity in the mail boxes. All replacement of aging, broken or damaged mailboxes, subsequent to the initial installation, shall be in a manner and type that is compatible with all other than existing mailboxes, in order to insure lasting continuity of mailbox construction and design within all of Twin Ponds.
- 6.6 **Utilities.** All utility connection facilities including water, sewer, natural gas, telephone, electric and cable television (if available) shall be underground. Liquid petroleum tanks used in conjunction with the heating of newly constructed homes will be allowed; however, said liquid petroleum tanks shall be installed in such a way as to prevent their being exposed to public view and shall be removed as soon as possible after natural gas becomes available for hook-up at the street frontage of any affected lot.
- 6.7 **Sign Easement.** The Declarant hereby imposes, creates and reserves for the benefit of the Property a permanent easement for the construction, maintenance and repair of the sign over and upon that portion of Outlot 6, Twin Ponds, measured as forty feet outward from the perimeter of the sign as ultimately constructed (the Easement Area). The easement shall include the right of access to the Easement Area for purposes of construction, maintenance and repair.

All maintenance and repairs, if any, of the sign shall be performed as reasonably necessary from time to time by the owners of the lots. All costs incurred in connection with such maintenance and repairs shall be paid directly by the owners (other than the Declarant) on a pro rata basis. "Pro rata basis" shall mean a fraction, the numerator of which is the number of lots owned by the particular owner in question, and the denominator of which is the number of lots owned by persons or entities other than the Declarant.

Article VII

PROHIBITED ACTIVITIES AND USES

- 7.1 **Driveways.** No building or structure shall be constructed, altered or maintained on any lot unless it has a driveway from a street running to the garage, which must be of sufficient area to park at least two cars en-

tirely off the street. All driveways shall be constructed of concrete, bituminous surfacing, or 100% Class 5 aggregate limestone, and driveway surfacing must be completed no later than one (1) year following the date of original occupancy of the living unit.

- 7.2 **Landscaping.** All lots shall be "finish landscaped" with sod, seed or other landscape methods approved by the Architectural Review Committee within nine (9) months after the date of commencement of construction. For purposes of this section, "finish landscaped" shall mean:
- (a) All lot area within 30 feet of the foundation of any building or structure.
 - (b) A minimum aggregate total of 10,000 square feet in area.
 - (c) All lot area within 10' of either shoulder of the driveway.
 - (d) All public right-of-way fronting the lot, at least 10 feet (10') in from the curb edge of the street.
- 7.3 **Temporary Structures, or Equipment.** No building or structure of a temporary character and no trailer, self-propelled recreation vehicle, basement, tent, shack, garage or out building shall be used at any time as a residential dwelling on any lot. No commercial vehicles, tanks or commercial equipment of any kind shall be stored on any lots, unless stored within a garage or otherwise sheltered from public view. Garden type storage sheds, if made of wood and finished exterior using materials specified for all structures may be acceptable at the sole discretion of the Architectural Review Committee and provided the location is not detrimental to any adjacent lot or Twin Ponds.
- 7.4 **Signs.** No signs of any kind shall be displayed to the public view on any lot except all name and address signs shall be of a dignified character and shall not be over two (2) square feet in size. No advertising sign of any kind shall be displayed in public view on any lot except one sign of not more than six (6) square feet advertising the property for sale or rent, or signs used by builder to advertise the building during construction and sale of lots or homes in Twin Ponds.
- 7.5 **Animals.** No animals, livestock or poultry shall be raised, bred or kept on any lot which would be in violation of the Scott County Zoning Ordinances as they now exist or are hereafter amended. Dogs, cats or other household domesticated pets may be kept, provided such pets are not allowed to freely exit their respective owner's lot, without being adequately restrained on a leash.
- 7.6 **Nuisances.** No noxious or offensive activity or orders shall be permitted on or to escape from any lot, nor shall anything be done thereon which is or may become an annoyance or a nuisance, either temporarily or per-

manently. The discharge of any form of firearms shall be considered an offensive activity, and shall not be permitted at any time.

7.7 **Garbage and Refuse Disposal.** No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste. Garbage shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition, and placed in such a way as to prevent their being exposed to public view and/or becoming a nuisance.

7.8 **Soil and Gravel Sale.** Except as approved by the Architectural Review Committee, no sod, soil or gravel shall be sold or removed from the property and all soil or gravel available from any excavation for the construction or alteration of a living unit or any appurtenance of any lot and by whomsoever owned shall be hauled and disposed of at other points within or without the boundaries of the property at the discretion of the Architectural Review Committee.

7.9 **Vehicles.** No buses, trucks, house trailers, trailers, unlicensed automobiles, aircraft, tractors, or watercraft over twenty (20) feet shall be parked, kept or stored on the property except on a temporary basis unless parked, kept or stored within a closed garage, or kept in such a way as to prevent their being exposed to public view or unless otherwise restricted or prohibited by local ordinance.

7.10 **Tower Structures.** No poles, posts, towers or antenna may be installed that exceed ten (10) feet in height except that an outside radio or television antenna may be placed upon the roof of a residence, providing such antenna does not extend more than ten (10) feet above the roof where it is located. Any satellite dishes must be approved for installation by the Committee, prior to installation.

7.11. **Sewer and Water.** The owner of any property must construct his own water supply and sewer facilities to conform with county and city requirements. All sewer and water construction facilities shall be first approved by the Committee before construction is commenced. In addition, construction shall comply with all zoning and building laws and regulations established by the City of Savage, Scott County, Minnesota.

Article VIII

GENERAL PROVISIONS

8.1 **Duration and Amendment.** The covenants and restrictions of this declaration shall run with and bind the land, for a term of twenty-five (25) years from the date this declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This declaration may be amended at any time by a recordable instrument

signed by the owners of not less than sixty-six and two-thirds percent (66 2/3%) of the lots.

- 8.2 **Access.** For the purpose solely of performing the maintenance, repair and upkeep of the common property and any improvements or structures thereon authorized by this declaration, the declarant or the association, through a duly authorized agent or employee, shall have the right, after reasonable notice to the owners, to enter upon any lot to gain ingress and egress to all common property.
- 8.3 **Enforcement.** Enforcement of this Declaration shall be by proceedings at law or in equity against any person violating or attempting to violate these Covenants either to restrain the violation or to recover damages. The failure to enforce any of these Covenants shall not be deemed a waiver of the right to do so thereafter. The party seeking enforcement of this Declaration shall be entitled to recover from the party violating this Declaration reimbursement for all costs and expenses of litigation including reasonable attorneys' fees, witness fees, service of process fees, deposition costs, expert witness fees and any other costs incurred in attempting to secure such relief.
- 8.4 **Variances.** Declarant hereby reserves the right to grant a reasonable variance or adjustment of these conditions and restrictions in order to improve the value or aesthetics of the subdivision, or overcome practical difficulties and prevent unnecessary hardships arising by reason of the application of the restrictions contained herein. Such variances or adjustments shall be granted only in cases where the granting thereof shall not be materially detrimental or injurious to other property or improvements of the neighborhood and shall not defeat the general intent and purpose of these restrictions. Such right of variance shall be vested in the Architectural Review Committee upon the declarant selling the last lot in Twin Ponds, and such additional property as may be brought within the jurisdiction of this declaration and houses being constructed on each and every such lot.
- 8.5 **Notices.** Any notice required to be sent to any 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 owner.
- 8.6 **Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall not effect any other provision which shall remain in full force and effect.

In witness whereof, the undersigned, being the declarant herein, has hereunto set his hand as of the day and year first above written.

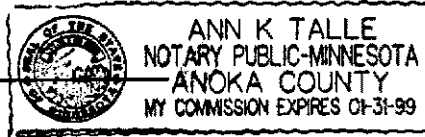
TWIN PONDS CORPORATION

Suzanne L. Detlefsen
by Suzanne L. Detlefsen
Its President

State of Minnesota)
ss.)
County of Anoka

The foregoing instrument was acknowledged before me this 9TH day of SEPTEMBER, 1993, by Suzanne L. Detlefsen, President, Twin Ponds, Inc.; Declarant.

Ann Kalle
Notary Public



THIS INSTRUMENT WAS DRAFTED BY:

19.50

*

QUIETUS CORPORATION
15580 Andrie St. NW
Ramsey, MN 55303
(612) 441-7155

Office of County Recorder
Scott County, Minn.
I hereby certify that the within instrument was recorded in this office for record on the 2nd day of Dec A.D. 1993 at 2:00 o'clock P and duly recorded as 325810 Document No.
Richard
Acting County Recorder
By _____ Deputy