

954082

DECLARATION

THIS INDENTURE made this 23rd day of September, 1969, by NELSON LAND & REALTY COMPANY, a Minnesota corporation, fee owner, hereinafter sometimes called "Company", and BUILDERS FINANCE COMPANY, a Delaware corporation, as mortgagee, said parties collectively hereinafter referred to as "Declarants".

WHEREAS, Declarants are the owner and mortgagee, respectively, of the real property described in paragraph numbered 1 of this Declaration and are desirous of (creating protective covenants, restrictions and easements) affecting the real property described in said paragraph 1, as provided below;

NOW, THEREFORE, the Declarants do hereby adopt the following restrictions, covenants and conditions, and do hereby declare that the real property hereinafter described shall be held and conveyed, and shall be subject to said restrictions, covenants and conditions all of which shall run with the land and shall apply to the real property hereinafter described, whether or not the same be expressly stated or referred to in any instrument of conveyance, conveying any part or portion of said real property:

1. Property Subject to this Declaration. Except as limited in paragraph 23, the following property shall be subject to this Declaration:

Outlots A to E, inclusive;  
 Lots 1 to 7, inclusive, Block 1;  
 Lots 1 to 9, inclusive, Block 2;  
 Lots 1 to 7, inclusive, Block 3;  
 Lots 1 to 4, inclusive, Block 4;  
 Lots 1 to 4, inclusive, Block 5, all in Larch  
 Heights Lagoon 2nd Addition.

2. Residential Lots. No lot shall be used except for single-family, residential purposes. No building shall be erected, altered, placed or permitted to remain on any said lot other than

one detached, single-family dwelling, not exceeding two stories in height and an attached, semi-detached or detached private garage for not more than three (3) cars.

3. Size and Fences. No dwelling shall be erected or placed on any lot which has an enclosed, heated living space area, exclusive of basement space, of less than 1,250 square feet on the ground floor of a one story or split level dwelling, nor less than 900 square feet on the ground floor of a one and one-half story dwelling, nor less than 800 square feet on the ground floor of a two story dwelling. Fences, if erected, must be restricted to the lot area behind the building setback line, established by the Village of Plymouth, and must be of a character so as not to detract from the area.

4. Temporary Structures. No structure of a temporary character, and no trailer, basement, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

5. Finish of Exterior. The exterior of all dwellings and garages erected or placed upon any lot shall be completely finished within eight months after the commencement of construction thereof. Such exterior finish shall consist of permanent materials such as stone, stucco, brick or wood.

6. Easements. Easements for the installation and maintenance of public utilities and drainage are reserved as shown on the plat of Larch Heights Lagoon 2nd Addition.

7. Nuisances. No noxious or offensive activity shall be carried upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

8. Ground Fill on Lot. Where fill is necessary on the lot to obtain the proper topography and finished ground elevation, it shall be ground fill free from waste material and shall not contain

noxious materials which give off odors of any kind, and all dumping of fill material shall be leveled immediately after completion of the building.

9. Soil Removal. No sod, soil or gravel shall be sold or removed from the premises described above, except as approved in writing by the Architectural Control Committee, and all soil or gravel available from any excavation for the construction or alteration of a dwelling, and appurtenance on any lot, and by whomsoever owned, shall be hauled and disposed of at other points within the boundaries of said addition as shall be determined and designated by the Architectural Control Committee.

10. Preservation of Trees. No tree with a diameter of two inches or more with a height of four feet from the ground level beyond ten feet from the approved house location, shall without approval of the Architectural Control Committee be cut down, destroyed, mutilated, moved or disfigured, and all such existing trees shall be protected during construction and preserved by wells and proper grading, as approved by the Architectural Control Committee.

11. Sodding of Lawn. All lots shall be finish graded immediately after completion of a building, and the lawn area of the front and side yard adjacent to the dwelling shall be sodded within one month after completion of the dwelling, provided that if the dwelling is completed after November 15th of any year, then the front and side yard shall be sodded on or before May 15th of the following year.

12. Animals and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose or allowed to annoy neighbors.

13. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste 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 suitably screened from view from streets.

14. Water Supply and Sewage Disposal. The location, installation, maintenance of all wells for private water supply in all private sewage disposal systems shall be in strict conformity and compliance with all existing laws, ordinances and regulations of those governmental bodies having jurisdiction thereof.

15. Approval of Design and Location of Buildings. No building shall be erected, placed or altered on any lot until the building plans, specifications and plot plans, showing the location thereof, have been approved in writing by the Architectural Control Committee, referred to in paragraph 22, as to quality, materials, harmony of external design and colors with existing and planned structures, and as to location with respect to topography, setbacks, finish grade, elevations, driveways and planting. In the event said committee or its designated representative fails to approve or disapprove by majority vote said design and location within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the erection of such building or the making of such alterations has been commenced within sixty (60) days from the commencement of construction (which is defined as the date of pouring of footings), such approval will not be required and this covenant will be deemed to have been fully complied with. Neither the members of such committee nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant.

16. Lagoon Easement. Easements to permit the doing of every act necessary and proper to the maintaining, dredging, opening, reopening or repairing the lagoon as shown on the plat by a dotted line and the words "lagoon" or "water line", including removal of debris, weeds or other obstructions, are hereby granted and established. The company shall have the right to prescribe in writing to the owners of lots abutting the lagoon or to the Improvement Association the manner and extent to which the rights under this easement shall be exercised. The company may assign its rights hereunder to said Improvement Association.

17. Waters. Boat landings, docks and mooring posts in the lagoon shall be constructed only in accordance with plans and specifications therefor, approved by the Architectural Control Committee or its duly authorized representative. The owners and occupants of land in Larch Heights/<sup>Lagoon</sup>2nd Addition shall have an easement and right and privilege as appurtenant to their lots in common for the purposes of fishing, hunting, boating, swimming and other recreational uses in the waters of the channel, lagoon and Bass Lake. No rafts shall be permitted or anchored off shore in the channel or lagoon at any time.

18. Easements Over Outlots. The owners and occupants of the lots in the subdivisions as set forth below shall have a non-exclusive easement for the benefit of any such lot for pedestrian traffic, specifically excluding all motor vehicles, for egress and ingress to the lagoon and Bass Lake, over that part of the outlots in Larch Heights Lagoon 2nd Addition not under water, set forth below:

<u>LOTS</u>	<u>BLOCK</u>	<u>ADDITION</u>	<u>OVER OUTLOTS</u>
1 through 7	3	Larch Heights Lagoon 2nd Addition	A, B and C
1 through 4	4	"	A and C
1 through 4	5	"	A, C and D
1 through 3	1	"	A and E
4	1	"	A and D
5 through 7	1	"	A and B
4 and 5	1	Larch Heights Lagoon	A and E

Said owners and occupants have the further right and privilege to construct and maintain boat landings, docks and moorings adjacent to the shore line of the aforesaid outlots, but only upon approval by the Architectural Control Committee or its duly appointed representative.

19. Boathouses and Docks. No boathouses shall be permitted. Boat docks, the highest projection of which shall not exceed the elevation of the land adjoining such docks, shall be permitted to be constructed adjoining any waterfront lot provided, however, that no such boat docks shall be erected, constructed, maintained or permitted which will extend beyond ten feet from the shore line of any lot on the channel or lagoon.

20. Homeowners Association. For the purpose of maintaining said lagoon as aforesaid and all common community services of every kind and nature required or desired within the plat for the general use and benefit of the lot owners, each and every lot owner, in accepting a deed or contract for any lot, shall be a member of the Larch Heights Improvement Association, which association the Company shall cause to form as a non-profit corporation under the laws of the State of Minnesota.

21. Sewage Disposal. Until a sewage treatment plant shall be provided, a septic tank and drain field, or any such system as may be prescribed by the Village of Plymouth officials, shall be placed on each lot by the property owner in accordance with the requirements of the Public Health Department having jurisdiction over the premises. When and if a sewage treatment plant and collection system for the service of the premises is provided it shall be used as the sole means of sewage disposal for such premises.

22. Architectural Control Committee. There shall be an Architectural Control Committee composed of: Gordon R. Nelson, Route 3, Osseo, Minnesota, and Robert D. Nelson, 5017 Wisconsin Avenue North, Minneapolis, Minnesota. The committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining member shall have full authority to designate his successor.

23. Exceptions. Lots 1 to 4, inclusive, Block 4; and Lots 1 to 4, inclusive, Block 5 (all such lots lying south of 53rd Avenue) shall be excepted from the restrictions and covenants set forth in paragraphs numbered 2 and 3 above. Outlots A to E, inclusive, shall also be excepted from paragraphs numbered 2, 3, 4, 5 and 21.

24. Term. The covenants shall run with the land and shall remain in full force and effect for a period of thirty (30) years from date hereof, after which time said restrictions, covenants and conditions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority

of the ten owners of said lots have been recorded, agreeing to change said covenants in whole or in part, provided, however, that during the initial thirty-year period, a majority of the Architectural Control Committee has the right to amend, change, alter, modify, cancel or eliminate all or any portion of the foregoing restrictions, covenants and conditions as to all or any one of said lots.

25. Enforcement. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.

26. Separability. A violation of any one of these covenants by judgment or court order shall in no wise effect any of the other provisions, which other provisions shall remain in full force and effect.

IN TESTIMONY WHEREOF, NELSON LAND & REALTY COMPANY, a Minnesota corporation, and BUILDERS FINANCE COMPANY, a Delaware corporation, have caused this Declaration to be executed by its President and its Secretary-Treasurer; and by its President and its Vice President, respectively, and their respective corporate seals to be hereto affixed the day and year first above written. *NELSON LAND & REALTY COMPANY HAS NO CORPORATE SEAL.*

Witnesses:

*Wm J. Miller*  
*James E. Korman*

NELSON LAND & REALTY COMPANY

By *Robert F. Nelson*  
Its President

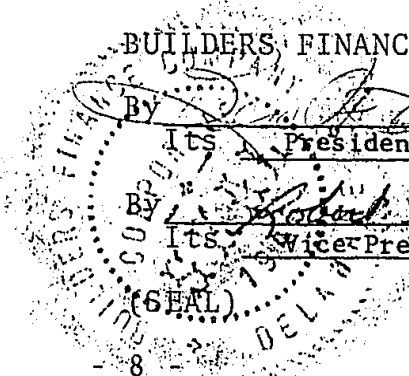
By *[Signature]*  
Its Secretary-Treas.  
(NO)  
(SEAL)

*C. Bowman*  
*S. Horu*

BUILDERS FINANCE COMPANY

By *[Signature]*  
Its President

By *[Signature]*  
Its Vice President



(SEAL)

STATE OF MINNESOTA )  
 ) SS  
COUNTY OF HENNEPIN)

On this 23 day of September, 1969, before me a Notary Public within and for said County, personally appeared Robert D. Nelson and Gordon R. Nelson, to me personally known, who, being each by me duly sworn they did say that they are respectively the President and Secretary-Treasurer of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and said Robert D. Nelson and Gordon R. Nelson acknowledged said instrument to be the free act and deed of said corporation.

Robert J. Miller  
Robert J. Miller  
Notary Public, Hennepin County,  
Minnesota.  
My Commission expires: 9/28/74

TAXES PAID AND TRANSFER ENTERED  
SEP 29 1969  
GEORGE B. HICKEY, AUDITOR  
HENNEPIN COUNTY, MINN.  
BY J. H. Hest DEPUTY

STATE OF MINNESOTA )  
 ) SS  
COUNTY OF HENNEPIN)

On this 23rd day of September, 1969, before me a Notary Public within and for said County, personally appeared Ben F. Sweazey and Robert G. Morley to me personally known, who, being each by me duly sworn they did say that they are respectively the President and Vice President of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and said Ben F. Sweazey and Robert G. Morley acknowledged said instrument to be the free act and deed of said corporation.

TAXES PAYABLE IN 1969  
ON WITHIN DESCRIBED  
PROPERTY ARE PAID.  
CONDITIONAL RECEIPT  
ISSUED.

Arthur O. Johnson  
Notary Public, Hennepin County,  
Minnesota.  
My Commission expires: 6/6/75

Kenneth E. Pettigrew  
COUNTY TREAS.  
Darryl G. Wallace  
DEPUTY

ARTHUR O. JOHNSON  
Notary Public, Hennepin County, Minn.  
My Commission Expires June 6, 1975.

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Nelson  
Public

OFFICE OF REGISTRAR OF TITLES  
STATE OF MINNESOTA  
COUNTY OF HENNEPIN

I hereby certify that the within instrument  
was filed in this office on the  
2 day of OCT A. D. 1969 at  
8<sup>40</sup> o'clock A. M.

*Ben H. Allison*  
REGISTRAR OF TITLES

By *S. Fisher*  
DEPUTY REGISTRAR OF TITLES