

## **DECLARATION OF THOMSON PRESERVE CONDOMINIUM**

THIS DECLARATION is made and entered into by Prairie Walk Development, LLC (the “Declarant”), pursuant to Chapter 703 of the Wisconsin Statutes, the Condominium Ownership Act, as the same may be amended, renumbered, or renamed from time to time (the “Act”).

### **WITNESSETH:**

Declarant owns certain real property located in Menomonee Falls, Wisconsin (the “Property”), as is further and particularly described on Exhibit A attached hereto. Declarant intends to create a condominium under the Act which consists of eighteen (18) units that are each a cubicle within which a unit owner (an “Owner”) may build a residence, together with certain other improvements in connection therewith, all in strict accordance with this Declaration (“Condominium”).

Declarant intends by this Declaration to submit the Property and improvements to the condominium form of ownership under the Act and further desires to establish, for its own benefit and that of all future owners and occupants of the Condominium, certain easements, rights, restrictions, and obligations with respect to the ownership, use, and maintenance of the Condominium on the terms and conditions hereinafter set forth.

The name of the Condominium is “Thomson Preserve Condominium.”

An informational and reference copy of the plat of condominium to be recorded in accordance with the Act (“Plat”) is attached as Exhibit B, and any official use or reference should be made to the actual recorded copy of the Plat.

The addresses of the Condominium are as set forth on attached Exhibit C.

NOW, THEREFORE, Declarant, the fee owner of the Property, by this Declaration hereby (i) submits the Property and any improvements, subject to taxes and assessments not yet due and payable, municipal and zoning ordinances, recorded easements and restrictions, if any, and all other matters of record, to the condominium form of use and ownership as provided in the Act and this Declaration; (ii) establishes and imposes the following provisions, restrictions, conditions, easements, and uses to which the Condominium may be put; and (iii) specifies that the provisions of this Declaration shall constitute covenants to run with the land and shall be binding on Declarant, its successors and assigns, and all subsequent owners and occupants of all or any part of the Condominium.

### **ARTICLE I**

#### **DIVISION OF CONDOMINIUM INTO SEPARATE FREEHOLD ESTATES**

Declarant divides the Condominium into the following separate freehold estates:

1. Eighteen (18) separate residential freehold estates (a “Unit” or collectively, the “Units”), consisting of the space or area and all fixtures or improvements, contained within the boundaries of each such Unit as follows:

- a. The vertical boundaries shall be the perimetrical boundaries shown on the Plat, extended to the upper and lower boundaries of the Unit.
- b. The lower and upper boundaries shall be: (i) lower boundary – a horizontal plane located twenty-five (25) feet below the ground; and (ii) upper boundary – a horizontal plane located thirty-five (35) feet above the ground; each extended to the perimetrical boundaries shown on the Plat.
- c. Each Unit also includes all portions of the plumbing, heating, electric, natural gas, air conditioning, cable, telecommunications, and other systems serving only that Unit even if located partially outside the boundaries of the Unit.
- d. For the avoidance of doubt, each Unit includes all improvements constructed within such Unit.

2. A freehold estate in the “Common Elements” of the Condominium as hereinafter described.

## **ARTICLE II**

### **DESCRIPTION AND LOCATION OF THE CONDOMINIUM AND UNITS**

The legal description of the Property is as shown on Exhibit A.

The Property, including the Units and Common Elements, are shown on the Plat, Exhibit B.

The respective addresses of the Units are described on Exhibit C.

## **ARTICLE III**

### **DESCRIPTION OF COMMON ELEMENTS**

The Common Elements shall consist of all of the Condominium except the Units. The Common Elements include only the stormwater retention and open space areas shown on the Plat. There are no limited common elements in the Condominium.

## ARTICLE IV

### PERCENTAGE OF OWNERSHIP IN COMMON ELEMENTS

1. Ownership. The ownership of each Unit shall include a one-eighteenth (“1/18<sup>th</sup>”) fractional and undivided interest in the Common Elements.
2. Sharing of Expenses and Surpluses. The common surpluses and expenses of the Condominium relating to the Common Elements shall be shared among the Owners of all Units according to their percentage of their undivided interest in the Common Elements, as expressed above.
3. Use of Surpluses. All common surpluses of the Condominium for each fiscal year of the below described Association shall be credited to the reserves or replacement funds for common expenses of the Condominium for the next succeeding fiscal year or years.

## ARTICLE V

### ASSOCIATION OF UNIT OWNERS

1. Administration. The Condominium shall be administered by a non-profit corporation known as Thomson Preserve Condominium Owners Association, Inc. (the “Association”). The Association shall be governed by a board of directors (the “Board of Directors”). The Board of Directors shall adopt bylaws (“Bylaws”) and may adopt rules and regulations (“Rules and Regulations”) in furtherance thereof.
2. Membership and Voting. Each Owner shall be a member of the Association. One (1) vote shall appertain to each Unit. Membership shall commence and terminate with ownership. The manner of sharing and casting ballots shall be set forth in the Bylaws.
3. Declarant Control. The Association shall be subject to Declarant control as provided in Article X. Prior to the conveyance by Declarant of twenty-five percent (25%) of the undivided interest in the Common Elements to purchasers, the Association shall hold a meeting and the Owners other than the Declarant shall elect at least twenty-five percent (25%) of the Board of Directors. Prior to the conveyance of fifty percent (50%) of the undivided interest in the Common Elements to purchasers, the Association shall hold a meeting and the Owners other than the Declarant shall elect at least one-third (1/3) of the Board of Directors.
4. Association Management. Subject to Article X, the Board of Directors may employ a professional property manager, management company or managing agent on a salaried basis with such experience and qualifications and on such terms and conditions as may be acceptable to the Board of Directors. Any such agreement must be terminable without fee upon no more than ninety (90) days’ notice and the term thereof may not exceed three (3) years.
5. Condominium Instruments. The Association shall make available to Owners and to holders, insurers, or guarantors of any mortgage of a Unit, current copies of this Declaration, the Bylaws, any Rules and Regulations, and the books, records, and financial statements of the Association. “Available” means available for inspection, upon request, during

normal business hours or under other reasonable circumstances. "Mortgage" as used in this Declaration includes a land contract for a Unit.

6. Audit. The holders of any first mortgage shall be entitled, upon written request, to an audited financial statement for the immediately preceding fiscal year of the Association prepared at the expense of such mortgagee. Such financial statement shall be furnished within a reasonable time following such request. A "first mortgage" is one which is entitled to priority over all other mortgages for such Unit, without regard to other liens and encumbrances.

7. Easements. The Association shall have the right to grant permits, licenses, and easements over the Common Elements and that area within five feet of the inside of the Unit boundary, for utilities and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium, on such terms and conditions as the Board of Directors may deem advisable.

8. Services. The Association, may, at its sole discretion, arrange for or provide services to owners and their Units, directly or through contracts with the Declarant or other third parties, including service agreements by which a particular service is provided to all Units as a common expense, or service contracts offering services at the option of each Owner with the charges for such service being a specific charge to the Owner, or a specific assessment against the Owner's Unit, or both. Any Association contract for services may require individual Owners or occupants to execute separate agreements directly with the persons providing services in order to gain access to or obtain specified services. Such contracts and agreements may contain terms and conditions as may be just, including provision for termination of services provided to such Unit. Any such termination shall not relieve the Owner of the continuing obligation to pay assessments for any portion of the charges for such service that are assessed against a Unit as a common expense. In its discretion, the Association may discontinue offering particular services and may modify or cancel existing contracts for services, subject to the contract terms and any provision that may exist elsewhere in the governing documents requiring the Association to provide such services. Notwithstanding anything to the contrary in this Declaration, the Association will enter into contracts for the following services, which will be a common expense to all Owners:

- a. Lawn Care. The Association will contract for lawn mowing and string line trimming services for the Owners' lawns, on terms and conditions reasonably acceptable to the Association. Notwithstanding the foregoing, if an Owner causes an unreasonable modification to such Owner's lawn that would result in an increased costs for the services under this Section 8.a, then the Association may either (i) suspend such services for such Owner, or (ii) levy a special assessment against such Owner, who shall be responsible for the increased cost. Services under this Section 8.a will not include hedge trimming, maintenance of shrubs and trees, gardening services, or mowing any areas immediately adjacent to [1] trees, [2] playsets, [3] pools, or [4] other raised improvements, which shall remain the sole responsibility of Owner. The Association will not be liable for damage to Owner's property occasioned from the provision of these services.

- b. Snow Removal. The Association will contract for snow removal and de-icing services for the Owners' driveways and sidewalks, on terms and conditions reasonably acceptable to the Association. Notwithstanding the foregoing, if an Owner causes an unreasonable modification to such Owner's driveway or sidewalk that would result in an increased costs for the services under this Section 8.b then the Association may either (i) suspend such services for such Owner, or (ii) levy a special assessment against such Owner, who shall be responsible for the increased cost. Services under this Section 8.b will not include hedge trimming, maintenance of shrubs and trees, or any other gardening services. The Association will not be liable for damage to Owner's property occasioned from the provision of these services.

9. Approvals. The Association may approve or disapprove any proposal submitted to it pursuant to this Declaration, but shall apply one or more of the following criteria in considering any proposal and/or may apply any additional criteria as the Board of Directors deems prudent: (i) matters of access and convenience to other Units; (ii) requiring the written agreement of the owner of the Unit making the proposal to pay the costs of restoring Common Elements affected by such proposal to their prior physical condition upon the termination of such use; and (iii) requiring the owner of the Unit making the proposal to agree, in writing, to pay a fair and reasonable monthly charge to the Association for any encroachment on Common Elements resulting from the proposal. The Board of Directors may, at its discretion, impose further conditions upon its consent to any proposal as it deems appropriate. There will be no deemed approvals of any Owner's proposal.

## **ARTICLE VI**

### **MAINTENANCE, USE, ALTERATION, AND IMPROVEMENT OF CONDOMINIUM**

1. General Purpose. The general purpose of this Article is to assure that the Condominium will become and remain an attractive community and toward that end to preserve and maintain the natural beauty and the natural plant life and wildlife habitat of certain open spaces and areas within the Condominium; to insure the best use and the most appropriate development and improvement of each Unit; to protect the Owners against such use of surrounding Units as will detract from the value of their Unit; to guard against the erection thereon of poorly designed or proportioned structures; to obtain harmonious use of materials; to insure the highest and best residential development of the Condominium consistent with the purposes for which it is declared; to encourage and secure the erection of attractive structures thereon, with appropriate locations thereof on Units; and to secure and maintain proper spatial relationship of structures and Unit lines.

2. Residential Unit. No Unit shall be used except for residential purposes. No structure shall be erected, altered, placed, or permitted to remain on any such Unit other than:

- a. one (1) single family home ("Home"), not exceeding two and one-half stories in height; and

- b. an attached private garage for not less than two (2) cars with a minimum of 400 square feet; and
- c. subject to approval by the Board of Directors, one (1) outbuilding incidental to residential use of the Unit; and
- d. any such other improvements only as expressly permitted by this Declaration.

3. Home Sizes. Homes erected within any Unit must meet or exceed the following minimum area requirements:

- a. Not less than 1,400 square feet for a one-story Home;
- b. Not less than 1,000 square feet for the first floor of a one and one-half or two-story Home and not less than 1,800 square feet for both the first and second floors combined; or
- c. Not less than 1,800 square feet on the upper floors of a split-level or bi-level Home. Upper floors are defined as the total living area on those floors immediately below the roof, regardless of whether they are at the same elevation.
- d. With respect to all other types of Home, not less than such areas, determined by the Board of Directors in its sole discretion, to be consistent with the foregoing and with other provisions hereof.
- e. Minimum area square footage calculations by the Board of Directors shall be made from the outside face of exterior wall construction and include all walls. Window, fireplace, and room projections are included only when floor joists are extended under those areas. Decks, porches, garages, carports, attics, space labeled "optional" or "bonus," breezeways, sunrooms, or similar additions and floor area below finished yard grade will be excluded from calculation.
- f. For purposes of calculating total area, the Board of Directors, in its sole discretion, shall determine what constitutes a one-story, a one and one-half story, a two-story, or a tri-level Home.
- g. In no event shall any Home be erected on any Unit containing a total area of less than 1,400 square feet as measured above.
- h. No Home shall be constructed which shall be a substantial duplication of another previously approved or constructed Home located within two hundred fifty (250) feet of the proposed Home, inside or outside the Condominium.

4. Approval Required. In order to maintain harmony in appearance and to protect the Owners of the Units in the Condominium, no Home, accessory building, fence, sign, wall, swimming pool, or other structure shall be erected, constructed, or maintained upon any Unit nor shall any change or alteration be made thereon unless the complete plans and specifications thereof, a plot plan showing the exact location of such Home, accessory building, fence, sign, wall, swimming pool, or other structure, the elevation thereof and the grade of the Unit and a sketch or view of such Home, accessory building, fence, sign, wall, swimming pool or other structure or changes, shall have been submitted to and approved in writing by the Board of Directors. The decision of the Board of Directors shall be final and binding upon all parties. The Board of Directors shall have the right to refuse to approve any such plan or specifications which are not in conformity with these restrictions or are not desirable for aesthetic or any other reason. In passing upon such submission, the Board of Directors may take into consideration the suitability of the proposed Home, accessory building, fence, sign, wall, swimming pool or other structure, its design, elevation, and the materials of which it is to be constructed on the Unit; the harmony thereof with the surrounding Homes and the view of and from adjacent property. All decisions of the Board of Directors shall be final. The Board of Directors shall have the right to approve variations or waive minor infractions or deviations from these restrictions as provided below.

5. Setbacks and Locations. Setbacks and locations of all Homes, accessory buildings, fences, signs, walls, swimming pools, or other structures shall be compliant with any applicable governmental regulation, including the ordinances of the Village of Menomonee Falls (“Village”) and shall also be as follows:

- a. There shall be a minimum front yard setback of twenty-five (25) feet from the back of curb of a private street and thirty (30) feet from the back of curb of a public street.
- b. There shall be a minimum side yard setback of twenty (20) feet from the side of a structure to another structure and from the side of a structure to a property line.
- c. There shall be a minimum rear yard setback of twenty (20) feet from a property line.

All setbacks must be verified with the Village by the Owner prior to submitting plans to the Board of Directors for review. Variations from setback requirements may be allowed by the Board of Directors as provided below if an appropriate governmental variance has been previously approved. Governmental approval, or compliance with a governmental setback or requirement does not mean the Board of Directors must also approve, and the Board of Directors may decline to approve a variation irrespective of the granting of a governmental variance.

6. Garages, Parking, Parking Outdoor Storage. All garages shall be large enough to accommodate a minimum of two (2) cars. No truck, boat, mobile home, “POD” or portable storage unit, or trailer of any kind may be parked on a Unit outside of the garage other than for the delivery of materials or merchandise, except for periods not to exceed one (1) week during construction, servicing, remodeling, or moving periods; upon receipt of a written request, the Board of Directors may grant a variation with conditions. No vehicle shall be parked or stored

on a Unit outside the garage while being repaired or restored for longer than an eight-hour period. No commercial vans or commercial trucks may be stored, parked, or placed overnight in a driveway of the Condominium without a permit issued by the Board of Directors, which permit may be issued in the discretion of the Board of Directors.

7. One Year to Complete. All Homes shall be completed within one (1) year from the date ground is broken.

8. Permitted Materials.

- a. No used materials will be permitted in the construction of any structure in the Condominium except materials such as reclaimed brick, which may be permitted with prior approval of the Board of Directors.
- b. Any accessory building or other structure, if approved, shall utilize the same roof and exterior materials as the Home.
- c. The exterior material of the Homes shall be a combination of brick, veneer, wood, “through color” vinyl or wood composite or PVC materials, or cement board composites. Manmade materials such as, but not limited to, aluminum siding and artificial stucco siding are not allowed. Aluminum soffit and fascia may be permitted. Cement board siding products and vinyl siding with a minimum gauge thickness of 0.044 will be permitted. Cultured stone and prefinished fiber sidings may be allowed upon specific approval by the Board of Directors.
- d. Approved roofing materials are limited to the following:
  - (i) Cedar Shakes,
  - (ii) Cement or Clay Tile,
  - (iii) Slate, or
  - (iv) Dimensional Asphalt Shingle, which are manufacturer guaranteed for thirty (30) years or longer.

9. Roof Pitch. The required minimum roof pitch is 7:12.

10. Variations. The Board of Directors, on a finding that the specific facts of an application or circumstance so require and where such variation will benefit the Unit in question and the Condominium as a whole, may vary from any such standard that it has adopted or may waive any standard in this Declaration. The Board of Directors may, in its discretion, also permit comparable or superior construction materials as substitutes for those required in this Declaration. Any such variation must be express and in writing. Granting of a variation in one instance will not amend or modify this Declaration. The Board of Directors may enforce any standard even if it has, expressly or by acquiescence, permitted previous variation from such standard. Any



variations granted hereunder may be conditioned, and may be permanent or time-limited, and if not expressly time-limited will be deemed to be effective for so long as the use of such Unit is not materially altered. Variations provided hereunder are not governmental variances, and the Board of Directors may grant a variation as above in the absence of hardship and standards for granting governmental variances under zoning regulations shall not govern, constitute, or be construed as the standards to be applied by the Board of Directors.

11. Compliance with Law. No noxious or offensive activity, nor any activity which is violative of the Village code, county ordinance, or state law, as applicable, shall be carried on upon any Unit nor shall anything be done thereon which may be or may become an annoyance or nuisance to any other Owner or the Condominium. No Home may be occupied until it has been substantially completed in accordance with the plans and specifications submitted to and approved by the Board of Directors and an occupancy permit obtained from the Village.

12. Drainage and Grading. A master surface drainage and grade plan has been prepared by the Declarant designating the manner in which each Unit shall drain in relation to all other Units in the Condominium, and designating the grade elevation of the Home to be constructed thereon. A copy of this plan is on file in the office of the Declarant and with the Village. At the time a building permit is requested, the grade elevation of each Home shall be obtained from the Village, and the Home shall be constructed accordingly. No deviation therefrom shall be permitted without the prior written approval of the Village and the Board of Directors. Within thirty (30) days after completion of a Home on any Unit in the Condominium, the owner of said Home shall grade the Unit to conform to said drainage plan and from that time forward nothing shall be done which will impede or obstruct the flow of surface drainage water in accordance with the plan. Silt fences, hay bales, and/or erosion control measures may be placed at various locations in the Condominium by the Declarant or as ordered by any governmental authority in the course of development of the Condominium. Owners are required to maintain said silt fences until such time as turf cover is restored to all disturbed areas, and to comply with any orders of any governmental authority requiring additional silt fencing, hay bales, removals, and/or other erosion control measures for their Unit. If an Owner fails to comply with such order within twenty-four (24) hours, such governmental authority or the Association shall have the right to cause such work to be done, and to charge the cost thereof to the Owner, which if not paid shall be added to the tax bill as a special assessment by the governmental authority or as a special charge by the Association pursuant this Declaration for the Unit in question.

13. Fill. Where fill is necessary to obtain the proper topography and finished ground elevation, it shall be free of waste material and shall not contain noxious materials, refuse or pollutants. Dumped fill material shall be leveled immediately after completion of the Home. Said fill is also subject to all applicable regulation of any governmental body with jurisdiction, regulation, including but not limited to, a fill permit issued by the Village, and any other governmental authority.

14. Swimming Pools. Only in-ground swimming pools are permitted, when installed in accordance with Village requirements. No above-ground swimming pools, other than temporary, portable above-ground pools with a diameter not to exceed twelve (12) feet and height not to exceed thirty-six (36) inches are permitted, provided they shall be kept in the rear yard and not in the driveway, front yard, or side yards. No other above-ground swimming pools are

permitted. Board of Directors approval must be obtained for location and size of portable swimming pools greater than forty-eight (48) inches in diameter.

15. Fences. Lot line or perimeter fences are not permitted. Privacy or ornamental fences, or pool fences will be permitted, provided they are constructed of wood, ornamental iron, or manmade product approved by the Board of Directors and are a maximum of six (6) feet in height, and the design thereof has been submitted to and approved by the Board of Directors and Village in advance of construction thereof. Compliance with all Village fence regulations is required. Fence locations shall not conflict with underground public utility facilities.

16. Playsets. Children's outdoor play structures shall be permitted in the rear yard and not in the front yard or side yard. The Board of Directors' approval must be obtained for location and appearance before construction or placement. Outdoor sport courts and similar implements are not allowed.

17. Signage. No signs of any kind shall be displayed in any Unit except one (1) sign of not more than one (1) square foot in area advertising a home-based occupation permitted by this Declaration, or a sign of not more than five (5) square feet advertising a Unit for sale or rent, or signs used by a building contractor or by the Declarant to advertise the Unit during the construction and sales period or during a Parade of Homes or similar event. All such signs must be professionally designed and produced and in compliance with all Village requirements.

18. Landscaping. A landscape plan must be reviewed and approved by the Board of Directors as a part of the initial approvals for the construction of the Home. Yards within Units shall be landscaped and seeded or sodded within six (6) months after completion of the Home. A Unit's landscaping shall include any area from the front Unit line and the edge of the street pavement between the side Unit lines extended. Landscaping must include an asphalt, concrete or decorative drive, parking stand or turnabout. All landscaping must be of a conventional nature. No stone aggregate lawn, or wild or prairie type vegetation substitutes for a typical grass, seed or sod, lawn will be allowed.

19. Trees. No existing tree with a diameter of four (4) inches or more at a height of four (4) feet from the ground, beyond fifteen (15) feet from the outside perimeter of the approved Home location, shall, without prior written approval of the Board of Directors, be cut down, destroyed, mutilated, moved, or disfigured. All existing trees shall be protected during construction and preserved by wells or islands, and proper grading in such matter as may be required by the Board of Directors. At least three (3) trees, minimum caliper of two (2) inches, shall be installed on each Unit at time of landscaping.

20. Motor Vehicles. No off-road motorcycles, ATVs, snowmobiles, trail bikes, dune buggies, go carts, or other unlicensed or off-street motorized vehicles of whatever type or description shall be operated within the Condominium.

21. Underground Utilities Only. All telephone, utility, electric, or cable service within the Condominium will be underground and no overhead service shall be provided or allowed.

22. Satellite Dishes, Antennae. Any satellite dish or antennae will comply with all applicable governmental restrictions. No satellite dishes greater than twenty-four (24) inches

in diameter shall be allowed in the Condominium. Satellite dishes less than twenty-four (24) inches in diameter and other exterior antennae for television broadcast, multi-point multi-channel distribution for television or data, or other similar purposes are subject to review and approval by the Board of Directors pursuant to this Declaration. In addition, satellite dishes and antennas shall not be free standing and shall be attached to the Home and placed to minimize view from the street and from adjacent Units, provided such placement allows reception of an acceptable quality signal and does not unreasonably delay or increase the cost of installation, maintenance, or use. No satellite dish or antennae shall be placed in any Common Area.

23. Construction Debris. It shall be the responsibility of each Owner to remove all debris caused by any and all construction work occurring on his Unit. No owner shall allow disposal of any waste building material, tree stumps, branches, tree trunks, or other material on any Unit or within the Condominium or any adjacent land, including but not limited to the Village street(s) abutting said Unit. The Owner shall be responsible for maintenance of all silt fence and other erosion control measures until final landscaping has been completed. Failure to comply will result in the Declarant advising Owner of this neglect and giving Owner twenty-four (24) hours in which to clean up their Unit or clean up off Unit waste building material, tree stumps, branches, tree trunks or other material, or repair the erosion control as directed. Failure of the Owner to perform the necessary clean up or repairs may result in the Declarant performing the required work and/or filing a lien against the Unit pursuant to this Declaration. The Owner is responsible to Declarant and/or the Village for the cost of repairing and replacing any street pavement, curb, gutter, sidewalk, or improvements which are damaged during the course of construction of the Home or improvements on the owner's Unit.

24. Retaining Walls. Retaining walls are subject to all governmental regulations, and Board of Directors approval, and shall be built of stone, brick, or decorative concrete masonry unit, but not of concrete block or unfaced poured concrete or loose rubble or stone.

25. Condominium Signage. Permanent entrance monuments, signs, lighting, or landscaping may be installed in the Common Elements by the Association with the approval of the Board of Directors.

26. Light Post and Mailbox. In order to maintain continuity in the Condominium, a customized street light with photocell and a share in a permanent mail/newspaper station must be purchased from the Declarant at the time of the closing of the purchase of a Unit. The cost of this package is \$1,200.00 and will be charged to buyer on the settlement statement at closing. The Declarant will install the mail/newspaper station in locations as directed by the U.S. Postal Service. The Owner may be required to provide an individual temporary mailbox at a common location as directed by the U. S. Postal Service prior to installation of the permanent mail/newspaper units.

27. Storm Water Management Practice Maintenance Agreement ("SWMP"). Declarant has entered into a SWMP dated March 12, 2022. The terms of the SWMP are included in and made applicable to the Condominium property pursuant to a post-construction runoff permit recorded with the Register of Deeds for Waukesha County, Wisconsin on March 14, 2022 as Document No. 4656705. The Board of Directors shall be responsible for the duties as required by

the SWMP or any such permit. Any expenses relative to the SWMP or such permit shall be borne by the Association and shall be a common expense.

28. Owner's Responsibility. The owner of each Unit shall maintain in a good and orderly condition all of its Unit, including but not limited to: (a) the Home, garage, and any other improvements constructed in such Unit; (b) the lawn (if not maintained pursuant to Article V, Section 8.a) and landscaping within such Unit; and (c) any permitted patios, decks, porches, hardscape, retaining walls, fire pits, swimming pools, playsets, or other improvements. The owner of each Unit shall also reimburse the Association for any repair or replacement of any portion of the Common Elements damaged through the fault or negligence of such owner or such owner's family, guests, invitees, or any other occupants of the Unit or invitee.

29. Association Responsibility. The Association shall maintain in good condition and repair, the Common Elements, except as provided elsewhere herein.

30. No Grading Changes by Owners. An owner of a Unit shall make no grading changes within such Unit which will adversely impact any adjacent Unit, including as to drainage.

31. Leases of Units. An entire Home and Unit may be leased for terms of not less than six (6) months. No leasing of rooms or similar division of a Home or Unit is permitted. Each occupant of a Unit pursuant to a lease shall comply with all provisions of this Declaration, the Articles of Incorporation, and Bylaws of the Association, and such Rules and Regulations as may be adopted by the Board of Directors pursuant to this Declaration or the Bylaws and each lease shall provide that a breach of any of the foregoing shall be deemed a default under the lease. Notwithstanding the foregoing, the Owner shall be responsible to the Association and each other Owner for any breach of any provision of this Declaration, Bylaws, or any Rules and Regulations caused by an occupant of such owner's Unit and the Association need deal only with the owner and shall not be obligated to address any breach with the offending occupant.

32. Pets. No animals, livestock, or poultry shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept provided they are not kept, bred, or maintained for any commercial purposes. Outside kennels are an outbuilding as provided above, subject to Association review and approval and shall be located in the rear yard and not in the driveway, front yard, or side yards.

33. No Obstructions Parking. No Owner shall cause or permit the Common Elements to be so used as to deny to other Owners the full use of such portion of the Common Elements. Accordingly, there shall be no obstruction of any Common Elements. Common Element walks and drives, if any, shall be kept clean and orderly. No personal property shall be stored, parked, or placed on the Common Elements. No more than one (1) licensed automobile shall be parked overnight in a driveway appurtenant to a Unit.

34. Waste. Units shall utilize trash and recycling services as provided by the Village. The unreasonable or unsightly accumulation of waste, litter, excess, or unused building materials or trash is prohibited. Garbage containers shall be kept inside the garage or properly screened from public view. No waste shall be disposed of by fire in incinerators, open fires, or elsewhere.

35. Noxious Activity. No use or practice shall be allowed in the Condominium which: (a) is a nuisance, (b) is immoral or improper or offensive in the opinion of the Board of Directors, or requires any alteration of or addition to any Common Elements, (c) is in violation of the Bylaws or Rules and Regulations of the Association, or (d) unreasonably interferes with or is an unreasonable annoyance to the peaceful possession or proper use of the Condominium by other Owners or occupants, including the use of lighting or amplified sound at times or manners which is reasonably objectionable in the opinion of the Board of Directors.

36. Acts Affecting Insurance. No Owner or occupant shall commit or permit any violation of the policies of insurance taken out by the Board of Directors hereunder, or do or permit anything to be done, or keep or permit anything to be kept, or permit any condition to exist, which might (i) result in termination of any such policies, (ii) adversely affect the right of recovery thereunder, (iii) result in reputable insurance companies refusing to provide insurance to the Association or Board of Directors, or (iv) result in an increase in the insurance rate or premium to the Association or Board of Directors.

37. Legal Restrictions. No unlawful use may be made of the Condominium or any part thereof, and each Owner shall strictly comply with all valid laws, orders, rules, and regulations of all governmental agencies having jurisdiction thereof (collectively "Legal Requirements"). Compliance with any Legal Requirements shall be accomplished by and at the sole expense of the Owner or owners or the Association, as the case may be, whichever shall have the obligation under this Declaration to maintain and repair the portion of the Condominium affected by any such Legal Requirements. Each Owner shall give prompt notice to the Board of Directors of any written notice it receives of the violation of any Legal Requirements affecting its Unit or the Condominium. Notwithstanding the foregoing provisions, any Owner may, at its expense, defer compliance with and contest, by appropriate proceedings prosecuted diligently and in good faith, the validity or applicability of any Legal Requirements affecting any portion of the Condominium which such Owner is obligated to maintain and repair, and the Association shall cooperate with such Owner in such proceedings, provided that:

- a. Such Owner shall pay and shall defend, save harmless, and indemnify the Board of Directors, the Association and each other Owner against all liability, loss, or damage which any of them respectively shall suffer by reason of such contest and any noncompliance with such Legal Requirements, including reasonable attorneys' fees and other expenses reasonably incurred; and
- b. Such Owner shall keep the Board of Directors advised as to the status of such proceedings.
- c. Subsections (a) and (b) above collectively called the "Conditions as to Contest."
- d. Such Owner need not comply with any Legal Requirements so long as it shall be so contesting the validity or applicability thereof, provided that (i) noncompliance shall not create a dangerous condition or constitute a crime or an offense

punishable by fine or imprisonment, and (ii) no part of any building shall be subject to being condemned or vacated by reason of noncompliance or otherwise by reason of such contest ((i) and (ii) are called the “Conditions as to Deferral of Compliance”). The Association may also contest any Legal Requirements without being subject to the Conditions as to Contest and may also defer compliance with any Legal Requirements, but only subject to the Conditions as to Deferral of Compliance. The costs and expenses of any contest by the Association shall be a common expense.

## ARTICLE VII

### ASSESSMENTS

1. Liability; Late Payments. The Bylaws shall set forth the manner of making and collecting assessments against the Owners for common expenses of the Condominium. Regular assessments and special assessments not made for violations of the provisions of this Declaration, the Bylaws, or Rules and Regulations shall be made on an annual basis but shall be due and payable in monthly installments as determined by the Board of Directors. Each Owner shall be liable for such fractional or percentage interest of the common expenses of the Condominium as is provided in this Declaration. Any assessment or installment not paid when due shall be delinquent and the Owner may be charged interest on the unpaid assessment or installment, calculated from the date when the assessment or installment was first due until the date it is paid. The Board of Directors shall establish a uniform policy with regard to the number of days that must run following the due date for interest to be charged and shall establish the rate of interest to be charged on such unpaid assessments or installments. All payments upon account shall be first applied to the interest, if any, and then to the assessment payment first due.

2. Liens. If a Owner defaults in the payment of any assessment or installment, the Association shall take appropriate measures as provided by law in accordance with the Bylaws. The lien for unpaid assessments provided in the Act shall also secure reasonable attorneys’ fees incurred by the Association incident to the collection of such assessment or enforcement of such lien. In any foreclosure of a lien for assessments, the owner of a Unit subject to a lien shall be required to pay a reasonable rental for the Unit and the Association shall be entitled to the appointment of a receiver to collect the same. To the extent permitted by the Act, the lien provided therein and herein shall be subordinate to the lien of any first mortgage on a Unit.

3. Rights of Mortgagees. Any first mortgagee who obtains title to a Unit pursuant to remedies provided in the mortgage or foreclosure of the mortgage and any party purchasing the Unit in such a foreclosure shall not be liable for such Unit’s unpaid installments of assessments which accrued prior to the acquisition of title to such Unit by such mortgagee or other party. The obligation of the former Owner to pay such assessment is not hereby extinguished.

4. Association Statements. The Association, upon ten (10) days’ request, shall provide a letter to the purchaser of any Unit which states the existence, if any, of outstanding general or special assessments against the owner of the Unit being sold; provided, however, that

all Units conveyed by Declarant shall be deemed to be conveyed free from all such outstanding general or special assessments and no such letter shall be required or given as to such Units.

5. First Assessment. Regular assessments shall be due and payable on the date of recordation hereof. The Declarant will have responsibility for paying the assessment for all Declarant owned units. The Declarant may seek proration thereof on the first sale of any Unit.

## ARTICLE VIII

### RECONSTRUCTION AFTER LOSS; CONDEMNATION

1. Reconstruction – Common Elements or Association Property. In the event of fire, casualty or any other disaster affecting any Common Element, or any real or personal property owned by the Association, any damage will be reconstructed and repaired, to substantially as existed prior to the fire, casualty, or disaster. The Association shall undertake to cause such reconstruction and repair to be accomplished within a reasonable period of time.

2. Reconstruction – Unit. In the event of fire, casualty or any other disaster affecting any Unit, including any Home or improvement within a Unit, the affected Owner shall have the sole right and responsibility to repair, reconstruct or raze. If such Owner intends to repair or reconstruct such Owner shall promptly undertake the same, and shall submit plans for such repair or reconstruction to the Board of Directors for approval if such repair or reconstruction will deviate from prior approvals for such Unit. Thereafter, such Owner shall diligently and continually pursue completion of such repair or reconstruction within a reasonable period of time. If the Owner elects not to pursue repair or reconstruction, such Owner will cause the razing or removal of any improvement on a Unit, and the return of such Unit to a safe and dust and erosion free state, including the filling of any basement.

3. Condemnation - Common Elements. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements, and agreements with the condemning authority for acquisition of the Common Elements or part thereof. The award or proceeds of settlement for a taking of part or all of the Common Elements shall be payable to the Association for the use and benefit of the Owners and their mortgagees as their interests may appear.

4. Condemnation - Units. Each Owner, or its first mortgagee as the case may be, shall have sole right and responsibility in any condemnation proceedings or in negotiations, settlements, and agreements with the condemning authority for acquisition of any Unit or part thereof. The award or proceeds of settlement for a taking of part or all of a Unit shall be payable to the involved Owner or its first mortgagee.

## ARTICLE IX

### INSURANCE

1. Association Insurance. The Board of Directors shall obtain and continue in effect insurance coverage on all improvements constituting Common Elements, if any, or otherwise on or within the Common Elements as well as personal and real property owned by the Association in an amount equal to the maximum insurable replacement value, with “inflation

guard,” “special condominium” and “condominium replacement cost” endorsements, without deduction or allowance for depreciation, which amount shall be determined annually by a recognized appraiser or insurer as selected by the Board of Directors, affording protection against loss or damage by fire and such hazards covered by a standard extended coverage endorsement and all risk endorsements and such other risks or hazards as from time to time shall be customarily covered with respect to improvements, personal and real property similar in construction, location and use. Said insurance shall be for the benefit of the Association and the Owners of Units and their mortgagees as their interests in such insured property may appear; provided, however, all proceeds payable by reason of said insurance shall be paid to the Association as trustee for the Owners of Units and their mortgagees for the express purpose of reconstruction and repair or as otherwise provided herein. Each policy obtained by the Association shall contain a “severability of interest” endorsement and a standard mortgagee clause endorsed to provide that the proceeds are payable to the Association for the use and benefit of the mortgagees as their interests may appear. For the avoidance of doubt, the foregoing is the sole responsibility of the Association pursuant to Section 703.17 of the Act, and for the purposes of that provision, “property” is limited to the Common Elements and any personal or real property owned by the Association.

2. Association Liability Insurance. In addition to the hazard insurance coverage provided above, the Board of Directors shall obtain comprehensive general public liability insurance in such amounts equal to or exceeding One Million Dollars (\$1,000,000.00) for a single occurrence covering all the Common Elements or property owned by the Association. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries, and deaths of persons in connection with the operation, maintenance, or use of the Common Elements and legal liability arising out of actions related to employment contracts of the Association. Such policy must provide that it may not be cancelled or substantially modified, by any party, without at least ten (10) days’ prior written notice to the Association. The Board of Directors may also obtain such other insurance as it determines from time to time to be desirable including without limitation directors’ and officers’ errors and omissions coverage.

3. Cost; Waiver. All insurance premiums for any insurance coverage obtained by the Board of Directors shall be a common expense of the Condominium. The Association and each Owner hereby expressly waive any claim it or they may have against the other for any loss insured under any policy obtained by the Board of Directors, however caused, including such losses as may be due to negligence of such other party, its agents, or employees. All such policies of insurance shall contain a provision that they are not invalidated by the foregoing waiver, but such waiver shall cease to be effective if the existence thereof precludes the Association from obtaining any such policy.

4. Exclusions From Coverage. Notwithstanding anything to the contrary herein, the insurance coverage obtained by the Board of Directors (i) will exclude any coverage for any Unit, or any personal property or “contents” of a Unit, and (ii) shall exclude any liability coverage on an Owner, its guests, invitees, employees, or any other occupants of such Unit, arising out of any and all occurrences and happenings within a Unit and/or relating in any way whatsoever to said personal property. It is the sole responsibility of each Owner to obtain such insurance coverages as are excluded from the insurance coverage obtained by the Board of Directors.



5. Owner Insurance and Sole Responsibility. Each Owner shall have the sole responsibility to fully insure such Owner's Unit, including the Home and all other improvements, any and all personal property, in an amount equal to the maximum insurable replacement value from fire or other loss, casualty, risks or hazards as from time to time shall be customarily covered with respect to single family residences and related improvements, personal and real property similar in construction, location and use. Further, each Owner shall have the sole responsibility to obtain liability insurance, either in conjunction with such Owner's casualty insurance, or independent therefrom, in such coverages and amounts customarily appropriate for family residences and related improvements and personal property similar in construction, location and use. **By taking title to a Unit subject to this Declaration, each Owner will acknowledge the forgoing responsibility to insure, and that that neither the Association nor the Board of Directors has any responsibility to insure any Unit, or Home, or any other improvement within a Unit, or any personal property of an Owner.**

## ARTICLE X

### RIGHTS OF DECLARANT

1. Control of Association. Until the expiration of the earlier of three (3) years from the date the first Unit is conveyed to any person other than Declarant or thirty (30) days after the conveyance of seventy-five percent (75%) of the undivided interests in the Common Elements to purchasers, Declarant, or its successors and assigns, acting alone shall have the right to appoint and reappoint the members of the Board of Directors, other than those elected pursuant to this Declaration.

2. Other Rights. Pending the sale of all Units on the Condominium, Declarant, or its successors and assigns, acting alone:

- a. may, but shall not be obligated to, manage and operate the Condominium in accordance with the provisions of this Declaration; but any agreement for professional management of the Condominium, or any other contract providing for services of Declarant, shall not exceed three (3) years and shall provide for termination by either party without cause and without payment of a termination fee on no more than ninety (90) days' written notice;
- b. may use the Common Elements and any unsold Units within the Condominium in any manner as may facilitate the sale or leasing of all Units thereon, including, but not limited to, in connection therewith, maintaining a sales and/or rental office or offices, showing the Condominium or maintaining signs;
- c. reserves the right to (i) grant easements upon, over, through and across the Common Elements as may be required for furnishing any kind of utility services, including cable television or master antenna service, which easements may be granted to itself or its nominee and/or as may be necessary for excavation or repair of any of the Units; (ii) grant easements upon, over, through or across the

Common Elements for ingress and egress to and from the Condominium and other real property adjacent to it; (iii) grant easements over the Common Elements for the benefit of the Condominium or other lands for parking or access; and (iv) grant easements or dedications for road, sewer, water and other utility purposes across, over and under the Common Elements for the benefit of the Condominium or other lands provided that in the instrument creating such easement, if such easements serve such other lands, Declarant shall specify a method by which the maintenance costs of such easement shall be shared by the Association and such other users and provided that use of such easements will not be reasonably anticipated to overburden the existing use of the Common Elements; and

- d. reserves the right to take such acts as may be necessary to ensure compliance with all applicable government statutes, regulations, codes, ordinances, rules, and orders, including, but not limited to, the terms and conditions of the approvals of the Condominium by the Village.

## **ARTICLE XI**

### **RIGHTS OF MORTGAGEES**

1. Notice. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor of a Unit mortgage and the Unit number or address, any such mortgage holder, insurer or guarantor will be entitled to timely written notice of:

- a. Any condemnation or casualty loss which affects either a material portion of the Condominium or the Unit securing its mortgage;
- b. Any sixty (60) day delinquency in the payment of assessments owed by the owner of any Unit on which it holds a mortgage or any breach of the provisions of any instrument or rule governing the Condominium which is not cured by such owner within sixty (60) days of such breach;
- c. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- d. Any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified in this Declaration.

2. Other Provisions. Mortgage holders shall also be afforded the following rights:

- a. Any restoration or repair of the Condominium after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with this Declaration and the original plans and specifications for such Unit, unless other action is approved by holders of mortgages on Units which have at least fifty-one percent (51%) of the votes of Units subject to mortgages.
- b. Any election to terminate the Condominium after substantial destruction or a substantial taking in condemnation must require the approval of holders of mortgages on Units which have at least fifty-one percent (51%) of the votes of Units subject to mortgages.

## ARTICLE XII

### AMENDMENT OF DECLARATION

1. Procedure. Except for the Declarant's right to amend this Declaration, this Declaration may only be amended in a writing executed by the Board of Directors, with the written consent of at least seventy-five percent (75%) of the Owners and their first mortgagees of their Unit or the holder of an equivalent security interest in the Unit. Approval from the first mortgage lender or equivalent security interest holder, or the person servicing the first mortgage loan or its equivalent on a Unit, constitutes approval of the first mortgagee or equivalent security interest holder. As an alternative to the foregoing procedure, this Declaration may be amended in accordance with the alternative procedure set forth in Section 703.093 of the Wisconsin Statutes if at least seventy-five percent (75%) of the Owners consent to the amendment in writing and those consents are approved by the mortgagees or holders of equivalent security interests in the Units. No amendment shall change the rights of Declarant as contained in this Declaration. Any amendment to this Declaration shall become effective when recorded in the office of the Register of Deeds for Waukesha County, Wisconsin, and no action to challenge the validity of an amendment under this Article may be brought more than one (1) year after the amendment is recorded.

2. Limitations on Certain Amendments. In addition to complying with Section 1 above, the approval of holders of mortgages on Units which have at least fifty-one percent (51%) of the votes of Units subject to mortgages, shall be required to add or amend any material provisions of this Declaration, the Articles, Bylaws, or Rules and Regulations which establish, provide for, govern or regulate any of the following:

- a. Voting rights;
- b. Assessments, assessment liens or the priority of assessment liens;
- c. Reserves for maintenance, repair and replacement of the Common Elements;
- d. Insurance or fidelity bonds;
- e. Responsibility for maintenance and repair;

- f. Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;
- g. Redefinition of any Unit boundaries;
- h. Reallocation of interests in the Common Elements or rights to their use;
- i. Convertibility of Units into Common Elements or of Common Elements into Units;
- j. Leasing of Units;
- k. Imposition of any restriction on an Owner's right to sell or transfer his or her Units;
- l. A decision by the Association to establish self-management of the Condominium;
- m. Restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in this Declaration; or
- n. Any provisions that expressly benefit mortgage holders, insurers or guarantors.

3. Approval. An Owner, or a mortgage holder in the cases of a technical amendment or any amendment not described in Section 2 above, who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a return receipt requested, shall be deemed to have approved such request.

4. VA Approval. If any Unit is subject to a mortgage owned or guaranteed under the U.S. Veterans Administration programs, then the condominium regime created hereunder may not be amended or merged with a successor regime without prior written approval in accordance with regulations implementing such programs.

5. Special Amendments. Declarant, for as long as the Declarant shall have ownership in the Condominium, and when the Declarant no longer has an interest in the Condominium then the Board of Directors, shall have the right and power to record "Special Amendments" to this Declaration at any time and from time to time which amend this Declaration (i) to comply with requirements of the FNMA, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans Administration, or any other governmental agency or public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities or any institutional lender issuing a commitment to make mortgage loans covering twenty percent (20%) or more of the

Units, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee mortgages secured by any Unit, (iii) to conform this Declaration with the requirements of the Act, or (iv) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to a Special Amendment on behalf of each Owner. Each deed, mortgage or other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power reserved to Declarant to make, execute and record Special Amendments. The rights reserved to the Declarant under this Article XII, Section 5 shall terminate at such time as the Declarant no longer holds or controls title to any part of the Condominium or ten (10) years from the date this Declaration is recorded, whichever first occurs.

### **ARTICLE XIII**

#### **DISPUTE RESOLUTION**

The Declarant, the Association and Board of Directors, all owners, and any other persons subject to this Declaration, collectively agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Condominium without the emotional and financial costs of litigation. Accordingly, each of the above parties agrees that any dispute involving the Condominium shall be settled by binding arbitration administered by Rolute Systems, Inc. under its rules then in effect. The arbitration shall be conducted by one arbitrator, at a location in Waukesha County, Wisconsin, as designated by the arbitrator. The decision or award of the arbitrator shall be in writing and shall include reasons for such decision. Subject to Wisconsin law, the arbitrator's decision shall be final and binding on the parties, and judgment on the award may be entered in any court having jurisdiction.

Any parties to a dispute involving the Condominium shall first make every reasonable effort to meet in person and confer for the purpose of resolving the dispute by good faith negotiations. The Board of Directors may appoint a representative to assist the parties in the resolution of the claim, including through formal mediation.

**EACH OWNER, BY ACCEPTING A DEED TO A UNIT, WAIVES ANY RIGHT TO HAVE A CLAIM RESOLVED BY JUDICIAL PROCEEDINGS, INCLUDING ANY RIGHT TO TRIAL BY JURY. THIS SUBSECTION IS AN AGREEMENT TO ARBITRATE THE ABOVE-DESCRIBED CLAIMS AND MAY BE SPECIFICALLY ENFORCED BY ANY PARTY.**

Notwithstanding the foregoing, the Declarant or the Association may commence litigation in the Circuit Court for Waukesha County necessary to:

1. collect any assessment or other amounts due from any owner; or
2. to obtain a temporary restraining order or other such emergency equitable relief necessary to maintain the status quo and preserve the Association's ability to enforce the provisions of this Declaration and administer the Condominium.

### **ARTICLE XIV**

## **REMEDIES FOR VIOLATION BY UNIT OWNER**

If any Owner fails to comply with the Act, this Declaration, or the Bylaws, such Owner shall be liable for damages caused by the failure or for injunctive relief, or both, by the Association or by any other Owner.

### **ARTICLE XV**

#### **RESIDENT AGENT FOR SERVICE OF PROCESS**

The Declarant has appointed Timothy Smits, N28 W23000 Roundy Drive, Suite 20, Pewaukee, Wisconsin 53072, as the resident agent of the Condominium for service of process. The name or address of the resident agent may be changed by the Board of Directors and shall become effective upon the filing of the change in the office of the Department of Financial Institutions of the State of Wisconsin in accordance with Section 703.23 of the Wisconsin Statutes. Any change in the person or location for the service of process designated by the Board of Directors shall become effective upon the recording of notice thereof in the office of the Secretary of State of Wisconsin in accordance with Section 703.23 of the Wisconsin Statutes.

### **ARTICLE XVI**

#### **RIGHT OF ENTRY**

The Declarant, for itself and its successors and assigns, including the Association reserves the right of entry to each Unit by itself or its agents or any person authorized by the Board of Directors to make installations, alterations or repair to any utility lines or installations which may cross a Unit and which serves more than one (1) Unit, upon prior request and at times convenient for the owner or occupant thereof; provided, however, that in case of emergency, entry of the Unit may be made immediately, whether the owner or occupant of the Unit is or is not present and without liability to Declarant, the Board of Directors or their agents. Any damage or loss caused as a result of such entry shall be at the expense only of the Owner if, in the judgment of those authorizing the entry, such entry was for emergency purposes.

### **ARTICLE XVII**

#### **CONSTRUCTION AND EFFECT**

1. Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

2. Captions. The captions and Article headings herein are intended only as matters of convenience and for reference and in no way define or limit the scope or intent of the various provisions hereof.

3. Successors and Assigns. All rights and benefits reserved or covenanted in favor of the Declarant under this Declaration shall inure to the benefit of and be binding upon its successors and assigns. Any reference in this Declaration to the "successors and assigns" of

Declarant shall be deemed to refer only to such person or entity to whom Declarant has expressly assigned all of said rights and benefits by an instrument in writing specifically identifying the provisions so assigned.

4. Severability. If any provision, or any part thereof, of this Declaration or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Declaration, or the application of such provision, or any part thereof, to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby. Each provision, or any part thereof, of this Declaration shall be valid, and be enforced, to the fullest extent permitted by law.

5. Deemed Interests. Wherever in this Declaration a specified percentage of Owners or Common Element interests is required for any action, decision or diminution of Declarant control or Declarant's rights, Declarant shall be deemed to own all eighteen (18) Unit interests, less any interests for Units already conveyed at the time of such determination.

6. Acceptance of Deed. By acceptance of a deed of conveyance of a Unit from Declarant, the grantee of such Unit and each successor in title to such Unit or an interest therein shall, in the event of the occurrence of any or all of the events specified in Article XI or XII, be deemed to consent and agree to the action so taken. Each such grantee of a Unit and each successor in title to such Unit or an interest therein, hereby constitutes and appoints Declarant, its successors and assigns, as its true and lawful attorney (i) to execute, deliver and record on behalf of the grantee and each successor in title to such Unit or an interest therein, such instruments, if any, as may be required to effect the same, and (ii) to do all other things necessary to accomplish the action so taken.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

PRAIRIE WALK DEVELOPMENT, LLC

By \_\_\_\_\_  
Print \_\_\_\_\_  
Title \_\_\_\_\_

STATE OF WISCONSIN     )  
  ) SS.  
COUNTY OF WAUKESHA )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, the above named \_\_\_\_\_ as \_\_\_\_\_ of Prairie Walk Development, LLC to me known to be the person who executed the foregoing instrument and acknowledge the same.

\_\_\_\_\_  
[print name]  
Notary Public, State of Wisconsin  
My commission: \_\_\_\_\_

PRELIMINARY



**CONSENT OF MORTGAGEE TO DECLARATION  
OF THOMSON PRESERVE CONDOMINIUM**

Signed by First Midwest Bank, mortgagee of this property, this \_\_\_\_ day of \_\_\_\_\_, 2023, in accordance with Section 703.09 of the Wisconsin Statutes.

FIRST MIDWEST BANK

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF WISCONSIN    )  
  ) SS.  
COUNTY OF \_\_\_\_\_)

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2023, the above named \_\_\_\_\_ to me known to be the person who executed the foregoing instrument and acknowledge the same.

\_\_\_\_\_  
[print name]  
Notary Public, State of Wisconsin  
My commission: \_\_\_\_\_

This instrument was drafted by:  
Attorney Daniel J. Habeck  
Cramer, Multhauf & Hammes, LLP  
1601 East Racine Avenue  
Post Office Box 558  
Waukesha, WI 53187-0558

**EXHIBIT A**  
**LEGAL DESCRIPTION**

All of Lots 1 and 2, Certified Survey Map No. 12209, recorded in the Waukesha County Register of Deeds office in Certified Survey Maps, Book 125, pages 122 through 129, inclusive as Document No. 4606300, being part of the Northwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 28, Town 8 North, Range 20 East, in the Village of Menomonee Falls, Waukesha County, Wisconsin.

Said lands contain 570,538 square feet (or 13.0978 acres) of land, more or less.

PRELIMINARY

**EXHIBIT B – CONDOMINIUM PLAT**

**\*Information copy, see recorded Condominium Plat for all official purposes**

PRELIMINARY

## EXHIBIT C

### UNIT NUMBERS AND ADDRESSES

All addresses are Menomonee Falls, Wisconsin 53146.

<b>Unit Number</b>	<b>Unit Address</b>
1	N58 W17929 Timm's Prairie Walk
2	N58 W17905 Timm's Prairie Walk
3	N58 W17877 Timm's Prairie Walk
4	N58 W17849 Timm's Prairie Walk
5	N58 W17823 Timm's Prairie Walk
6	N58 W17795 Timm's Prairie Walk
7	N58 W17781 Timm's Prairie Walk
8	N58 W17755 Timm's Prairie Walk
9	N58 W17741 Timm's Prairie Walk
10	N58 W17717 Timm's Prairie Walk
11	N58 W17687 Timm's Prairie Walk
12	W176 N5842 Timm's Prairie Walk
13	W176 N5858 Timm's Prairie Walk
14	N58 W17708 Timm's Prairie Walk
15	N58 W17734 Timm's Prairie Walk
16	N58 W17760 Timm's Prairie Walk
17	N58 W17786 Timm's Prairie Walk
18	N58 W17818 Timm's Prairie Walk