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DECLARATION

OF

SHARED WALL AGREEMENT

THIS DECLARATION OF SHARED WALL AGREEMENT (the "Shared Wall Agreement") is made and entered this 13th day of September, 2024, by Fox River Falls, LLC, a Wisconsin limited liability company ("***Declarant***").

RECITALS

A) Declarant is the holder of fee title to certain real estate commonly known as Fox River Falls Addition No.1 subdivision located in the Village of Menomonee Falls, Waukesha County, Wisconsin, which real estate is legally described on Exhibit A (the "Property") attached hereto and incorporated by reference; and

Fox River Falls, LLC
c/o Neumann Developments
N27 W24025 Paul Court,
Suite 100
Pewaukee, WI 53072

B) Declarant has recorded a Final Plat of Fox River Falls Addition No.1 in the Register of Deeds office of Waukesha County on September 13, 2024 as Document No. 4784007 (the "Final Plat") to divide the Property into multiple lots; and

C) The Property contains pairs of lots, Lot No. 68 and Lot No. 69, that will share a wall and other elements collectively (the "Lot(s)" or "Multiplex Lot(s)"), as described in Exhibit A; and

C} Declarant intends to sell the Multiplex Lots to third parties, collectively (the "Owner(s)"), subject to the terms, covenants and conditions of this Agreement; and

D) The builder of the structures intends to divide the structures along a line which straddles the common boundary line between the buildings to be constructed the Lots ("Unit Separation"); and

E) Declarant desires to provide for the preservation of the Unit Separation, and certain other common interests and amenities.

AGREEMENT

NOW, THEREFORE, the Declarant does hereby declare that the following rights, obligations, easements, covenants, burdens, uses and privileges shall exist at such times, in the manner and to the extent hereinafter set forth.

1) **Declaration of Unit Separation**. The Unit Separation shall at all times and in all respects be considered a unit separation between the structures on Multiplex Lots #68 and #69 as recorded on the Final Plat.

2) **Use of Unit Separation**. Owners of the Multiplex Lots shall have and possess the right and easement to use the Unit Separation below and above the surface of the ground and along the whole

length or any part of the length thereof and the common roof of the buildings constructed on the Lots, located at the intersection of the common roof and the Unit Separation. If one building is demolished, then the Owner of the remaining Lot on which a building remains standing shall be entitled to use the Unit Separation to the exclusion of the use thereof by the other Owner as further outlined below.

3) **Utilities**. Common utility runs (electric, telephone, cable television, etc.) may be brought through units and may cross Unit Separation. Each unit Owner shall have a perpetual utility easement over the adjoining unit for the purpose of repairing and/or replacing common utility runs. Access shall be granted during Monday through Saturday from 8:00AM through 6:00PM for regular repairs or at any time for emergency repairs (defined as lack of heat or electric).

4) **Repair and Maintenance**. Either Owner may maintain the Unit Separation and the common roof shared by the Owners as necessary to ensure that the Unit Separation and roof shall remain structurally sound and, except to the extent provided in Section 8 below, the cost of such repair and maintenance shall be shared equally by the Owners. Each shall promptly pay their respective share of the expenses of maintenance or repair of the Unit Separation and roof within thirty (30) days of billing.

5) **Alterations to Unit Separation**: Shared Walls and the common roof of a Multiplex Lot shall not be materially altered or changed, except by mutual-written agreement of the Owners of the adjoining Units and in accordance with plans prepared by a licensed engineer or architect. No Owner of a Multiplex Lot shall have the right to destroy, remove, or make any structural changes, extensions or modifications of a Shared Wall which would jeopardize the fire rating of the Shared Wall, or the structural integrity of the Units constructed on the adjoining Lots without the prior written consent of the Owner(s) of such adjoining Multiplex Lots. In addition, no Owner of a Multiplex Lot shall have the right to destroy, remove, extend or modify the common roof of a Multiplex without the prior written consent of the Owners of all Units within the Multiplex Lots, provided, however, that such prohibition does not restrict or hinder an Owner from having that portion of the common roof above its Unit repaired, replaced or re-shingled without the consent of any other Owner. In the event an Owner must obtain the prior written consent of any other Owner under this Section, such Owner seeking consent must also obtain the prior written consent of the holders of first lien mortgages or first lien deeds of trust on all such Units within the Multiplex Lots. Any such agreement for change, extension or modification of the Shared Wall or common roof shall be recorded in the office of the Clerk and Recorder of the County and shall expressly refer to this Agreement. No Owner shall subject a Shared Wall to any use which unreasonably interferes with the equal use and enjoyment of the Shared Wall by the adjoining Owner.

6) **Sharing of Repair and Maintenance:** Subject to the terms of Section 8 of this Article below, the cost of reasonable repair and maintenance of a Shared Wall between two (2) adjoining Units shall be shared equally by the Owners of the adjoining Units. If an Owner fails to repair or maintain the Shared Wall, the other Owner, contiguous to the Shared Wall, his agents, servants and employees may, upon five (5) days written notice and without cure, enter upon the Lot and into the Unit of the defaulting Owner and make the necessary repairs or perform the necessary maintenance of the Shared Wall and shall be entitled to bring suit for contribution from the other Owner or pursue any other rights or remedies at law or in equity.

7) **Right to Contribution Runs with Land:** The right of any Owner to contribution from any other Owner under this Agreement is appurtenant to the land and is binding on such Owner's successors in title.

8) **Demolition of Building**. An Owner ("Demolishing Owner") may demolish or tear down an existing building which abuts the Unit Separation and is located on its Lot, subject to the following:

(a) The Demolishing Owner shall advise the other Owner ("Adjoining 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 Lot which building abuts the Unit Separation ("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 Adjoining Owner (such approval not to be unreasonably withheld or delayed), which shows that the demolition may be accomplished without damage to the structure of the Adjoining Building. The Demolishing Owner shall provide the Adjoining 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 Adjoining Owner, in form and with companies reasonably satisfactory to the Adjoining Owner. Such insurance policies shall name the other Owner and the holder(s) of any mortgage(s) on the other Lot 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 Adjoining Owner prior to commencing demolition. 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 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 4(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 all applicable laws and ordinances. At the conclusion of the demolition, the Demolishing Owner shall restore the Unit Separation and roof of the Adjoining Building to the same condition as were in immediately prior to the beginning of the demolition. Any warranties with respect to the work or materials utilized in such restoration shall be assigned to the Adjoining 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 Building.

(f) Once a currently existing building is demolished, no improvements may be constructed on the Lot owned by the Demolishing Owner without notification to the Adjoining Owner.

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

9) **Indemnification**.

(a) Each Owner hereby indemnifies and agrees to hold the other harmless from and against any and all loss, cost, claim, liability or expense (including any obligation to contribute to repair or restoration) arising out of or relating to any damage caused by the negligent acts or omissions of the indemnifying Owner, its employees, agents, representatives, licensees and invitees other than with

respect to matters arising under subparagraph (b). No such indemnifying Owner shall be permitted to seek contribution from the indemnified Owner for repairs or restoration resulting from any such negligent act or omission.

(b) The Demolishing Owner hereby indemnifies and agrees to hold the Adjoining Owner harmless from and against any and all loss, cost, claim, liability or expense arising out of the demolition of the building on its Lot and any construction, restoration or repair work performed in connection with such demolition. No such indemnifying Demolishing Owner shall be permitted to seek contribution from the indemnified Adjoining Owner for repairs or restoration resulting from such demolition, restoration, repair or construction. The provisions of this Section S(b) shall survive with respect to any instance of demolition for a period of twelve (12) months from the date on which such demolition is completed.

10) **Joint Use Provisions.** The Lots described herein do not constitute a Condominium, nor has the Property been made subject to the Condominium Ownership Act under the laws of the State of Wisconsin. Accordingly, the Property is subject to the following joint use provisions which shall govern both Lots described herein as to the use and maintenance of each of the Lots by the Owners thereof.

(a) Use of Property. Each Lot described herein may be used for no purpose other than single family residential purposes. Notwithstanding the foregoing, an Owner is permitted to lease a Lot provided that the term of any such Lease shall not be shorter than twelve (12) months in duration and that the Lease comply with all applicable laws, rules and regulations relating to the Property, including any private covenants which the Property is conveyed subject to, including this Agreement.

(b) Maintenance. Each Owner shall maintain their Lot and all improvements located thereon in a neat, clean and code compliant condition, and shall undertake such routine and special maintenance as may from time-to-time be necessary to maximize the market value of said Lot and the adjoining Lot, including all typical seasonal lawn and landscaping repairs, replacement and maintenance as well as snow removal. In the event an Owner shall fail to maintain its Lot (a "Non-Complying Owner"), the other Owner may serve written notice upon the Non-Complying Owner, which notice shall specify the reasons for non-compliance. The Non-Complying Owner shall have twenty (20) days after receipt of such notice to comply with the same or request arbitration pursuant to the provisions set forth herein. If the Non-Complying Owner does not remediate the conditions complained of or request arbitration within the foregoing time period, then the Owner giving the notice may perform the maintenance and charge all reasonable costs thereof to the Non-Complying Owner. Notwithstanding the foregoing or anything else set forth herein, in addition to the charges for repairs under paragraph (6) above, should repairs or maintenance to common areas of the Property be necessary, which common areas include but are not limited to the roof, public sidewalks, common walkways, common exterior building improvements including privacy screens and any other improvement which relates to maintaining the appearance of the Property as a unified architectural unit, then such maintenance shall be the joint responsibility of the Owners who shall divide the cost thereof equally between them. It is the intent of the Declarant that both Lots be repaired and maintained so as to retain the look of a unified architectural unit. To that end, repairs, replacements and maintenance shall, to the extent practical, be made with the same materials, and with the same design and color scheme, as used in the original construction of improvements on the Lots, except as the Owners may otherwise unanimously agree. As used herein, the term maintenance shall include, but not be limited to removal of snow and ice on a seasonal basis.

11) **Insurance.** Each Owner shall procure and maintain the following insurance coverages on the Parcel owned by such Owner. The Owners may voluntarily cooperate with each other in procuring insurance coverage for their respective Lots but shall not be required to do so.

(a) Each Owner shall keep the improvements located on their respective Lot insured with "all risk" coverage on the Lot for an amount equal to not less than one hundred (100%) percent of the insurable replacement cost thereof. Such policy shall be endorsed with a replacement coverage endorsement and an agreed amount clause (waiving any applicable coinsurance clause).

(b) Each Owner shall insure against public liability claims and losses on a general liability form of insurance with broad form coverage endorsements covering claims for personal and bodily injury or property damage occurring in, on, under, within, upon or about the Property, or as a result of operations thereof in an amount of not less than, in the form of primary and/or umbrella coverages, Five Hundred Thousand and 00/100 ($500,000.00) Dollars per occurrence/aggregate.

12) **Disputes.** In the event there shall be a dispute as to any provisions of this Agreement, then either Owner may request that such dispute be resolved by arbitration undertaken in accordance with the rules of the American Arbitration Association before a panel of three (3) arbitrators. The place of arbitration shall be Milwaukee, Wisconsin. The cost of arbitration shall be apportioned by the arbitrators based on the relative merits of the arguments posed by the Owners or if the arbitrators shall fail to so apportion, the cost thereof shall be paid equally by each Owner. Each Owner shall pay its own legal fees and out of pocket expenses relating to the arbitration. The decision of the panel of arbitrators shall be final and binding upon the parties and may be entered as a judgment in any court of competent jurisdiction.

13) **Waiver of Litigation Rights**. All persons bound and subject to the provisions of this Agreement acknowledge and agree that by being bound to binding arbitration as provided in this Article (A) such Person, including each Owner, is giving up any rights it might possess to have a Dispute litigated in a court or jury trial.

14) **Signs.** Except for Declarant, no Owner may erect any sign, placard, advertisement or billboard of any size, kind, type or description, on their Lot, which is visible from the outside of the improvements located on a Lot except that signs advertising the Lot for sale of a usual and typical size are expressly permitted. Notwithstanding the foregoing, during the period of Declarant's ownership of either Lot, Declarant may erect such signs as may be necessary to advertise the sale of the Lots or such other matters in connection with the sale and development of the subdivision of which the Lots are a part, as Declarant deems necessary.

15) **Amendment and Termination.** All of the covenants, agreements, rights, duties, interests and benefits created hereby or contained herein may be terminated or amended, in whole or in part, only by an instrument executed by Declarant. After conveyance of Declarant's entire interest in the Property, any such amendment must be exercised by the Multiplex Lot Owners and their respective mortgagees.

16) **Binding Effect**. This Agreement and all of the rights, obligations, easements, covenants, burdens, uses and privileges contained herein are appurtenant to the Lots described herein, shall run with the land and shall bind and inure to the benefit of the Owners and their respective representatives, heirs, successors and assigns.

17) **Applicable Law.** This Agreement shall be governed by the laws of the State of Wisconsin. 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.

18) **Entire Agreement.** This Agreement contains the entire agreement of the Owners in respect of the subject matter hereof and supersedes any prior understandings and agreements between the Owners regarding the subject matter of this Agreement.

19) **Authority.** The persons executing this Agreement represent and warrant that they are duly authorized to execute and deliver this Agreement.

20) **Counterparts.** This document may be executed in one or more counterparts, which when taken together, shall constitute one and the same instrument

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Declaration of Shared Wall Agreement has been duly executed as of the date written above.

DECLARANT:

Fox River Falls, LLC,
a Wisconsin limited liability company

By: Neumann Developments, Inc., its sole Member

By: _____
Byran Lindgren, President

STATE OF WISCONSIN)
) ss.
COUNTY OF WAUKESHA)

Personally came before me this 13th day of September, 2024, the above named Bryan Lindgren, President of Neumann Developments, Inc. sole member of Fox River Falls, LLC, by its authority, and to me known to be the person who executed the foregoing instrument and acknowledged the same.

[SEAL]



_____
Name: Kevin A. Anderson
Notary Public, State of Wisconsin
My commission expires: 01-28-26

This instrument was drafted by:

Neumann Developments
Kevin Anderson
N27 W24025 Paul Court, Suite 100
Pewaukee, WI 53072

EXHIBIT A

Legal Description of Property

Being a redivision of a part of Outlot 3 of Fox River Falls, along with lands located in a part of the Southwest ¼ and the Southeast ¼ of the Southeast ¼ of Section 30, Town 8 North, Range 20 East, in the Village of Menomonee Falls, Waukesha County, Wisconsin.

Multiplex Lots

A portion of the Property as described above, limited to Lots 68 and 69 of the Final Plat of Fox River Falls Addition No.1, Village of Menomonee Falls, Waukesha County, Wisconsin