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CONDOMINIUM DECLARATION FOR ST. ANDREWS CONDOMINIUMS

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CONDOMINIUM DECLARATION

FOR

ST. ANDREWS CONDOMINIUMS

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TABLE OF CONTENTS

CONDOMINIUM DECLARATION

FOR

ST. ANDREWS CONDOMINIUMS
MUSKEGO, WISCONSIN

1. Statement of Declaration	6
2. Definitions	6
3. Name, Location, Property Description, Plat and Plans	9
3.1 Name	9
3.2 Address	9
3.3 Property Description	9
4. Units and Boundaries	9
4.1 Unit Identification	9
4.2 Boundaries of Units	10
4.3 Unit Ownership Formula	10
5. Common Elements	10
6. Undivided Percentage Interest in Common Elements	10
6.1 Common Areas	11
6.2 Relative Share in Common Elements	11
7. Limited Common Elements	11
7.1 General Description	11
7.2 Use of Limited Common Elements	11
8. Partition of Common Elements and Units Prohibited	11
9. Conveyance to Include Interest in Common Elements	11
10. Prohibition Against Structural Changes By Owner	12
11. Association of Unit Owners	12
11.1 Voting Rights	12
11.2 Declarant Control	13
12. Allocation and Liability for Common Expenses	13
12.1 Common Expenses	13
12.2 Budget	14

12.3 Assessment 14
12.4 Statutory Reserve Account Statement 14

13. Rights to Common Surpluses 14

14. Powers and Rights of the Association 14
14.1 Association Powers 14
14.2 Entry for Repairs 16
14.3 Implied Rights 16
14.4 Delegation to Board of Directors 16

15. Restrictions on Use, Occupancy and Transfer 16
15.1 Common Elements and Units 16
15.2 Use of Common Elements 17
15.3 Rental of Units 17

16. Assessments 17
16.1 Purpose of Assessments 17
16.2 Obligation for Payment of Assessments 17
16.3 Computation of Operating Budget and Annual Assessment 18
16.4 Capital Budget, Contributions, and Reserves 18
16.5 Annual Assessments 18
16.6 Special Assessments 18
16.7 Lien for Assessments 18
16.8 Delinquent Assessments 19
16.9 Statement of Account 20
16.10 Payment of Assessments by Declarant 20

17. Association Responsibilities for Insurance 21
17.1 Blanket All-Risk Insurance 21
17.2 Additional Insurance 21
17.3 Terms 22
17.4 Association as Trustee; Premiums 22
17.5 Rating and Insurance Certificates 22
17.6 Maximum Deductibles 22
17.7 Insurance Requirements of Unit Owners 22
17.8 Maintenance of Units 23
17.9 Combined Protection 24
17.10 Disposition of Insurance Proceeds 24

18. Destruction and Reconstruction 24
(A) Cost Estimates 25
(B) Source and Allocation of Proceeds 25
(C) Plans and Specifications 25
(D) Encroachments 25
(E) Construction Fund 25

(F) Method of Disbursement 26

19. Architectural Standards 26
19.1 Architectural Review Committee 26
19.2 Purpose 26
19.3 Organization and Operation of Committee 27
19.4 Expenses 27
19.5 Architectural Guidelines 27
19.6 Procedures 28
19.7 Limitation of Liability 28
19.8 Applicability to Declarant 28

20. Construction and Alteration of Improvements 28
20.1 General 28
20.2 Deemed Nuisances 28
20.3 Removal of Nonconforming Improvements 29

21. Maintenance Responsibilities 29
21.1 Repairs and Maintenance of the Common Elements 29
21.2 Unit Owner Responsibilities for Maintenance 29
21.3 Failure to Maintain 29
21.4 Insurance Deductibles 30
21.5 Maintenance of Common Services 30
(A) Maintenance Directives 31
(B) Sanitary District 31
(C) Water 31
(D) Other Maintenance 31
(E) Garbage Disposal 31
(F) Emergency Services 31

22. Remedies for violation by Unit Owner 32

23. Special Declarant Rights 32
23.1 Right of Declarant to Dispose of Units 32
23.2 Sales Offices and Models 32
23.3 Easement Use 32
23.4 Expansion of Condominium 32

24. Easements, Reservations and Encroachments 34
24.1 Signs 34
24.2 Utilities 34
24.3 Encroachments 34
24.4 Binding Effect 34
24.5 Location and Dimension of Easements Reserved to Declarant 35
24.6 Declaration of Master Covenants for Country Club Villages 35

25. No Waiver in Case of Failure of Association to Insist on Strict Performance 35

26. Amendments to Declaration of Plat and Plans 35

27. Notices 36

28. Association's Agent for Service of Process 36

29. Number and Gender 37

30. Captions 37

31. Severability 37

32. Subordination 37

33. Applicable Law 37

EXHIBIT A 40

EXHIBIT B 41

CONDOMINIUM DECLARATION

FOR
ST. ANDREWS CONDOMINIUMS
MUSKEGO, WISCONSIN

This Declaration is made pursuant to the Condominium Act of the State of Wisconsin, Chapter 703 of the Wisconsin Statutes ("Condominium Act"), this 14th day of December, 2004, by Muskego St. Andrews, LLC, a Wisconsin limited liability company having its principal office at 622 North Water Street, Suite 200, Milwaukee, Wisconsin 53202, (referred to as "Declarant" throughout this Declaration, together with any successors in title who come to stand in the same relation to the Condominium).

1. **Statement of Declaration.** Declarant is the owner in fee simple of the real property located in Waukesha County, Wisconsin, described in Exhibit A, which is attached to and incorporated in this Declaration by reference (such real property is referred to throughout this Declaration as the "Property").

   Declarant intends to submit the Property to the provisions of the Condominium Act, pursuant to the terms and provisions of this Declaration.

   Declarant hereby submits the Property together with all of the Improvements located on the Property or to be constructed on the Property, to the condominium form of ownership in the manner provided by the Condominium Act and by this Declaration.

   From and after the date on which this Declaration, together with the Plat and Plans described in this Declaration, are recorded with the register of deeds of Waukesha County, Wisconsin, the Property, together with all of the Improvements located or to be constructed on the Property shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered, subject to all of the terms, provisions, and restrictions of this Declaration and of the Condominium Act. All provisions hereof shall be deemed to run with the land and shall continue as benefits and burdens to Declarant, its successors and assigns, the Association, the Unit Owners and all parties hereafter having any interest in the Property.

2. **Definitions.** The following definitions apply to the terms used in this Declaration, the Bylaws, the Articles of Incorporation, the Rules and Regulations, the Management Agreements, and all amendments to those documents unless the context otherwise requires.

   Additional Property means the additional property that may become subject to this declaration per Section 23.4.

Annual Assessment means the Assessments levied in accordance with Section 16.3 of this Declaration.

Architectural Guidelines means the guidelines and rules published and amended and supplemented from time to time by the Architectural Review Committee.

Architectural Review Committee means the committee formed pursuant to Section 19.1 of this Declaration to maintain the quality and architectural harmony of Improvements in the Condominium.

Articles of Incorporation means the articles of incorporation of the Association as amended from time to time.

Assessments means the assessment for payment of Common Expenses, including Special Assessments and Annual Assessments, provided for in Article 16 of this Declaration.

Association means The St. Andrews Condominium Association, Inc., a Wisconsin nonstock, not for profit corporation, its successors, and assigns.

Board of Directors or Board means the board of directors of the Association.

Bylaws means the bylaws of the Association as amended from time to time.

Common Elements means all parts of the Property described as Common Elements in Article 5 of this Declaration but in no event shall it include a Unit as defined herein.

Common Expenses means the actual and estimated expenses of operating the Association, as more particularly described in Article 12 of this Declaration.

Common Surplus means, for any period, the excess of all receipts of the Association over the amount of Common Expenses.

Condominium means St. Andrews Condominiums, and refers to all the Property that is subject to this Declaration.

Condominium Act means the Wisconsin Condominium Ownership Act, Chapter 703 of the Wisconsin Statutes, as amended from time to time.

Declarant means Muskego St. Andrews, LLC, a Wisconsin limited liability company, and any successors in title or assigns who are designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

Declaration means this Condominium Declaration together with any amendments thereto.

Improvements means, without limitation, all buildings and structures, personal property items including planters, flags, signs, wall hangings, lawn ornaments, Units, parking areas, loading areas, fences, walls, hedges, plantings, poles, driveways, roads, berms, landscaping, signs, and utility improvements now or hereafter located or constructed on the Property.

Limited Common Elements means those Common Elements reserved for the exclusive use of one or more of the Unit Owners and denoted as Limited Common Elements.

Management Agreement means an agreement now or hereafter entered into by the Association, which provides for the management of the Property and the Condominium by a Management Firm.

Management Firm or Management Company means the entity identified as the manager of the Property in a Management Agreement, and its successors and assigns.

Mortgagee means the holder of any recorded mortgage or vendor's interest in a land contract encumbering one or more Units.

Person means an individual, corporation, partnership, association, trustee or other legal entity.

Period of Declarant Control has the meaning assigned to that phrase in Section 11.2 of this Declaration.

Plat and Plans means the Plat of St. Andrews Condominiums filed for record in the plat book maintained for condominium plats by the register of deeds of Waukesha County.

Property means the land together with all existing and future Improvements thereon that is subject to this Declaration and described on Exhibit A, subject to expansion pursuant to Section 23.4.

Purchaser means any person, other than Declarant, who, by means of a voluntary transfer, acquires a legal or equitable interest in a Unit other than as security for an obligation.

Relative Share means the square footage of a Unit (excluding basements or garages) compared to the square footage (excluding basements or garages) of all Units in the Condominium.

Rules and Regulations means the rules and regulations established and amended from time to time by the Board of Directors pursuant to Article 14 of this Declaration.

Special Assessments means the Assessments levied in accordance with Section 16.6 of this Declaration.

Unit means any part of the Property that is not a Common Element and is designated and intended for separate and exclusive occupancy and use as a single-family residential dwelling, whether developed or undeveloped.

Unit Number means the number, letter, address, or combination thereof, assigned to a Unit for identification purposes pursuant to Section 4.1 of this Declaration.

Unit Owners means collectively the owners of the Units.

Voting Certificate means the certificate required to be filed by each Unit Owner with the Secretary of the Association pursuant to Section 11.1 of this Declaration.

Working Capital Contribution shall mean that upon the first time a Unit is conveyed by the Declarant to a Unit Owner, other than the Declarant, a contribution equal to two months' assessments shall be due and payable at closing by the Unit Owner. The Working Capital Contribution is non-refundable and non-transferable.

3. Name, Location, Property Description, Plat and Plans.

3.1 Name. The name of the Condominium is St. Andrews Condominiums.

3.2 Address. The address of the Condominium is: St. Andrews Condominiums, 622 North Water Street, Suite 200, Milwaukee, Wisconsin. The Property is located in Waukesha County, Wisconsin.

3.3 Property Description. The Property, subject to expansion pursuant to Section 23.4, is described in Exhibit A. The Condominium may include two, three, and four bedroom Units.

4. Units and Boundaries.

4.1 Unit Identification. Initially the Condominium will consist of thirteen buildings each containing two Units. Pursuant to the expansion rights specified in Section 23.4 the Condominium may consist of as many as twenty-four buildings with as many as forty-eight (48) total Units. Each Unit shall be designated by an identifying number or address. The location and approximate area of the initial Units, and further details identifying and outlining the Units, are as set forth in the Plat and Plans.

4.2 **Boundaries of Units.** Each Unit includes that part of the building in which it is located that lies within the following boundaries:

(A) Horizontal (upper and lower): the lower horizontal boundary of each Unit shall be the plane formed by the top surface of the unfinished concrete floor slab of the Unit. The upper horizontal boundary of each Unit shall be the plane formed by the lowermost surface of the drywall or other material forming the ceiling of the uppermost floor of the Unit.

(B) Vertical (parametric or lateral): the vertical boundaries of each Unit are the planes formed by the unfinished exposed undecorated surfaces (i.e. the surfaces facing the interior of the Unit) of the drywall or other material comprising the interior perimeter walls enclosing a Unit.

(C) Each Unit shall consist of the space enclosed by the foregoing horizontal and vertical boundaries extended to their intersection. Each Unit shall also include (i) all portions of the plumbing, heating, electrical, and air conditioning systems (including furnaces, compressors, components, pipes, wires, conduits, ducts, and the like) serving only that Unit and located within the boundaries of that Unit; and (ii) all windows, screens, skylights, sump pump, glass surfaces, and doors, overhead doors, hardware, and mechanical systems.

4.3 **Unit Ownership Formula.** Each Unit Owner is entitled to the undivided fee interest in the Unit. Each Unit is allocated an undivided percentage interest in the Common Elements according to the formula described in Article 6 below.

5. **Common Elements.** The Common Elements shall consist of all parts of the Property not located within the boundaries of a Unit, including but not limited to, entry drives, visitor parking, the exclusive parking entitlement described in 4.4, above, dumpsters and dumpster enclosures, if any, mailboxes, exterior lighting (except with respect to the replacement of bulbs in fixtures directly connected to the Unit), exterior sidewalks and grounds, and the storm water detention pond shown as Outlot 2 on the Plat and Plans. Common Elements shall also include those elements that are appurtenant to, and to be used in common by, all Units including all pipes, wires, ducts, vents, cables, conduits, lines, installations, equipment, apparatus, gas and electric meters, and facilities contained therein that service the Units to the extent they are not located within a Unit.

6. **Undivided Percentage Interest in Common Elements.**

6.1 **Common Areas.** Each Unit Owner shall own an undivided interest in the Common Elements (including the Limited Common Elements) as a tenant in common with all other Unit Owners and, except as otherwise limited in this Declaration, shall have the right to use and occupy the Common Elements (except the Limited Common Elements) for all purposes incidental to the use and occupancy of his or her Unit as a place of residential space and such other incidental uses as are permitted by this Declaration, which rights shall be appurtenant to and run with his or her Unit.

6.2 **Relative Share in Common Elements.** The undivided percentage interest in the Common Elements (including Limited Common Areas) shall be such Unit's Relative Share.

7. **Limited Common Elements.**

7.1 **General Description.** Balconies (if any), patios, decks and the driveway to the garage of a Unit are designated as Limited Common Elements and are to be used exclusively by the Unit Owner (and their family members, tenants, guests, and invitees) whose Unit is adjacent or attached thereto.

7.2 **Use of Limited Common Elements.** The use of the Limited Common Elements shall be governed by this Declaration and the Bylaws. The Association, acting through the Board of Directors and consistent with the Declaration and Bylaws, may establish reasonable Rules and Regulations governing the use of any Limited Common Elements.

8. **Partition of Common Elements and Units Prohibited.** There shall be no partition of the Common Elements through judicial proceedings or otherwise until this Declaration is terminated and the Property is withdrawn from the terms of this Declaration or from the terms of the Condominium Act; provided, however that if any Unit shall be owned by two or more co-owners as tenants in common or as joint tenants, nothing contained herein shall be deemed to prohibit a voluntary or judicial partition of the single Unit as between such co-owners. No Unit may be subdivided, and no Unit may be used for any purpose other than residential occupancy, except that Declarant may use Units owned by Declarant as models, sales offices, management, or temporary construction offices.

9. **Conveyance to Include Interest in Common Elements.** No undivided percentage interest in the Common Elements shall be separated from the Unit to which it is appurtenant. No Unit Owner shall execute any deed, mortgage, lease or other instrument affecting title to or ownership of such Unit without including therein both the Unit Owner's interest in the Unit and the Unit Owner's corresponding undivided percentage interest in the Common Elements, it being the intention hereof to prevent any severance of such combined ownership. Any deed, mortgage, lease or other instrument purporting to affect the one without

including also the other shall be deemed to include the interest omitted even though the latter is not expressly mentioned or described therein.

10. **Prohibition Against Structural Changes By Owner.** A Unit Owner shall not, without first obtaining the written consent of the Architectural Review Committee, make or permit to be made any structural alterations, changes or improvements to his or her Unit. A Unit Owner shall not perform, or allow to be performed, any act or work which would impair the structural soundness, acoustical, or thermal integrity of any building or the safety of the Property, or impair any easement, or affect the Common Elements in any way.

11. **Association of Unit Owners.** Each Unit Owner, by virtue of ownership of an undivided fee interest in a Unit, shall be entitled and required to be a member of the Association. When more than one person holds an interest in any Unit, all such persons shall be members of the Association. However, the voting rights of such members shall be limited as provided in Section 11.1 below. The Association, through the Board of Directors, shall be responsible for carrying out the purposes of this Declaration, including the management and control of the Common Elements. The Association shall be incorporated as a non-stock, non-profit corporation under the laws of the State of Wisconsin. Each Unit Owner and all occupants of the Units shall abide by and be subject to all of the rules, regulations, duties and obligations set forth in this Declaration and the Bylaws and Rules and Regulations of the Association.

11.1 **Voting Rights.** Each Unit Owner is entitled to vote on all matters upon which Unit Owners are entitled to vote pursuant to this Declaration and in accordance with the Bylaws of the Association. Each Unit Owner is entitled to one vote. When more than one person holds an interest in any Unit, the vote for such Unit shall be exercised as such co-owners among themselves determine. There shall be no split vote between co-owners of any Unit. Notwithstanding anything to the contrary in the Declaration, Bylaws, or the St. Andrews Condominiums documents, the Declarant is entitled to vote all the votes of any Units it owns.

Each Unit Owner shall file with the Secretary of the Association a certificate stating the Unit Owner's name and current mailing address, the name and current mailing address of any mortgagee of the Property and the Unit Owner shall notify the Declarant or the Association, as the case may be, if a change occurs in the mortgagee and shall furnish within fifteen (15) days documentation of a change in the mortgagee if so requested, and naming the individual who shall be authorized to cast the vote allocated to the Unit ("Voting Certificate"). Such Voting Certificate, and any subsequent amendment thereof, shall be signed by all owners of record of the Unit, or by the duly authorized agents or attorneys in fact of such owners. Upon the filing of such Voting Certificate, the individual so named shall, until another individual is named in a duly

executed amendment to the Voting Certificate, be recognized by the Association as the person entitled to cast the vote allocated to the Unit in the event of any conflict among persons holding an ownership interest in the Unit. If a valid Voting Certificate is not on file for any Unit Owner, the vote of such Unit Owner shall not be considered in determining the presence of a quorum or for any other purpose. The foregoing notwithstanding any one of the co-owners of a Unit who purports to cast the vote allocated to that Unit shall be conclusively presumed to be authorized to cast such vote unless protest is made promptly by any of the other co-owners of the Unit to the person presiding over the meeting, or until any one of such co-owners files a statement with the Secretary of the Association stating that thereafter the vote may only be cast by the individual named in the Voting Certificate filed under this Section 10.1. The individual authorized in any such Voting Certificate to cast the vote allocated to a Unit may cast such vote by a proxy as provided in the Bylaws.

11.2 **Declarant Control.** Notwithstanding the voting right allocated to each Unit, the Declarant shall control the Association during the Period of Declarant Control pursuant to the powers provided for in the Condominium Act. The Period of Declarant Control shall be the period beginning on the date that the first Unit is conveyed by Declarant to any person other than Declarant and ending the earlier of the following:

a. ten (10) years after the first conveyance, or

b. thirty (30) days after conveyance of 75 % of the Common Elements interests to purchasers.

During the Period of Declarant Control, Declarant shall, subject to the provisions of the Condominium Act, have the right to appoint and remove directors of the Association as provided in the Bylaws.

12. Allocation and Liability for Common Expenses.

12.1 **Common Expenses.** Common Expenses are the costs of administration of the Association, including but not limited to: insurance, repair, maintenance, landscaping, common area utilities, and other expenses of the Common Elements, including Limited Common Areas, and common services provided to the Unit Owners, including management fees, and any reasonable reserves established by the Association.

Each Unit is hereby allocated a share of the liability for Common Expenses related to the Common Elements equal to that Unit's Relative Share. In addition, a Unit and Unit Owner may be specially assessed in accordance with Section 16.6 of this Declaration.

12.2 **Budget.** The Board of Directors shall from time to time and at least annually prepare a budget for the Association, determining the amount to be charged the Unit Owners for the costs associated with maintaining the Common Areas and providing reasonable reserves, as further provided for in Section 16. Said costs shall be allocated among the Unit Owners pro rata in accordance with their respective interests in the Common Elements.

12.3 **Assessment.** No Unit Owner or Unit may be exempted from liability for payment of such Assessments by such Unit Owner's waiver or discontinuance of the use or enjoyment of any of the Common Elements or services or by the abandonment of his or her Unit; and no conveyance by a Unit Owner of his or her Unit shall relieve the Unit Owner or the Unit of such liability, and he or she shall jointly, severally, and personally be liable along with his or her grantee in any such conveyance for all unpaid Assessments made prior to the date of sale. All Assessments, when made, shall immediately become a personal debt of the Unit Owner until paid and shall constitute a lien against the Unit to which charged if a statement of lien is filed in accordance with the Condominium Act.

12.4 **Statutory Reserve Account Statement.** St. Andrews Condominiums, pursuant to Section 703.163(3)(a), Wis. Stats., elects not to establish a statutory reserve account.

13. **Rights to Common Surpluses.** Common Surpluses shall be credited to the Unit Owners' Assessments for Common Expenses in proportion to their Relative Share or shall be used for any other proper purpose as the Association, by its Board of Directors, may decide.

14. **Powers and Rights of the Association.**

14.1 **Association Powers.** The Association shall have all of the powers enumerated in the Wisconsin Nonstock Corporation Law, Chapter 181 of the Wisconsin Statutes, to the extent not inconsistent with the Condominium Act, the Bylaws and this Declaration. Such powers shall include, but not be limited to, the following:

(A) To exercise exclusive management and control of the Common Elements described and set forth in this Declaration;

(B) To maintain, repair, replace, reconstruct, operate and protect the Common Elements as set forth in this Declaration;

(C) To hire and discharge a Management Firm to manage the Common Elements;

(D) To hire, engage or employ and discharge such persons or entities as it may deem necessary or advisable to assist in the management of its affairs or to properly effectuate the duties and responsibilities of the Association as set forth in this Declaration;

(E) To determine, levy and collect Assessments against the Unit Owners and use the proceeds thereof in the exercise of its powers and duties, including without limitation, the payment of the Common Expenses as set forth herein;

(F) To institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or all of the Unit Owners on matters affecting the Property;

(G) To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, encumber, lease, transfer or dedicate any right, title, or interest in and to real or personal property in connection with the affairs of the Association;

(H) To purchase insurance on the Property and insurance for the benefit of the Association and its members as set forth in this Declaration;

(I) To make and amend reasonable regulations governing the use and operation of the Property in the manner provided in this Declaration;

(J) To enforce by any legal means the provisions of the Condominium Act, this Declaration, the By-Laws, and any Rules and Regulations governing the use and operation of the Property;

(K) To establish and maintain one or more bank accounts for deposit and withdrawal of the funds of the Association;

(L) To do all things necessary or convenient to effectuate the purposes of this Declaration;

(M) To do any and all things permitted by the Wisconsin Nonstock Corporation Law;

(N) To make contracts and incur liabilities subject to any restrictions or conditions contained in the Bylaws or this Declaration; and

(O) To grant easements through or over the Common Elements.

14.2 **Entry for Repairs.** The Association may enter any Unit at reasonable times and under reasonable conditions when necessary to perform any required maintenance, construction, repair or other matter for which the Association is responsible. Unless an emergency exists, such entry shall be made with prior notice to the Unit Owner and with as little inconvenience to the Unit Owner or other occupants of the Unit as is practical, and any damage caused thereby shall be repaired by the Association and treated as a Common Expense.

14.3 **Implied Rights.** The Association may exercise any right, power or privilege given to it expressly by this Declaration or the Bylaws, and every other right, power or privilege reasonably to be implied from the existence of any right, power or privilege given to it herein or reasonably necessary to effectuate any such right, power or privilege.

14.4 **Delegation to Board of Directors.** All the powers, rights and duties of the Association existing under the Condominium Act, this Declaration, the Articles of Incorporation and the Bylaws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees. The decisions of the Board shall be subject to approval by Unit Owners only when such approval is expressly required by the Bylaws, this Declaration or the Condominium Act.

15. Restrictions on Use, Occupancy and Transfer.

15.1 **Common Elements and Units.** Each Unit shall be used only for residential and related purposes (although Declarant may use Units as a model sales office, management office, construction office or other related purposes as may be more particularly set forth in this Declaration). The Board of Directors may establish Rules and Regulations concerning the use of the Common Elements and the Units, and may from time to time add to, supplement or amend such Rules and Regulations. Copies of such Rules and Regulations, and of any additions, supplements or amendments thereto, shall be furnished by the Association to all Unit Owners prior to the effective date thereof. Each such Rule or Regulation shall be binding upon all Unit Owners, their family members, tenants, guests, invitees, and agents until and unless such Rule or Regulation shall be specifically overruled, canceled, or modified by the Board. The Board of Directors shall have the authority to impose monetary fines and other sanctions for violations of Rules and Regulations, and such monetary fines may be collected in the same manner as the Assessments. The Association, acting through its Board of Directors, shall have standing and the power to enforce any and all restrictions contained in the Declaration, and the Rules and Regulations of the Condominium.

15.2 **Use of Common Elements.** Every Unit Owner shall have a right and easement of use and enjoyment in and to the Common Elements, but only for the purposes for which such Common Elements are intended. Such right and easement of use shall be subject to this Declaration, and to any restrictions or limitations contained in any deed or amendment to this Declaration conveying to the Association or subjecting to this Declaration the Property comprising such Common Elements. Each Unit Owner may delegate his or her right of use and enjoyment to his or her family members, guests, tenants, licensees, invitees, and agents, subject to reasonable regulation by the Board. A Unit Owner shall be deemed to have made such delegation to the tenant of any leased Unit.

15.3 **Rental of Units.** Every Unit Owner shall have the right to rent his or her Unit provided that no lease shall be for less than ninety (90) days. All leases must be in writing and a copy shall be provided to the Declarant or the Board of Directors, as the case may, be upon request. The leasing of a Unit shall not relieve the Unit Owner or its Lessee of any obligation under this Declaration or the Rules and Regulations of the Condominium.

16. Assessments.

16.1 **Purpose of Assessments.** The Assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Unit Owners and occupants of Units in the Condominium. Such Assessments shall be fixed, established and collected from time to time in the manner provided by this Article 16. Assessments may be used to compensate officers and directors only if approved by Unit Owners holding a majority of votes in the Association.

16.2 **Obligation for Payment of Assessments.** Each Unit Owner, by acceptance of a deed for his or her Unit, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association all amounts duly levied against the Unit Owner hereunder for: Annual Assessments, Special Assessments and all other fees, charges (including late charges) and assessments provided for hereunder. All such Assessments, together with charges, interest, and costs, in the maximum amount permitted by the Declaration and the Condominium Act, and all reasonable attorney's fees and costs actually incurred in the collection thereof, shall be a charge and a lien on the Unit to the extent permitted by the Condominium Act. In addition, each Unit Owner shall be personally liable for his or her portion of each Assessment coming due while he or she is the Owner of a Unit, and his or her grantee (subject to Section 16.9 hereof) shall be jointly and the Board of Directors. Unless otherwise provided, the Annual Assessments shall be paid, in advance, in equal

quarterly installments due on the first day of each calendar quarter beginning on January 1 of each year.

16.3 **Computation of Operating Budget and Annual Assessment.** It shall be the duty of the Board at least sixty (60) days prior to the beginning of the Association's fiscal year to prepare a budget setting forth the estimated Common Expenses for the coming year. The Board shall cause a copy of the budget and a statement of the Annual Assessment to be levied against each Unit for each fiscal year of the Association to be delivered to each Unit Owner at least thirty (30) days prior to the beginning of such fiscal year. The budget and the Annual Assessment shall take effect without a meeting of the Unit Owners.

16.4 **Capital Budget, Contribution, and Reserves.** The Board of Directors shall also prepare annually a capital budget, which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, for such year. The capital contribution required shall be fixed by the Board and shall be included in the budget and Annual Assessments provided for in Section 16.4 hereof. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

16.5 **Annual Assessments.** For each calendar year the Annual Assessment for each Unit shall be based upon the Unit's Relative Share. The Board of Directors shall fix the Annual Assessment in accordance with Section 16.3. However, the Declarant may fix the Assessment for the 2004 and 2005 budget years.

16.6 **Special Assessments.** If the Annual Assessments prove inadequate for any year, the Board may, on thirty (30) days advance notice to the Unit Owners, levy a Special Assessment against all Unit Owners. If a Special Assessment is required for an expense only benefiting specific Units and not other Units, such as, by way of illustration, an expense relating to Limited Common Areas not benefiting all Unit Owners, the Board may levy those amounts as Special Assessments against only those Units and Unit Owners benefiting therefrom which shall constitute a lien on the property as set forth in 16.7 and shall be a personal obligation of the Unit Owner. If a Special Assessment against any particular Unit is required, such Assessment shall be considered a Special Assessment against that Unit and Unit Owner only.

16.7 **Lien for Assessments.** The Association shall have full and complete lien rights as provided or permitted by the Condominium Act, and the lien shall

specifically include the maximum costs, charges, and fees set out in the Declaration, Rules and Regulations, and in the Condominium Act.

16.8 **Delinquent Assessments.** All Assessments and related charges not paid on or before the due date shall be delinquent, and the Unit Owner shall be in default.

(A) If any quarterly installment of Annual Assessments or any part thereof is not paid in full by the tenth (10th) day of the quarter such installment is due, or if any other charge is not paid within ten (10) days of the due date, a one time late charge on such delinquent payment equal to the greater of Ten Dollars ($15.00) or ten percent (10%) of the amount not paid, or such higher amounts as may be authorized by the Condominium Act, may be imposed without further notice or warning to the delinquent Unit Owner, and interest at a rate to be established by the Board, which shall not exceed the maximum rate allowed by law, may, at the Board's discretion, accrue thereon from the due date.

(B) When payment for delinquent Assessments and related charges is made, the amount received shall be applied in the following order, and no restrictive language on any check or draft shall be effective to change the order of application:

(1) to any unpaid late charges;

(2) to costs of collection, including reasonable attorney's fees, actually incurred by the Association;

(3) to any unpaid interest charges;

(4) to unpaid installments of Assessments applying such payment first to the oldest Assessments then due;

However, none of the above shall restrict or impair the Association's ability and right to settle any claim on terms acceptable to the Board of Directors.

(C) If Assessments and related charges or any part thereof due from a Unit Owner remain delinquent and unpaid for a period greater than fifteen (15) days from the date due, a "Notice of Delinquency" may be given to that Unit Owner which shall state that if the Assessment or charge remains delinquent for more than ten (10) days from the date of the Notice of Delinquency, the Association, acting through the Board of Directors may accelerate and declare

immediately due all of that Unit Owner's unpaid monthly Assessment installments for that fiscal year.

(D) If Assessments and related charges or any part thereof remain unpaid more than thirty (30) days after the Assessment payments first become delinquent, the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of this Declaration, the Bylaws, and the Condominium Act and suspend the Unit Owner's right to use the Common Elements (provided, however, the Board may not limit ingress or egress to or from a Unit), whether or not a Notice of Delinquency has been sent, as provided above.

16.9 Statement of Account. Each Unit Owner, each grantee or mortgagee of a Unit Owner, each person who has executed a contract for the purchase of a Unit, and each lender considering a loan to be secured by a Unit shall be entitled, upon written request, to a statement from the Association setting forth the amount of unpaid Assessments made against such Unit, including any late charges, interest, fines, or other charges against a Unit. The Association shall respond in writing within (10) ten business days of receipt of the request for a statement. The grantee of a Unit is not liable for any unpaid Assessments against the grantor in excess of the amount set forth in the statement described in this section, and the Unit conveyed shall not be subject to a lien which is not filed under the Condominium Act for any unpaid Assessments against the grantor in excess of the amount set forth in such statement.

16.10 Payment of Assessments by Declarant. Notwithstanding anything to the contrary herein, Declarant may contribute, but shall not be obligated to contribute, assessments to the Association which such contributions shall include services or materials or a combination of services and materials rather than money, which shall be collectively called an in-kind contribution. Otherwise, Assessments shall commence as to any Unit upon the first conveyance of any Unit to a person, partnership, or entity other than the Declarant or the issuance of an occupancy certificate for such Unit, if an occupancy certificate is required, whichever is last to occur. The amount by which monetary Assessments owed by Declarant shall be decreased as a result of any in-kind contribution shall be the fair market value of the contribution. If Declarant and the Association agree as to the value of any in-kind contribution, the value shall be as agreed. If the Association and Declarant cannot agree as to the value of any in-kind contribution, Declarant shall supply the Association with a detailed explanation of the services performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors approved by Declarant who are in the business of providing such services and

materials. If the Association and the Declarant are still unable to agree on the value of contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

17. Association Responsibilities for Insurance.

17.1 Blanket All-Risk Insurance. The Board of Directors of the Association shall have the authority to and shall provide and maintain, as a Common Expense, blanket all-risk insurance, if reasonably available, for all insurable property and improvements in the Common Elements and may, but shall not be obligated to, assume the Unit Owners' responsibility for insuring the Units in the Condominium. If blanket all-risk insurance is not reasonably available, then at a minimum, the Board shall make its best efforts to obtain an insurance policy providing fire and broad form extended coverage for the Common Elements, and, at the Board's discretion, for the Units. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the full replacement value of any repair or reconstruction in the event of damage or destruction from any insured hazard.

17.2 Additional Insurance. In addition to the insurance required above, the Board shall obtain, to the extent reasonably available, with the costs thereof to be borne as a Common Expense:

(A) Worker's compensation insurance if and to the extent necessary to meet the requirements of applicable law;

(B) Liability insurance providing coverage in an amount not less than two million dollars ($2,000,000) per occurrence for injury, including death, and property damage covering the Association, the Board of Directors, officers, and all agents and employees of the Association, and all Unit Owners and other persons entitled to occupy any Unit or other portion of the Property. Such insurance shall contain a cross-liability endorsement.

(C) Fidelity bonds covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. If reasonably available, such bonds shall be in an amount at least equal to no less than three (3) months' operating expenses plus reserves on hand as of the beginning of the fiscal year and shall contain waivers of any defense based upon the exclusion of persons serving without compensation; and

(D) Other insurance as the Board of Directors may determine to be necessary.

17.3 **Terms.** The Board of Directors shall use every reasonable effort to secure policies that will provide the following:

(A) that the insurer waives its rights of subrogation of any claims against directors, officers, the Management Firm, the Unit Owners, and their respective family members, guests, licensees and tenants;

(B) that the policies cannot be canceled, invalidated, or suspended on account of the conduct of any director, officer, or employee of the Association or the Management Firm without a prior demand in writing delivered to the Association and to all mortgagees of Units to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured;

(C) that any "other insurance" clause contained in the policy shall expressly exclude Unit Owners' policies from its operation;

17.4 **Association as Trustee; Premiums.** All insurance obtained by the Association shall be obtained in the name of the Association as trustee for each of the Unit Owners and their respective Mortgagees as their interests may appear. The amount of such insurance may be increased or decreased at any time it is deemed necessary by the Board of Directors to conform to the requirements of this Declaration. The cost of the premiums for such insurance shall be paid as a Common Expense but may be billed directly, in an annual single lump sum, to each Unit separate and apart from the quarterly assessments. Each Unit shall be required to pay its Relative Share of the Association insurance premiums. Any delinquent or late payment or non-payment of the insurance premiums shall be subject to all of the provisions of Article 16.

17.5 **Rating and Insurance Certificates.** All policies of insurance shall be written with a company authorized to do business in Wisconsin and holding a Best's rating of at least B plus. The company shall provide insurance certificates to each Unit Owner and Mortgagee requesting the same in writing.

17.6 **Maximum Deductibles.** The policies may contain a maximum deductible of the lesser of $10,000 or 1% of the policy face amount. The deductible amount shall be added to the face amount of the policies in determining whether the insurance equals at least full replacement value. The Association's operating reserves shall maintain funds to cover deductibles.

17.7 **Insurance Requirements of Unit Owners.**

(A) Every Unit Owner shall be obligated to obtain and maintain at all times insurance covering the structural portions of his or her Unit to the extent not insured by policies maintained by the Association.

(B) In addition, to the extent not insured by policies maintained by the Association or to the extent insurable losses result in the payment of deductibles under the Association's polices, every Unit Owner shall be obligated to obtain and maintain at all times insurance covering consequential damages to any other Unit or the Common Elements due to occurrences originating within the Unit Owner's Unit caused by the negligence of the Unit Owner, the failure of the Unit Owner to maintain the Unit, or any other casualty within the Unit that causes damage to other Units or the Common Elements.

(C) Each Unit Owner shall have the right to obtain coverage, at his or her own expense, for personal property and for improvements and betterments made to the Unit by such Unit Owner.

(D) At the request of the Board of Directors, Unit Owners shall file a copy of each individual policy or policies covering his or her Unit and personal property with the Board of Directors within ten (10) days after receiving such request. Such Unit Owner shall promptly notify, in writing, the Board of Directors in the event any such policy is canceled or amended.

17.8 **Maintenance of Units.** The Board of Directors shall have the authority to require any Unit Owner to do any act or perform any work involving portions of the Condominium that are the maintenance responsibility of such Unit Owner, if such work or act will, in the Board's sole discretion, decrease the possibility of fire or other damage in the Condominium, reduce the insurance premium paid by the Association for any insurance coverage or otherwise assist the Board in procuring or maintaining such insurance coverage; provided, however, if the cost of providing such required work is reasonably estimated to exceed five hundred dollars ($500) per Unit in any fiscal year, then the required work shall be approved by the affirmative vote of two-thirds (2/3) of the members present at an annual or special meeting of the Association, which meeting notice specifies the purpose of the meeting and includes consideration of such resolution.

In addition to, and not in limitation of, any other rights the Association may have, if any Unit Owner does not comply with any reasonable requirement made by the Board of Directors pursuant to this Section 17.8, the Association, upon fifteen (15) days' written notice (during which period the Unit Owner may perform such required act or work without further liability), may perform such required act or work at the Unit

Owner's sole cost and expense. Said cost shall be a Special Assessment and shall be added to and become a part of the Assessment obligation of such Unit Owner and shall become a lien against the Unit and shall be collected as provided in this Declaration. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to this section, including, but not limited to, a right of entry during reasonable hours and after reasonable notice to the Unit Owner or occupant of the Unit, except that entry may be made at any time without notice in an emergency situation.

17.9 **Combined Protection.** If coverage is reasonably available to provide a combination of one or more of the coverages required hereunder to be obtained by the Association and the Unit Owners, the Board of Directors is hereby given discretionary power to negotiate such combination of insurance protection on an equitable cost sharing basis under which each Unit Owner may be assessed individually for the amount of insurance that he or she directs the Board of Directors to include in such policies for his additional protection. Copies of all such policies shall be provided to each Mortgagee requesting the same. Nothing contained in this paragraph shall be deemed to prohibit any Unit Owner, at his or her own expense, from providing any additional insurance coverage on his or her property which will not duplicate any insurance provided by the Association.

In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by Unit Owners or their Mortgagees.

17.10 **Disposition of Insurance Proceeds.** In the event of partial or total destruction of any Improvement and it is determined pursuant to Article 18 of this Declaration to repair or reconstruct such Improvement in accordance with this Declaration, the proceeds of any insurance covering such partial or total destruction shall be paid to the Association as trustee for each of the Unit Owners to be applied to the repair or replacement cost. If it is determined not to reconstruct or repair, then the proceeds shall be distributed to the Unit Owners and their Mortgagees, if any, as their respective interests may appear, in the manner provided by the Condominium Act.

18. **Destruction and Reconstruction.** In the event of a partial or total destruction of the Improvements, such Improvements shall be repaired and rebuilt as soon as practicable and substantially to the same design, plans and specifications as originally built, unless the damage or destruction exceeds available insurance proceeds, in which case the Unit Owners may within ninety days of the date of the damage or destruction, by affirmative

vote of the Unit Owners holding at least 75 % of the total number of votes entitled to be cast, determine not to rebuild or repair. In such event, the provisions of the Condominium Act shall be applicable.

The Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure.

The procedure for repair and reconstruction shall be:

(A) **Cost Estimates.** Immediately after a fire or other casualty causing damage to any Improvement(s), the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the Improvement(s) (including any damaged Unit) to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

(B) **Source and Allocation of Proceeds.** The proceeds of any insurance provided by the Association and collected for such damage or destruction shall be available to the Association for the purpose of repair or reconstruction. Any deficit in insurance proceeds shall be borne or shared by all Unit Owners in the proportion that the cost of repairing the damage or destruction to their respective Units and Limited Common elements bears to the total cost of repairing all damage or destruction.

(C) **Plans and Specifications.** On reconstruction, the design, plans and specifications of any Improvements may vary from that of the original upon approval of the Architectural Review Committee, provided, however, that the number of square feet for each Unit included in such Improvements and the location of the Improvements shall be substantially the same as prior to damage or destruction.

(D) **Encroachments.** Encroachments upon or in favor of Units that may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Unit Owner upon whose Property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the Unit was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

(E) **Construction Fund.** The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from Assessments against Unit Owners on account of such casualty

shall constitute a construction fund that shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this section.

(F) **Method of Disbursement.** The construction fund shall be disbursed by the Association in appropriate progress payments to such contractor(s), supplier(s), and other persons performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Board. of Directors.

19. Architectural Standards.

19.1 **Architectural Review Committee.** There is hereby established an Architectural Review Committee (the "Committee") which shall be responsible for the establishment and administration of Architectural Guidelines to carry out the purposes and intent of this Declaration. The Committee shall be comprised of the members of the Board of Directors or of representatives designated by the Board of Directors.

19.2 **Purpose.** The Committee shall review, study and either approve or reject proposed Improvements on the Property other than Improvements installed or approved by Declarant in connection with the construction of the Project, all in compliance with this Declaration and as further set forth in the Architectural Guidelines.

(A) The Committee shall exercise its best judgment to see that all added Improvements conform and harmonize with any existing Improvements as to external design, quality and type of construction, materials, color, location on the Property, height, grade and finished ground elevation, and all aesthetic considerations set forth in this Declaration or in the Architectural Guidelines.

(B) No Improvement shall be erected, placed or altered on any of the Property, nor shall any construction be commenced, until plans for such Improvement shall have been approved by the Committee; provided, however, that improvements and alterations which are completely within a
Unit may be undertaken without such approval, subject to Article 10 of this Declaration.

(C) The Committee's approval or disapproval of plans and other information submitted to it, or its decision or other action with respect to any other matter properly before it, shall be conclusive and binding on all interested parties.

19.3 Organization and Operation of Committee.

(A) Term. The term of office of each member of the Committee selected by the Board shall be one year, commencing January 1, and continuing until his or her successor has been appointed. Should a Committee member
selected by the Board die, retire, resign, become incapacitated, or be removed, a successor shall be appointed by the Board.

(B) Chairman. At such time as the Committee is appointed by the Board of Directors, the chairman of the Committee shall be the President of the Association if he or she is serving on the Committee; otherwise, the chairman of the Committee shall be elected from among the members of the Committee by majority vote of the Board.

(C) Operations. The chairman shall take charge of and conduct all meetings and shall provide for reasonable notice to each member of the Committee prior to any meeting. The notice shall set forth the time and place of the meeting, and notice may be waived by any member. In the absence of a chairman, the Board may elect a successor, or if the absence is temporary, a temporary successor.

(D) Voting. The affirmative vote of a majority of the members of the Committee present shall govern its actions and be the act of the Committee. A quorum shall consist of a majority of the members of the Committee.

(E) Expert Consultation. The Committee may avail itself of such technical and professional advice and consultants as it deems appropriate.

19.4 Expenses. Except as provided below, all expenses of the Committee shall be charged as a Common Expense. The Committee shall have the right to charge a fee for each application submitted to it for review, in an amount that may be established by the Committee from time to time, and such fees shall be collected by the Committee and remitted to the Association to help defray the expenses of the Committee's operation.

19.5 Architectural Guidelines. The Committee shall from time to time adopt, establish, and publish Architectural Guidelines. The Architectural Guidelines shall not be inconsistent with this Declaration, but shall more specifically define and describe the architectural standards for the Condominium and the various uses within the Condominium. The Architectural Guidelines may be modified or amended from time to time

by the Committee. Further, the Committee, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements. Compliance with the architectural review process is not a substitute for compliance with governmental building, zoning, and subdivision regulations.

19.6 **Procedures.** As part of the Architectural Guidelines, the Committee shall make and publish such rules and regulations as it may deem appropriate to govern its proceedings.

19.7 **Limitation of Liability.** The Committee shall use reasonable judgment in accepting or disapproving all proposals, plans and specifications submitted to it. Neither the Committee, nor any individual Committee member, shall be liable to any person for any official act of the Committee in connection with such proposals, plans and specifications, except to the extent the Committee or any individual Committee member acted with malice or wrongful intent. Notwithstanding that the Committee has approved any such proposal, plans or specifications, neither the Committee nor any of its members shall be responsible or liable to any Unit Owner or contractor with respect to any loss, liability, claim, or expense which may arise by reason of such approval. Neither the Board, the Committee, or any agent thereof, nor Declarant or any of its partners, employees, agents, or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of this Declaration, nor for any structural or other defects in any work done according to such plans and specifications.

19.8 **Applicability to Declarant.** The provisions of this Article 19 shall not apply to Declarant or Units owned by Declarant.

20. Construction and Alteration of Improvements.

20.1 **General.** Except to the extent permitted in Articles 18 or 19 above, and except as hereinafter stated, any construction, reconstruction, refinishing or alteration of any part of the exterior of any building or any other Improvement on the Property, other than by Declarant, is absolutely prohibited.

20.2 **Deemed Nuisances.** Every violation of this Article 20 is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed for such violation by law or equity against a Unit Owner or other offender shall be applicable and available to the Association and any other Unit Owner.

20.3 **Removal of Nonconforming Improvements.** The Association, after reasonable notice to the Unit Owner or other offender, may bring an action in law or equity to remove any Improvement constructed, reconstructed, refinished, altered, or maintained in violation of this Declaration, and the owner of the offending Improvement shall reimburse the Association for all expenses incurred in connection with such action, including costs and attorneys' fees.

21. Maintenance Responsibilities.

21.1 **Repairs and Maintenance of the Common Elements.** Maintenance of the Common Elements shall be in accordance with standards established by the Association from time to time.

The Association, through the Board of Directors, shall be responsible for the management, control, and maintenance of the Common Elements and Limited Common Elements and shall cause the same to be kept in good, clean, attractive and sanitary condition, order and repair. Maintenance of the exterior of the Condominium building shall be the responsibility of the Association and shall be provided as a Common Expense. Such maintenance includes, without limitation, painting, repair and replacement of exterior walls and surfaces (including glass in the Units, the repair of which shall be a Common Element Expense), moldings, fascia, roofs, railings, stairways, porches, the exterior of garages including garage doors, and other exterior facilities serving the Units. The Board of Directors shall have the discretion to include the costs of maintenance of Limited Common Elements as a Common Expense or as a Special Assessment in accordance with Article 16.6.

21.2 **Unit Owner Responsibilities for Maintenance.** Each Unit Owner shall be responsible for keeping the interior of his or her Unit, all interior and exterior (unless the Association shall take responsibility for same) glass window surfaces, and all of the Unit's equipment, fixtures and appurtenances, in good order, condition and repair and in a clean and sanitary condition. Without in any way limiting the foregoing, each Unit Owner shall be responsible for the maintenance, repair or replacement (and the payment of all expenses therefore) of all plumbing fixtures, lighting fixtures, air conditioning or heating equipment, ventilating equipment, appliances and other equipment which may be connected to or included in the Unit.

21.3 **Failure to Maintain.** If the Board of Directors determines that (i) any Unit Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items for which he or she is responsible; or (ii) that the need for any maintenance, repair, or replacement of the Common Elements has been

caused through the willful or negligent act of any Unit Owner, his or her family members, guests, lessees, tenants or invitees, and such is not covered or paid by insurance in full, then the Association shall provide such maintenance, repair or replacement at the Unit Owner's sole cost and expense reduced by any insurance proceeds received by the Association. Such costs shall be a Special Assessment against such Unit Owner. Except in an emergency situation, the Association shall give the Unit Owner written notice of the Association's intent to provide necessary maintenance, repair, or replacement at the Unit Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors.

Unless the Board of Directors determines that an emergency exists, the Unit Owner shall have ten (10) days from receipt of such notice within which to complete the maintenance, repair, or replacement described in the notice. If the maintenance, repair, or replacement is not capable of completion within " such time period, the Unit Owner shall have ten (10) days from the receipt of such notice to commence the required maintenance, replacement or repair and shall thereafter proceed with diligence to complete such required maintenance, replacement or repair. If the Board determines that an emergency exists, or that a Unit Owner has not complied with the notice given by the Association as herein provided, the Association may, but is not obligated to, provide any such maintenance, repair, or replacement in the manner described above. The Association or its agents or employees shall have a right of entry upon or into the Unit as necessary to perform such work and shall not be liable for trespass for such entry or work. Entry may be made during normal working hours with reasonable notice to the Unit Owner or without notice at any time in the case of an emergency.

21.4 **Insurance Deductibles.** If maintenance is required as a result of an insured loss, the amount of the deductible shall be considered a maintenance expense to be paid by the person or persons (including the Association) who would be responsible for such repair in the absence of insurance. If the loss affects more than one Unit, or one or more Units and the Common Elements, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in accordance with the total cost of repair. Notwithstanding the above, should the Association obtain a per Unit/per occurrence deductible, each Unit Owner shall be responsible for any deductible applicable to his or her Unit.

Maintenance standards shall be enforced by Declarant, the Board of Directors, and the Management Firm, if any.

21.5 **Maintenance of Common Services.**

(A) **Maintenance Directives.** Unit Owners shall be responsible for reporting any problems with such services as sewer, water, gas, electric, cable television, and telephone services directly to the provider of said service.

All sewer, water, gas, electric, cable television, and telephone service to the Units will be billed directly to the Unit Owners by the service provider, unless otherwise provided for by municipal ordinance or by the Board of Directors. Should any service be billed to the Association in accordance with municipal ordinance or the direction of the Board of Directors, said charges shall become part of the assessments as provided for in Section 16.

(B) **Sanitary District**. Either the City of Muskego or the Metropolitan Milwaukee Sewage District will be the public entity responsible for providing sanitary sewer services to the Unit Owners. Any fees, charges, or special assessments charged to the Association by the City or Sewage District shall be a Common Expense of the Association.

(C) **Water.** Water shall be provided by the City of Muskego to each Unit and billed directly to the Unit Owner.

The Declarant shall pay for the initial installation of each water system and any water lines and water laterals connecting thereto. Any fees or costs incurred to repair, maintain, inspect, or replace the water system shall be a joint, shared expense of the Unit Owners after the cost of the initial installation by Declarant.

(D) **Other Maintenance.** Snow removal and other maintenance requirements will be the responsibility of the Association. These services will be contracted from service providers or will be furnished by the Management Firm and the cost thereof shall be a Common Expense.

(E) **Garbage Disposal.** Garbage disposal for the Units, if not separately billed by the provider, shall be a Common Expense.

(F) **Emergency Services.** Fire protection and emergency services will, be furnished to the Property by those Departments assigned to the Property by the local units of government.

22. **Remedies for violation by Unit Owner.** If any Unit Owner fails to comply with the Declaration, Bylaws, or the Condominium Act, such Unit Owner may be sued for damages caused by the failure or for injunctive relief, or both, by the Association or by any other Unit Owner including Declarant.

23. **Special Declarant Rights.** Notwithstanding anything to the contrary contained elsewhere in this Declaration, Declarant shall have the following rights:

23.1 **Right of Declarant to Dispose of Units.** Declarant shall have the right to sell or otherwise dispose of Units by deed, land contract or other form of installment sale, or by such other means of conveyance as it may choose, and in the event Declarant shall be forced to foreclose or otherwise recover possession of any Unit as the result of the default of a purchaser under a land contract, installment sale, or mortgage, Declarant shall be free to dispose of any such Units by any means whatsoever. Nothing herein contained shall in any way restrict the Declarant's right to rent Units not sold or otherwise disposed of.

23.2 **Sales Offices and Models.** Declarant has the right to maintain sales offices, management offices, models, signs advertising the Condominiums, and directional signs in the Condominium. As long as Declarant is a Unit Owner, Declarant and its duly authorized agents, representatives and employees may use, occupy or maintain any Unit owned by Declarant or any portion of the Common Elements as a model Unit or sales office or management office.

23.3 **Easement Use.** So long as Declarant owns any Unit or portion of the Property, Declarant shall have and hereby reserves easements over, across and through all of the Property for the purpose of making Improvements on or within the Property, for construction of Units or improvements to the Common Elements, for provision of services to Unit Owners, and for the maintenance of sales offices, signs, and/or model Units on the Property. Declarant reserves the right to grant additional easements over, across and through the Common Elements to third parties for the purposes of construction, repair, or maintenance within the Condominium.

23.4 **Expansion of Condominium.**

a. The Declarant, its successors and assigns, for a period of ten (10) years from the date of the recording of this Declaration, hereby expressly reserves the right to expand the Property in compliance with Section 703.26 of the Act without the consent of any Unit Owner or Mortgagee. Declarant shall be under no obligation to, and makes no representations that it will, expand or construct any part or all of the Condominium. The right to expand is subject to the following:

(i) that the total area of Additional Property added to the Condominium shall not exceed the total area of the Additional Property as described in the Plat and Plans, and attached hereto and

made a part hereof as Exhibit B. However, portions of the Additional Property may be added to the Condominium in phases.

(ii) the maximum number of Units that may be constructed on the Property and Additional Property will not exceed forty-eight (48) units.

(iii) if Declarant desires to exercise its right to expand, then Declarant shall execute and record a supplemental declaration, which shall describe the portion of the Additional Property to be added to the Condominium, the number of Units to be added, a description of the additional Units and any additional Common Elements, the undivided percentage interest of each Unit, and any additions and modifications to the Declaration as may be necessary and desirable to reflect the different character, if applicable, of the Additional Property being submitted to the Declaration, including a provision for additional easements and tree preservation areas, or to reflect any adjustment to the Common Expenses in connection with the Condominium as expanded.

(iv) the Declarant has the sole right to determine the location, size, quality and other similar features of the Additional Property, including without limitation the Limited Common Elements, the Common Elements and the Units; provided, however, the Improvements to the Additional Property shall be completed in a manner which is substantially similar in quality and workmanship to the Improvements theretofore subject to this Declaration. The Additional Property added to the Condominium shall be subject to the same use restrictions contained herein.

(v) in the event the Declarant exercises its right to expand the Condominium pursuant hereto, then upon any such expansion all references in this Declaration to the "Buildings," the "Condominium," "Units," "Property," "Unit Owners," "Association," "Common Expenses" and all other terms which refer to the Condominium automatically shall refer to the Condominium as expanded.

(vi) in the event the Condominium is expanded, the undivided percentage interests in the common elements shall be adjusted as set forth herein and the Common Expenses, Assessment and other similar expenses assessed by this Declaration and any other Condominium Document shall be adjusted according to the then existing needs of the Condominium.

(vii) in the event the Condominium is expanded, Unit Owners of the Units added to this Declaration shall be entitled to vote, with each Unit having one vote, upon the recording of the supplemental declaration that adds the Units to the Condominium.

b. Consent to Expansion. By acceptance of a deed of conveyance of a Unit, the grantee is hereby deemed to agree to the expansion of the Condominium and shall make no attempts to prevent the expansion of the Condominium in the event the Declarant decides to exercise its option to expand the Condominium.

24. Easements, Reservations and Encroachments.

24.1 Signs. The Declarant and its successors and assigns, shall have an easement to erect, maintain, repair, and replace, from time to time, one or more signs on the Common Elements or any Unit owned by Declarant for the purposes of advertising the location or sale of Units.

24.2 Utilities. Declarant hereby reserves easements for purposes of providing utility services, including without limitation the right to install, lay, maintain or repair and replace electrical lines and power transformers, water systems and related facilities, sewer lines, gas mains, telecommunication systems and equipment, and master antenna or cable access television system wires and equipment, over, under, along and on any part of the Common Elements. The Declarant, in Declarant's sole discretion, may convey any such easement, or any interest therein, to any utility company or provider or, in the case of a water system and related facilities, to the Unit Owners served by the water system.

24.3 Encroachments. In the event that by reason of the construction, reconstruction, settling or shifting of any building, or the design or construction of any Unit, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements, or any portion of any Unit encroaches upon any part of any other Unit, valid easements for the maintenance of each such encroachment are hereby established and shall exist for the benefit of such encroaching Unit or Common Element so long as all or any part of the building containing such Unit or Common Element shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of the Unit Owner of any Unit, if such encroachment occurred due to the willful misconduct of said Unit Owner.

24.4 Binding Effect. All easements and rights described herein are easements appurtenant to and running with the land described herein. All easements and rights described herein are granted and reserved to, and shall inure to the

benefit of and be binding upon, Declarant, its successors and assigns, and on all Unit Owners, purchasers and Mortgagees and their heirs, personal representatives, successors and assigns. Declarant, the Association and its Board of Directors shall have the authority to execute all documents necessary to carry out the intent of this Article 24.

24.5 Location and Dimension of Easements Reserved to Declarant. Declarant in its sole discretion, or Declarant's designee, shall determine the location and dimension of any easement reserved to the Declarant by this Article 24 the location and dimension of which are not expressly described herein or in the Plat and Plans. The location and dimension of any such easement, as so determined, shall be reasonable under the circumstances, taking into account the purpose or purposes for which the easement is reserved.

24.6 Declaration of Master Covenants for Country Club Villages. All rights of Unit Owners and the Association are expressly subject to the Declaration of Master Covenants for Country Club Villages dated October 26, 1996, and recorded April 7, 1997, in the Register of Deeds Office for Waukesha County, Wisconsin, in Reel 2412, Images 0822-0870, as amended from time to time, as set forth in Supplemental Declaration No. 4 to the Declaration of Master Covenants for Country Club Villages.

25. No Waiver in Case of Failure of Association to Insist on Strict Performance. The failure of the Association or the Board of Directors to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as, or result in, a waiver or a relinquishment of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Association of payment of any Assessment from a Unit Owner, with knowledge of breach of any covenant hereof, shall not be deemed as a waiver of such breach, and no waiver by the Association or the Board of Directors of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Association or the Board of Directors.

26. Amendments to Declaration or Plat and Plans. Except as otherwise provided by the Condominium Act, this Declaration or the Plat and Plans may be amended only by the written consent of the holders of not less than two-thirds (2/3) of all votes entitled to be cast by the Unit Owners, including Declarant. A Unit Owner's written consent to an amendment to this Declaration is not effective unless it is approved by the Mortgagee of the Unit, if any. Unless Declarant has expressly consented to such amendment in writing, no amendment shall alter, limit or abrogate the rights and interests granted to or reserved by Declarant in this Declaration.

Copies of each amendment shall be certified by the President and Secretary of the Association in a form suitable for recording. A copy of the amendment as so certified shall be recorded with the Register of Deeds for Waukesha County, and a copy of the amendment shall also be mailed or personally delivered to each Unit Owner at his or her address on file with the Association. This Article 26 shall not apply to, limit or affect the right of Declarant, which Declarant hereby reserves, to amend this Declaration or the Plat and Plans if, and to the extent that, Declarant deems such amendment necessary to satisfy the project approval requirements of any of Declarant's mortgages. Declarant's reservation of this right shall not be deemed to commit Declarant to obtaining such project approval, and any decision to obtain such project approval shall be in the Declarant's sole discretion.

Further, since the initial owner of a Unit may choose to have no living space on the second level of a Unit, either the Association or the Declarant may amend the Plat and Plans to reflect the choices made by the Unit Owners.

27. **Notices.** The giving of any notice, statement, demand or document required or permitted by this Declaration, the Bylaws or the Condominium Act to be given to a Unit Owner, the Association or the Declarant shall be effective if such notice, statement, request, demand or document is sent by first class mail or delivered personally or by private carrier to the address of the recipient as provided below.

If to a Unit Owner:

> The name and address of the Unit Owner on file with the Secretary of the Association; if such Unit is owned by more than one person, the name and address of one (1) co-owner of the Unit shall be deemed sufficient.

If to the Association:

> St. Andrews Condominium Association, Inc.
> Attn: Paul R. Votto
> 622 North Water Street, Suite 200
> Milwaukee, WI 53202

If to the Declarant:

> Muskego St. Andrews, LLC
> Attn: Paul R. Votto
> 622 North Water Street, Suite 200
> Milwaukee, WI 53202

28. **Association's Agent for Service of Process.** The initial resident agent of the Association for service of process and the Resident Agent designated pursuant to the Condominium Act shall be Paul R. Votto, whose address is 622 North Water

Street, Suite 200, Milwaukee, Wisconsin 53202. Change of agent for service of process may be accomplished by resolution of the Board of Directors of the Association and upon proper filing of the name with the Secretary of State.

29. **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.

30. **Captions.** The captions and section headings herein are inserted only as matters of convenience and for reference, and in no way define or limit the scope or intent of the various provisions hereof.

31. **Severability.** The provisions of this Declaration shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of the remaining portion of the provision or any other provision of this Declaration.

32. **Subordination.** The provisions of this Declaration and any amendments hereto shall be subordinate and subject to the provisions of the Condominium Act, which shall control in case of conflict. However, the provisions of this Declaration and any amendments hereto shall prevail over any conflicting provisions in the Articles of Incorporation or Bylaws of the Association.

33. **Applicable Law.** This Declaration shall be governed by and interpreted in accordance with the laws of the State of Wisconsin.

IN WITNESS WHEREOF, Muskego St. Andrews, LLC has caused this Condominium Declaration to be executed at Milwaukee, Wisconsin, this 14th day of December, 2004.

Muskego St. Andrews, LLC

By: _____
Paul R. Votto, Manager

STATE OF WISCONSIN)
)SS
MILWAUKEE COUNTY)

Personally came before me this 14th day of December, 2004, the above named, Paul R. Votto, Manager of Muskego St. Andrews, LLC, to me known to be the person who executed the foregoing instrument and acknowledges the same.

DESHA L. SCHNEIDER NOTARY PUBLIC STATE OF WISCONSIN

_____
Notary Public, State of Wisconsin
My Commission ~~is permanent~~. expires 8-28-05

Consent of Mortgagee

The undersigned mortgagee of Declarant's Property hereby consents to this Declaration and the Plat and Plans.

Name of Mortgagee: Amcore Bank ~~AmCorp Bank~~

BY: _____

Title: Vice President

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STATE OF WISCONSIN)
: ss
COUNTY OF MILWAUKEE)

This instrument was acknowledged before me on December 14th, 2004, by Gretchen Quinlevan as Vice President of Amcore Bank, N.A.

Desha L Schneider
Notary Public, State of Wisconsin
My commission: 8-28-05

DESHA L. SCHNEIDER NOTARY PUBLIC STATE OF WISCONSIN

This instrument was drafted by:

Attorney William R. Soderstrom
Fox, O'Neill & Shannon, S.C.
622 North Water Street
Suite 500
Milwaukee, WI 53202
(414) 273-3939

001836 DEC 23 AM

EXHIBIT A

LEGAL DESCRIPTION

PHASE 1:

Lot 1 of Certified Survey Map No. 9897, and Outlot 2 of the Reserve at Champions Village, being a part of the Norhtwest ¼ and Northeast ¼ of the Northwest ¼ of Section 25, Town Lot 1 of Certified Survey Map No. 9897, and Outlot 2 of the Reserve at Champions Village, being a part of the Northwest ¼ and Northeast ¼ of the Northwest ¼ of Section 25, Town 5 North, Range 20 East, in the City of Muskego, Waukesha County, Wisconsin. Said lands containing 12.67 acres.

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EXHIBIT B

LEGAL DESCRIPTION

PHASE 2:

Lot 2 and Lot 3 of Certified Survey Map No. 9897, being a part of the Northwest ¼ and Northeast ¼ of the Northwest ¼ of Section 25, Town 5 North, Range 20 East, in the City of Muskego, Waukesha County, Wisconsin. Said lands containing 7.96 acres.