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WASHINGTON COUNTY WISCONSIN
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Sharon A. Martin
SHARON A MARTIN
WASHINGTON COUNTY
REGISTER OF DEEDS
Fee: **$30.00**

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Pages: **7**

PARTY WALL AGREEMENT

Document Number

Recording Information

This Document was Drafted by and Should be Returned to:
Michelle Wagner Ebben
Michael Best & Friedrich LLP
790 N. Water St., Suite 2500
Milwaukee, WI 53202

PINs: See Exhibit A

THIS PARTY WALL AGREEMENT (the "Agreement") is made as of the 2nd day of May, 2024 (the "Effective Date") by and between Home Path Financial Limited Partnership, a Wisconsin limited partnership ("Owner No. 1") and Home Path Financial Limited Partnership, a Wisconsin limited partnership ("Owner No. 2").

RECITALS:

A. Owner No. 1 is the owner of real estate located in the Village of Jackson, Washington County, Wisconsin, which real estate is legally described on Exhibit A, attached hereto and made a part hereof ("Parcel No. 1").

B. Owner No. 2 is the owner of real estate which is contiguous to Parcel No. 1, and which real estate is legally described on Exhibit A, attached hereto and made a part hereof ("Parcel No. 2", with Parcel No. 1 and Parcel No. 2, each, individually being a "Parcel," and collectively, "Parcels").

C. Owner No. 1 and Owner No. 2 (each an "Owner" and collectively the "Owners") mutually desire to provide for the maintenance and preservation of the common wall which straddles the improvements (the "Residence") on the property line between Parcel No. 1 and Parcel No. 2.

AGREEMENT:

NOW, THEREFORE, for the covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owners agree as follows:

1. **RECITALS**. The foregoing recitals are incorporated herein and made part hereof.

2. **DECLARATION OF PARTY WALL**. The boundary of each Residence includes a common wall ("Party Wall") providing a point of connection between the Residence on Parcel 1 and

the Residence on Parcel 2. Each Residence's boundary at said Party Wall shall be the undecorated surface of the Party Wall facing the inside of the Residence, extending from the lowest level of the Residence upward to be flush against the underside of the roof, in compliance with all Wisconsin and other applicable building codes. All electrical, plumbing, heating, ventilating, or air conditioning installations, lines, or appurtenances located within such Party Wall and not dedicated to serving a single Residence shall be considered Common Areas.

3. **EASEMENT; USE OF PARTY WALL**. Owner No. 1 hereby grants to Owner No. 2 the right and easement to use the Party Wall partially located on Parcel No. 1 below and above the surface of the ground and along the whole length or any part of length thereof for the support of the building presently existing or to be constructed on the Parel No. 2. Owner No. 2 hereby grants to Owner No. 1 the right and easement to use the Party Wall partially located on Parcel No. 2 below and above the surface of the ground and along the whole length or any part of the length thereof for the support of the building presently existing or to be constructed on Parcel No. 1. For so long as buildings stand on both Parcels, neither Owner shall be entitled to use the top surface of the Party Wall to the exclusion of the use thereof by the other Owner.

4. **REPAIR AND MAINTENANCE**. Either Owner may repair and/or maintain the Party Wall as necessary to ensure that it remains structurally sound and, except to the extent provided for herein, the cost of such repair and maintenance shall be shared equally between the Owners. Each shall promptly pay their respective share of the expenses of maintenance or repair of the Party Wall within thirty (30) days of billing therefor.

5. **DEMOLITION OF BUILDING**. The Owner of its respective improvements ("Demolishing Owner") may demolish or tear down the existing building which abuts the Party Wall and is located on its Parcel, subject to the following:

(a) The Demolishing Owner shall advise the other Owner, in writing, of its intent to demolish the building at least ninety (90) days prior to initiating such demolition.

(b) Provided there is then in existence a building on the other Parcel which building abuts the Party Wall ("Adjoining Building"), the Demolishing Owner shall, prior to initiating demolition and at its sole expense, obtain a written structural engineering analysis or report from a licensed structural engineer approved by the other Owner (such approval not to be unreasonably withheld, conditioned, or delayed), which shows that the demolition may be accomplished without damage to the structure of the Adjoining Building, and indicates the portion(s) of the Party Wall, if any, which may be demolished while retaining adequate support for the Adjoining Building. The Demolishing Owner shall provide the other Owner with a copy of the written analysis or report at least sixty (60) days prior to initiating demolition.

(c) The Demolishing Owner shall, prior to initiating demolition, at its sole expense, obtain comprehensive general liability insurance and workers compensation coverage in amounts reasonably deemed acceptable by the other Owner, in form and with companies reasonably satisfactory to the other party. Such insurance policies shall name the other Owner and the holder(s) of any mortgage(s) on the other Parcel as additional insureds. A copy of the paid policy evidencing such insurance or a certificate of the insurer certifying the issuance of such policy shall be delivered to the other party prior to

commencing demolition. The Demolishing Owner shall ensure that any contractors carrying out the demolition shall have insurance meeting the aforesaid requirements in place prior to initiating the demolition.

(d) Provided there is then in existence an Adjoining Building, the demolition shall be accomplished under the supervision of a licensed structural engineer in conformance with the report or analysis provided pursuant to Section 5(b) above, and in no event shall the Adjoining Building be deprived of adequate support. The demolition shall be accomplished in a good and workmanlike manner and in compliance with the Declaration and all applicable laws and ordinances. At the conclusion of the demolition, the Demolishing Owner shall restore the Party Wall to the same condition as the previously exposed portions of the Party Wall were in immediately prior to the beginning of the demolition, and complete tuck-pointing as needed due to the demolition. Any warranties with respect to the work or materials utilized in such restoration or tuck-pointing shall be assigned to the Owner of the Adjoining Building.

(e) The demolition shall be conducted in such a manner so as to minimize any interference with the use of the adjoining Parcel.

(f) Once a currently existing building is demolished, no improvements which use the Party Wall for structural support may be constructed on the Parcel owned by the Demolishing Owner.

(g) Except as otherwise provided herein, following demolition of any currently existing building, the Owner of the Adjoining Building shall be solely responsible for the repair and maintenance of the Party Wall.

6. **INSURANCE; INDEMNIFICATION**.

(a) Each Owner shall obtain and maintain insurance for their respective Parcel and the entirety of the building existing thereon, including the portion of the Party Wall, for the full replacement value for the building on their parcel and the Party Wall.

(b) Each Owner hereby agrees to indemnify and to hold the other harmless from and against any and all loss, cost, claim, liability, or expense arising out of or relating to any damage caused to the Party Wall by the negligent acts or omissions of the indemnifying Owner, and its employees, agents, representatives, licensees, and invitees (collectively, "Party Affiliates"). No such indemnifying Owner shall be permitted to seek contribution from the indemnified Owner for repairs or restoration of the Party Wall resulting from any such negligent act or omission.

7. **NOTICE**. All notices issued under or relating to this Agreement shall be in writing and shall be delivered to the owner of the respective Lot subject to this Agreement via (a) Certified U.S. Mail, (b) hand delivery, or (c) via email if notice is also sent via method (a) hereof. An Owner shall have the right to change its notice address by giving written notice of such change to the other Owner.

8. **APPLICABLE LAW**. This Agreement shall be governed by the laws of the State of Wisconsin.

9. **SEVERABILITY**. If any of the provisions contained herein shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall not in any event affect any of the other provisions contained herein and such other provisions shall be valid and enforceable to the fullest extent permitted by law.

10. **NO PUBLIC DEDICATION**. Nothing contained herein shall be deemed to be a gift or dedication of any portion of the easements granted hereunder to the general public or for any public purpose whatsoever.

11. **ENTIRE AGREEMENT**. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and any and all prior negotiations and/or understanding are superseded hereby.

12. **RUNS WITH THE LAND**. This Agreement, and all of the covenants and conditions contained herein, shall run with the land and shall be binding upon and inure to the benefit of the Parties hereto and their successors and/or assigns. The reciprocal grants of easement herein contained shall be deemed appurtenant to the benefiting Parcel to which it is granted.

13. **AMENDMENT**. This Agreement may not be amended except by a written document executed and acknowledged by both of the Parties, or their successors and/or assigns. The Parties agree that Parcel No. 1 and Parcel No. 2 are subject to that certain Declaration of Covenants, Conditions, and Restrictions for the Villas at Morning Meadows recorded May 2, 2024 as Document No. 1594850, as may be amended (the "Declaration"). This Agreement may not be amended in any way that would violate the terms of the Declaration.

14. **COUNTERPARTS**. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which when taken together, shall constitute one and the same instrument.

[Signatures on the following pages.]

IN WITNESS WHEREOF, this Agreement is dated as of the Effective Date.

OWNER NO. 1:
Home Path Financial Limited Partnership

By: IMS Investments, LLC, a Wisconsin limited liability company, its general partner

By: _____
Kenneth Frank, Authorized Signer

ACKNOWLEDGMENT

STATE OF WISCONSIN)
)SS.
COUNTY OF MILWAUKEE)

Personally came before this 9th day of May, 2024, the above-named ~~Jeffrey M. Kleiner~~ Kenneth Frank, to me known to be the person who executed the foregoing instrument and acknowledged the same in such capacity.

STEPHANIE BAKER NOTARY PUBLIC STATE OF WISCONSIN

_____
Stephanie Baker
Notary Public, State of Wisconsin
My commission expires: 9/11/27

OWNER NO. 2:
Home Path Financial Limited Partnership

By: IMS Investments, LLC, a Wisconsin limited liability company, its general partner

By: _____
Kenneth Frank, Authorized Signer

ACKNOWLEDGMENT

STATE OF WISCONSIN)
)SS.
COUNTY OF MILWAUKEE)

Personally came before this 9th day of May, 2024, the above-named ~~Jeffrey M. Kleiner,~~ Kenneth Frank to me known to be the person who executed the foregoing instrument and acknowledged the same in such capacity.

STEPHANIE BAKER NOTARY PUBLIC STATE OF WISCONSIN

_____
* Stephanie Baker
Notary Public, State of Wisconsin
My commission expires: 9/11/27

EXHIBIT A
LEGAL DESCRIPTIONS

Parcel No. 1:
Lot 70 of the Morning Meadows Subdivision Addition No. 2 according to the Plat recorded on March 18, 2024 in the office of the Washington County Register of Deeds in Map Book 54, Page 130 as Document Number 1592680, being a part of the Northwest 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 19, Town 10 North, Range 20 East, in the Village of Jackson, Washington County, Wisconsin.

Tax Key No. 0521073

Parcel No. 2:
Lot 71 of the Morning Meadows Subdivision Addition No. 2 according to the Plat recorded on March 18, 2024 in the office of the Washington County Register of Deeds in Map Book 54, Page 130 as Document Number 1592680, being a part of the Northwest 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 19, Town 10 North, Range 20 East, in the Village of Jackson, Washington County, Wisconsin.

Tax Key No. 0521074