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# DECLARATION OF CONDOMINIUM FOR THE LEGEND AT MERRILL HILLS CONDOMINIUM

Name and return address:

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DECLARATION OF
CONDOMINIUM FOR
THE LEGEND AT MERRILL HILLS
CONDOMINIUM

The Legend at Merrill Hills, LLC, a Wisconsin limited liability company (the "Declarant"), does hereby declare that the real estate described below is subject to the Wisconsin Condominium Ownership Act, Chapter 703, Wisconsin Statutes. The said real estate and all the improvements now or subsequently placed thereon and all appurtenant rights shall be known and described as The Legend at Merrill Hills Condominium (the "Condominium"). The mailing address of the Condominium shall be 1325 E. Bristlecone Drive, Hartland, WI 53029.

1. Description of Land. The land which is the subject of this Declaration (the "Land") is in Waukesha County, Wisconsin, and is more particularly described on Exhibit A, attached hereto. A survey of the Land, showing the boundaries of the Condominium, is contained in the The Legend at Merrill Hills Condominium Plat (the "Condominium Plat").

2. Description of Units.

(a) The Condominium shall consist of thirty-three (33) units (individually, a "Unit" and collectively, the "Units"). Units are identified by number as indicated on the Condominium Plat. Each Unit and common area to which it has access are shown on the Condominium Plat.

(b) Each Unit shall consist of a cubicle of air enclosed within the exterior boundaries described as follows:

(i) The vertical or perimetrical boundaries of the Unit shall be the planes of the Unit boundaries shown on the Condominium Plat, extended in each case to an intersection with the upper and lower boundaries.

(ii) The lower boundary of the Unit shall be the horizontal plane of the surface of the Land within, and perpendicular to, the vertical boundaries.

(iii) The upper boundary of the Unit shall be parallel to, and extending 100 feet above, the horizontal plane of the surface of the Land within, and perpendicular to, the vertical boundaries.

(c) If any portion of the common elements or limited common elements (as hereinafter defined) shall encroach upon any Unit, or if any Unit shall encroach upon any other Unit or upon any portion of the common or limited common elements as a result of the duly authorized construction, reconstruction or repair of any improvements or as a result of settling or shifiting of any improvements, a valid easement for the encroachment and for its maintenance shall exist so long as the improvements, common or limited elements exist.

3. Description of Common Elements and Limited Common Elements.

(a) The common elements shall include all of the Condominium except its Units and shall include, but not be limited to, the following: the private roadways located on the Land, all access easements that provide access to the Land, the retention ponds and other storm water management improvements serving the Land, and all other utilities serving the Land. The common elements shall be operated, repaired and maintained by and at the expense of the The Legend at Merrill Hills Condominium Association, Inc. (the "Association"), except as otherwise provided in this Declaration or the By-Laws of the Association.

(b) The following common elements are designated as limited common elements and are assigned to and limited to the use of Units as follows (the "limited common elements"):

(i) The land immediately adjacent to the lower boundary of each Unit and located within the vertical boundaries of each Unit as shown on the Condominium Plat; and

(ii) A permanent exclusive easement to construct and install footings, foundations, a well, a private sanitary system or holding tank, and related pipes, underground utilities and similar underground improvements reasonably necessary to construct and occupy a single family residence within the Unit.

4. Percentage Interests, Voting and Assessments.

(a) The undivided percentage interest in the common elements (including limited common elements) appurtenant to each unit shall be the percentage resulting from dividing 1 by the number of Units in the condominium (1/33), subject to adjustment pursuant to Section 11(b).

(b) There shall be one vote in the Association appertaining to each Unit.

(c) All funds for the payment of common expenses and for the creation of reserves for the payment of future common expenses shall be obtained by equal assessments against the owner of each Unit in the manner described in the By-Laws of the Association. Notwithstanding the foregoing, Units owned by the Declarant shall not be subject to, and Declarant shall have no obligation to pay, assessments for common expenses and reserves until Declarant owns less than six (6) Units in the Condominium, or Declarant elects to have its Units become subject to assessments, whichever occurs first. Until Declarant becomes subject to assessments for common expenses, Declarant shall be responsible for the payment of the operating expenses of the Association in excess of the assessments due from Units no longer owned by Declarant.

5. Condominium Association. Following the conveyance of the first Unit to any person other than Declarant, all Unit owners shall be entitled and required to be members of the Association which is an association of Unit owners and which shall be responsible for carrying out the purposes of this Declaration, including exclusive management and control of the common

elements and facilities and all limited common elements of the Condominium. Declarant shall incorporate the Association as a nonstock, nonprofit corporation under the laws of the State of Wisconsin not later than the date of the first conveyance of a Unit to a purchaser other than the Declarant. Each Unit owner and the occupants of the Units shall abide by and be subject to all of the rules, regulations, duties and obligations of this Declaration, and the By-Laws, rules and regulations of the Association. The powers and duties of the Association shall include those set forth in the Association's Articles of Incorporation and By-Laws, the Condominium Ownership Act, this Declaration and Chapter 181, Wisconsin Statutes.

6. Building and Use Restrictions.

(a) The Units shall be used solely for single family residential purposes. One single family residence may be constructed within each Unit, in accordance with the building standards and restrictions set forth in this Section 6. A Unit shall not be used for any commercial purpose, except home offices.

(b) All buildings, structures and improvements constructed or installed within a Unit, other than a driveway extending to the private road located within the common elements, shall be located within the Building Site for such Unit as shown on the Condominium Plat. The owner of the Unit shall have the right to modify and/or relocate the Building Site within any Unit, as shown on the Condominium Plat, provided the Building Site maintains a minimum setback from any abutting street right-of-way of 35 feet (50 feet to centerline), a side yard setback of 15 feet, and a rear yard setback of 25 feet. The Unit owner shall record an amendment to the Condominium Plat to show any revisions to the Building Site within any Unit.

(c) No building or improvements shall be constructed, erected or placed within a Unit without the prior determination by the Board of Directors of the Association that the building or improvements comply with the building standards and restrictions set forth in this Section 6 and Article V, Section 13 of the By-Laws. All single family residences constructed within a Unit shall be subject to the following standards and restrictions:

(i) The exterior of the single family residence shall be constructed of brick, stucco, dryvit, stone, solid wood siding, Hardiplank, Chem-plank, other concrete fiber products acceptable to the Association, or other natural materials;

(ii) The minimum gross floor area (excluding attached garage, basement and porches) of any single family residence shall be:

| | |
|---|---|
| Ranch Style | 2,000 Square Feet |
| 1 ½ Story | 2,600 Square Feet |
| 2 Story | 2,600 Square Feet |
| Split Level | 2,600 Square Feet |
| Tri-Level | 2,600 Square Feet |

(iii) The maximum gross floor area (excluding attached garage, basement and porches) of any single family residence shall be 10,000 Square Feet, so long as the maximum building footprint does not exceed 25% of the Unit;

(iv) Single family residences shall have a minimum of a two-car attached, side-entry garage (courtyard-style garage entrances are considered conforming with this requirement). Front entry garages may be allowed at the sole discretion of the Association in cases where the the Association determines it appropriate due to aesthetics, size of lot, lot frontage, topography, or other reasonable conditions;

(v) The roof of any single family residence is required to have roofs of wood shakes, tile, 40-year fiberglass or asphalt shingles acceptable to the Association, or other approved roofing material. All ranch style single family residence is required to have a minimum pitch of 10/12, and all other single family residences including 1 ½ story, 2 story, split-level, and tri-level are required to have a minimum pitch of 8/12;

(vi) All exterior fireplaces and chimneys shall be constructed of masonry or stone materials;

(vii) At the time of construction of a single family residence, the owner shall install, at the owner's expense, one (1) outdoor electric lamppost (the design and quality of which shall be specified by the Association), with an unswitched photo-electric cell, at a location on the Unit deemed appropriate by the Association, in the Association's discretion. The lamppost shall be maintained by the owner, at the owner's expense;

(viii) The design (including materials) and location of each mailbox within a Unit shall be subject to the approval of the the Association, in the Association's discretion;

(ix) Front and side elevation windows on single family residences must be trimmed out using casing, shutters, or any other trim approved in writing by the Association. The Association shall have the right, at the time of apprioval, to make changes for aesthetic purposes;

(x) No soil shall be removed from any Unit without the prior consent of the Association or its duly appointed agent. Any excess soil resulting from excavations shall be transported, at the Unit owner's expense, to such other areas of the Land or such other property as may be designated by the Association; and

(xi) Within six (6) months from the substantial completion of a single family residence on the Unit, the owner of the Unit shall landscape and seed or sod its Unit in accordance with an Association approved landscape plan, which shall include without limitation the planting of at least two (2) trees with a minimum two and one-half to three inch (2.5-3.0") trunk diameter at grade along the street right-of-way of such Units in such locations as are specified by the Assocation.

(d) No outbuildings, above ground swimming pools, dog kennels, tennis courts, fences, or satellite dish antennas greater than 24 inches in diameter shall be permitted on any Unit. All satellite dish antennas under 24 inches in diameter must be screened from the roadway and the view of the other Units by landscaping or other screening acceptable to the Association.

(e) Installation of children's outdoor play structures may be permitted on a Unit subject to the Association's prior approval of the location and type of structure, in the Association's discretion.

(f) No signs of any kind shall be displayed to the public view on any Unit, except each Unit may display no more than one (1) of the following types of signs: (i) a professional sign of not more then 2 feet x 3 feet in size advertising a Unit for sale or rent; or (ii) a sign of not more then 2 feet x 3 feet in size used by a building contractor or the Declarant to advertise during the construction of an improvement on the Unit. Any sign allowed hereunder may only be displayed within an area two (2) feet adjacent to the front lot line of the Unit along the edge of the street pavement.

(g) All utility lines, pipes and conduits bringing service to the improvements located within a Unit and, to the extent possible, all utility lines, pipes and conduits bringing utility services to the Condominium shall be located underground.

(h) Each owner of a Unit shall be responsible for the removal of all debris caused by any and all construction work occurring on its Unit. No Unit owner shall knowingly allow disposal of any waste building material, tree stumps, branches tree trunks, or other material on any Unit or common elements. Each Unit owner shall be responsible for maintenance of all silt fence and other erosion control measures on its Unit until final landscaping has been completed. Failure to do so will result in the Declarant or Association advising the Unit owner of its neglect and giving the Unit owner twenty-four (24) hours to remedy the infraction. Failure of the Unit owner to timely remedy the infraction may result in the Declarant or Association performing the required work and billing or assessing the Unit owner for the atual cost of any required work up plus any fines or penalties assessed by any governmental authority and an Association administrative fees.

(i) Construction of a single family residence and related improvements on any Unit shall be completed within sixteen (16) months after approval of the plans and specifications by the Board of Directors of the Association unless a short period of time is specified by the Board of Directors at the time of such approval.

7. Service of Process. Service of process shall be made upon the Declarant c/o Jack Gaudion at 1325 E. Bristlecone Drive, Hartland, WI 53029 as to matters provided in the Wisconsin Condominium Ownership Act until all Units have been sold, conveyed and paid for or until the first annual meeting of the Unit owners, at which time the Association may designate a successor by vote of a simple majority of a quorum present at any meeting (members or Board of Directors) of the Association.

8. Damage or Destruction. In the event the common element improvements, including, without limitation, private roadways serving the Condominium are destroyed or damaged, action by the Association by vote of 100% of all Unit owners taken within 90 days after such damage or destruction shall be necessary to determine not to repair or reconstruct the common element improvements.

9. Further Matters.

(a) The Land is located adjacent to property that is or will be developed as a golf course. The Units and the common elements may be exposed to errant golf balls. All purchasers of Units acknowledge the risks associated with the golf course and waives, for themselves, their guests, invitees and tenants, all claims against the owner and/or operator of the golf course and against golfers for damage to property or personal injury resulting from golf balls that unintentionally enter any Unit or the common elements.

(b) All present and future owners of Units, tenants of such owners and any other occupants of Units, employees of owners, or any other persons that in any manner use or come upon the Condominium or any part thereof shall be subject to and shall comply with the provisions of this Declaration, the Articles of Incorporation of the Association and the By-Laws and rules and regulations of the Association, as these instruments may be amended from time to time. The acceptance of a deed or conveyance, or the entering into of a lease, or the entering into occupancy of any Unit shall constitute an acceptance by such owner, tenant or occupant of the provisions of such instruments, as they may be amended from time to time. The provisions contained in such instruments shall be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and fully stipulated in each deed, conveyance or lease thereof. The enforcement may be by such judicial proceedings as the Board of Directors of the Association may deem appropriate as well as by the provisions of the Wisconsin Condominium Ownership Act.

(c) Rules and regulations (in addition to the By-Laws) concerning the use of the Units and the common and limited common elements, including provisions concerning the keeping of pets, may be promulgated and amended by the Board of Directors of the Association. Copies of such rules and regulations shall be furnished by the Board of Directors of the Association to each Unit owner prior to their effective date.

(d) The Declarant hereby reserves for the Association acting by and in the discretion of its Board of Directors, the right to grant and/or dedicate to the Village of Waukesha, Wisconsin, the County of Waukesha, Wisconsin, or public or semi-public utility companies, easements and rights-of-way (and any and all improvements contained therein) on, across or under the Land, including the Land within any Unit's limited common elements, but outside of the Building Site located within such Unit, for the erection, construction and maintenance of all poles, wires, pipes and conduits for the transmission of electricity, gas, water, telephone/data and for other purposes, for sewers, storm water drains, gas mains, water pipes and mains, and similar service, and for performing any public or quasi-public utility function that the Village of Waukesha, Wisconsin, the County of Waukesha shall require or that the Board of Directors may deem fit and proper for the improvement and benefit of the Condominium. Such

easements and rights-of-way shall be confined, so far as possible, in underground pipes or other conduits, with the necessary rights of ingress and egress and with the rights to do whatever may be necessary to carry out the purposes for which the easement is created.

(e) The Declarant hereby further reserves for itself and its successors and assigns, until all proposed Building Sites (as the same may be modified by Unit owners) have been fully improved, a right of access over, across and through the Condominium for purposes of transporting construction materials, for making underground or aboveground utility connections and/or for any other reasonable use related to the construction of buildings whether or not such construction relates to the Condominium or development outside of the Condominium. Any exercise of this right shall not constitute a nuisance.

(f) All terms used in this Declaration shall have the same meaning as used or defined in the Wisconsin Condominium Ownership Act unless the context of this Declaration requires or specifically provides otherwise.

10. Additional Rights of Lenders.

(a) As to the holder of any mortgage or land contract vendor or insurer or guarantor of any mortgage (the "Lender") of a Unit which has notified the Association in writing delivered or mailed by certified mail to the place for service of process stated in Section 7 of this Declaration that it desires to receive notice of the following matters:

(i) The Board of Directors shall give the Lender written notice by mail of the call of any meeting of the membership or the Board of Directors of the Association to be held for the purpose of considering any proposed amendment to this Declaration, the Articles of Incorporation or the By-Laws;

(ii) The Board of Directors shall give the Lender by mail a copy of the notice of default which is given to any Unit owner on any failure to comply with or violation of any of the provisions of this Declaration, the Articles of Incorporation, the By-Laws and rules and regulations promulgated thereunder, and any amendments thereto, simultaneously with the giving of required notice to any Unit owner which shall be not later than within 30 days of such failure;

(iii) The Board of Directors shall notify the Lender of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(iv) The Board of Directors shall permit the Lender to examine during normal business hours books and records of the Association (including current copies of this Declaration, Association By-Laws, and all rules and regulations promulgated thereunder) and upon request shall furnish the Lender annual reports and such other financial data (including audited financial statements) as it sends to Unit owners.

(b) Unless two-thirds of the number of holders of first mortgages on Units (based on one vote for each mortgage held) and all Unit owners of affected Units have given their prior written approval, or unless the Association obtains such higher proportion of consent as may be required by the Wisconsin Condominium Ownership Act, the Association shall not:

(i) Change the undivided percentage interest in the common elements of the Condominium appertaining to each Unit;

(ii) Partition or subdivide any Unit of the Condominium;

(iii) By act or omission, seek to partition, subdivide, encumber, sell or transfer the common elements, except that the granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the Condominium shall not be deemed a transfer within the meaning of this clause; or

(iv) Use hazard insurance proceeds for losses to any condominium property (whether to Units or to common elements) for other than the repair, replacement or reconstruction of such condominium property.

(c) Unless all holders of first mortgages on Units shall have given their prior written approval, the Association shall not by act or omission seek to abandon the condominium status of the Condominium except as provided in Section 9 of this Declaration.

(d) This section shall not be amended unless all Lenders have given their prior written approval.

11. Amendment of Declaration.

(a) This Declaration may be amended with the written consent of at least two-thirds of the Unit owners (based on one consent for each Unit), provided that the mortgagee (if any) of any consenting Unit owner must also consent to such amendment. The Board of Directors of the Association shall establish a deadline by which all consents necessary to approve a proposed amendment to the Declaration must be obtained at the time the amendment is proposed.

(b) This Declaration may also be amended by the Declarant to change or alter the percentage of ownership in the common elements where the Declarant alters such percentage in accordance with this section.

(c) Declarant further reserves the right to amend the Declaration or the Condominium Plat to correct scrivener's errors, typographical errors and minor legal description discrepancies.

SIGNATURE ON FOLLOWING PAGE

IN WITNESS WHEREOF, this document has been executed this _____ day of _____, 2020 by Declarant.

THE LEGEND AT MERRILL HILLS, LLC

BY_____
Jack Gaudion, Member

State of Wisconsin )
: SS
Milwaukee County )

This instrument was acknowledged before me on _____, 2020 by Jack Gaudion, as Member of The Legend at Merrill Hills, LLC.

[Seal]

_____
( )
Notary Public, State of Wisconsin
My commission _____

This instrument was drafted by:

Richard W. Donner, Esq.
Reinhart, Boerner, Van Deuren,
1000 North Water Street, Suite 1700
Milwaukee, WI 53202

EXHIBIT A

Legal Description of the Land Subject to the Declaration

[To Be Inserted]