DOCUMENT NO.

Swan Ridge Farms
City of Mequon
Declaration of Restrictions and Covenants
DOCUMENT TITLE

Swan Ridge Farms

City of Mequon, Ozaukee County, Wisconsin

December 20, 2024

DECLARATION OF RESTRICTIONS AND COVENANTS

THIS SPACE FOR RECORDING DATA

RETURN TO: **MK/S-EP LLC**
11600 W. Lincoln Avenue
West Allis, WI 53227

PARCEL IDENTIFICATION NUMBER

LEGAL DESCRIPTION OF SWAN RIDGE FARMS

All that part of the Southeast 1/4 of the Northeast 1/4 and the Northeast 1/4 and Southeast 1/4 of the Southeast 1/4 of Section 32, Township 9 North, Range 21 East, City of Mequon, Ozaukee County, Wisconsin, described as follows:
Beginning at the northeast corner of the Southeast 1/4 of said Section 32; thence South 01°11'40" East along the east line of said Southeast 1/4, 1794.42 feet; thence South 88°15'09" West, 1311.84 feet to the east line of Huntington Park East, a recorded subdivision; thence North 01°18'03" West along said east line, 1788.34 feet; thence North 01°11'53" West along said east line, 176.74 feet; thence North 87°49'03" East, 40.01 feet; thence South 01°11'53" East, 177.39 feet; thence South 01°18'03" East, 198.53 feet; thence South 84°10'37" East, 273.04 feet; thence North 69°42'26" East, 120.00 feet; thence North 39°59'03" East, 117.28 feet; thence North 04°52'43" East, 233.62 feet; thence North 01°31'02" West, 102.30 feet; thence North 38°07'14" East, 112.00 feet; thence South 04°52'43" West, 557.59 feet; thence South 89°09'18" East, 263.13 feet to a point on a curve; thence southwesterly 19.16 feet along the arc of said curve to the left, whose radius is 1270.00 feet and whose chord bears South 00°51'50" West, 19.16 feet; thence North 89°58'50" East, 220.00 feet; thence North 02°55'55" East, 431.54 feet; thence North 07°23'54" East, 42.88 feet; thence South 82°36'06" East, 134.00 feet; thence North 01°07'57" West, 200.00 feet; thence North 88°52'03" East, 125.00 feet to the east line of said Northeast 1/4 of Section 32; thence South 01°07'57" East along said east line, 363.37 feet to the Point of Beginning. Containing 2,221,183 square feet (50.9914 acres) of land.

WHEREAS, MK/S-EP LLC with offices located at 11600 W. Lincoln Avenue, West Allis, Wisconsin 53227, owns all of the Lots in Swan Ridge Farms, City of Mequon ("City"), Ozaukee County, Wisconsin;

WHEREAS, MK/S-EP LLC intending to establish a general plan for the use, occupancy and enjoyment of Swan Ridge Farms, consisting of forty one (41) single family residential Lots numbered 1 through 41 inclusive ("Lots") and six (6) Outlots numbered 1 through 6 inclusive ("Outlots"), as shown on the final subdivision plat recorded in the office of the Ozaukee County Register of Deeds, collectively the Lots and Outlots are hereinafter referred to as "Subdivision", desires to subject all the Lots and Outlots located within the Subdivision, to certain restrictions and covenants contained in this document, hereinafter referred to as "Declaration";

NOW THEREFORE, LET IT BE KNOWN that each and every person, party or entity hereafter purchasing, owning or in any way taking possession of any Lot in the Subdivision, shall do so subject to the following restrictions and covenants, to wit:

1. PURPOSE. To adequately provide for high-quality improvement of the Subdivision in order to preserve and enhance the value of investments made by purchasers of Lots. These restrictions and covenants achieve this purpose by:

- ensuring the best use and most appropriate development and improvement of each building site;
- protecting Lot Owners from the use of adjacent building sites in a way that detracts from the residential value of their property;
- guarding against the erection of poorly designed or proportioned structures;
- achieving harmonious use of material and color schemes;
- encouraging attractive homes with appropriate locations on each Lot;
- maintaining proper setbacks from streets and adequate open spaces between structures;
- ensuring that the Subdivision public streets remain free of debris and refuse during initial home construction.

ZONING LAWS, etc. In addition to the provisions outlined in this Declaration, all Lots shall be subject to all City of Mequon, Ozaukee County and the State of Wisconsin ordinances, zoning laws, building codes and other regulations as if they were fully set forth herein, as applicable. The provisions of the Development Agreement for Swan Ridge Farms, as applicable, shall also be incorporated herein. Lot Owners shall conform to all applicable laws concerning Lot improvements and usage. If any of the restrictions and covenants contained herein are more restrictive than applicable State, County or City requirements, this Declaration shall govern and control.

2. GENERAL LOT USE AND BUILDING TYPE.

a. Lot Use.

- Each Lot may only contain a single-family Home, an accessory building/structure, such as a detached garage or shed, an in-ground swimming pool and other similar improvements. All such Homes and accessory buildings/structures shall meet the City building code requirements. No Home or other accessory building/structure shall be constructed on a Lot without the advance approval of the Swan Ridge Farms Architectural Control Committee ("ACC") (see section 5).
- No primary structure shall be constructed, altered, placed, maintained or permitted upon any Lot except one (1) newly constructed, private, permanent, single-family dwelling ("Home") designed for (and limited to) occupancy of only a single family group, not exceeding two (2) stories in height from the determined final Lot grade at highest point of building's foundation. Nor may the Home be more than three (3) stories in height, where one (1) floor elevation is set below the determined final Lot grade at the building foundation. Detached buildings are permitted pursuant to Section 2(c) below.

- Grading of Lots in the Subdivision must be completed in substantial compliance with the master grading plan approved by the City Engineer and on file with the City Clerk. Deviations from the master grading plan must be approved by the ACC and by the City Building Inspection Department, subject to the City Engineer's review.
- Any Home previously approved for construction on any Lot may be altered and/or the exterior remodeled, only upon prior approval of such change(s) by the ACC and the City Building Inspector. In the event of catastrophic loss, permission is hereby granted to rebuild the Home in accordance with the original approved plans, without the need for obtaining approval of the ACC.

b. **Attached Garage Required.** Each Home shall have attached to it, by common foundation, a vehicle garage having a minimum floor area of six hundred (600) square feet. The exterior surfaces of the garage shall be consistent and harmonious with the exterior materials placed upon the main body of the Home.

c. **Detached Building Permitted.** One detached accessory building is permitted with the prior approval of the ACC and the City Building Inspector. A detached garage or shed must substantially conform in appearance to the style of the Home with regard to siding, colors, roof pitch, windows and doors. Detached garages shall be no larger than one thousand (1,000) square feet, sheds shall be no larger than 120 square feet, they must conform to all City building and zoning ordinances and have a maximum height of 16'. Sheds must be placed on concrete slabs and be attached to the slabs with bolts.

d. **Fencing.** Fences shall be permitted in the rear and side yards of the Lot with prior approval of the ACC. Fences located in the side yard shall not extend beyond the plane of the rear elevation of the Home. Fences shall be no more than five (5) feet in height and shall be black aluminum fencing with a wrought iron appearance. On a case-by-case basis the ACC may approve a different color other than black, but the ACC has no obligation to do so. Approval may also be granted for privacy or retaining walls made of stone or other masonry material constructed as part of a landscaping plan at the sole discretion of the ACC. All fences must be approved and permitted by the City Building Inspector. For Lots that have frontage on two (2) public streets, fencing may be erected such that the fence is set even with or behind the side elevation of the Home facing the street. Any exception to the fence setback requirements will require approval from the ACC and a permit from the City Building Inspector.

e. **Signs.** Signs of any size or type are not permitted, except signs placed upon the Lot promoting the sale of the Lot or contractor signs posted during the term of Home construction. Permitted signs shall not exceed eight (8) square feet in size. **MK/S-EP LLC** may, however, erect and maintain up to four (4) temporary signs promoting the Subdivision that do not exceed thirty-two (32) square feet in area until **MK/S-EP LLC** no longer owns any Lots in the Subdivision or December 31st, 2029, whichever is later.

f. **Swimming Pools.** Only in-ground swimming pools will be considered on a case by case basis by the ACC and all pools must comply with the applicable City ordinances for pools.

g. **Home Design.** Each Home shall be designed by a professional home designer or architect experienced in home design and the exterior design of the Home shall be subject to ACC approval. Approved exterior elevation designs shall consist of Traditional, Early American, Provincial, Williamsburg, Victorian or Colonial styles. Roof pitches shall have a minimum of 8/12 pitch or greater unless architecturally not feasible. The roof pitch of a garage or shed must conform to that of the Home. All Home design shall incorporate the requirements of the City of Mequon Architectural Board Guidelines for Residential Structures.

h. **Minimum Building Living Area.** The minimum floor area of each Home shall be measured along the exterior walls of the Home, not including the garage, and shall be no less than the following schedule:

One Story Dwelling	2,200 square feet
One and One-Half Story Dwelling	2,600 square feet total
Two Story Dwelling	2,600 square feet total

Note: Other City of Mequon Building and Zoning Code restrictions may apply that may be more restrictive.

i. **Bathrooms.** Each Home shall contain a minimum of two (2) full baths.

j. **Exterior Building Materials.** The exterior materials on each Home shall consist of LP Smart Side or Hardi-Plank siding. Masonry material shall be required on each Home in an amount that is architecturally appropriate for the design of the Home. The ACC may waive this requirement if the masonry material is not appropriate for the style of the Home. Fiber cement or composite corner boards and window trim, a minimum of six (6) inches in width, shall be placed on all outside building corners and around all windows, doors and vents. Roof shingles shall be dimensional design asphalt. Use of other materials is subject to approval of the ACC. Soffit and fascia material may be aluminum, wood, fiber cement, composite or other ACC approved materials.

k. **Minimum Building Setback.** Unless otherwise shown on the final Subdivision plat, the minimum front setback of any Home or structure shall be thirty (30) feet. The minimum side yard setback shall be fifteen (15) feet on each side except for those Lots that have frontage on two (2) public streets, in which case the thirty (30) foot setback is required from each street. Each dwelling shall have a minimum rear yard of twenty (20) feet. Exceptions to setbacks will require approval from the City and the ACC.

l. **Utilities.** Electric, gas, telephone and cable television services shall be provided to each Home by the installation of underground lines.

m. **Outside Storage/Antennae/Window Air Conditioners.**

- No outside storage or parking of boats or trailers, recreational vehicles, lawn equipment, non-working vehicles, commercial vehicles, miscellaneous equipment or similar vehicles or equipment shall be permitted.
- The intent of this Declaration is to require all passenger vehicles be parked within the garage. No more than two (2) passenger vehicles owned by residents of a Home shall be parked in the driveway. This requirement does

not apply to vehicles operated by daily visitors.

- No exterior antennae are permitted except satellite dishes no greater than eighteen inches (18") in diameter. Satellite dishes must be located on the house in an area approved by the ACC, but not on the front facade of the Home or in the front yard.
- No window air conditioning units of any type are permitted.

n. **Nuisances.** No noxious or offensive activity shall be carried out upon any Lot, nor shall anything be done on or to a Lot which is or may become a nuisance or annoyance to the neighborhood. Trash, recycling and other waste shall be kept in sanitary containers and stored in the attached garage. All Lot owners shall comply with the provisions of Section 50 "Nuisances" of the City Ordinances.

o. **Occupancy.** No Home may be occupied until it has been completed in accordance with the approved plans and specifications and until an occupancy permit has been granted by the City Building Inspector.

3. ANIMALS, LIVESTOCK, POULTRY. No livestock, poultry or other type animals shall be raised, bred or kept in a Home or outside on any Lot. No more than a total of three (3) dogs and/or cats are allowed to be kept inside or outside any Home under these this Declaration. The ACC shall enforce this restriction. Any outdoor animal kennel must be approved, in advance, by the ACC as to location, size and design.

4. OWNERS ASSOCIATION.

a. **Owners Association to be Created. MK/S-EP LLC** shall create a non-profit corporation to be known as the **SWAN RIDGE FARMS HOMEOWNERS ASSOCIATION, INC.**, hereinafter referred to as the "Association". If at any time the Association does not exist or fails to satisfy its obligations, the Lot Owners shall be jointly and severally liable, with rights of contribution, for the Association's responsibilities under the Development Agreement for Swan Ridge Farm recorded in the Ozaukee County Register of Deeds as Document No. 1148560 ("Development Agreement) and all other agreements that run with the land that impose responsibilities on the Association.

b. **Purpose.**

- To maintain commonly owned lands including but not limited to all Outlots, drainage easements, including the drain tile and sump pump line system, stormwater ponds, open space landscaping and amenities, snow removal from sidewalks abutting Outlots and entrance landscaping together with any other commonly owned amenity that may be provided by **MK/S-EP LLC** or the Association, and that may exist from time to time;
- To assess the pro rata share of the cost of maintenance and other expenses incurred from operation of the Association, upon the individual Lot Owners, and to collect such assessments, and;
- To establish an Architectural Control Committee (ACC) to review and approve plans and specifications of all improvements on a Lot and govern the land use, development and construction of the Homes and other improvements in the Subdivision upon termination of **MK/S-EP LLC's** involvement in the Subdivision in controlling and managing the ACC as described below.

c. **Membership.** Each Lot Owner, whether one (1) or more, shall be a member of the Association, however, each Lot shall only represent one (1) vote in the affairs of the Association, regardless of the number of Owners of a Lot. Person(s) owning more than one (1) Lot shall have one (1) vote for each Lot owned.

d. **Directors and Officers of the Association.** An initial Board of Directors of three (3) members will be appointed by **MK/S-EP LLC** ("Board"). The Board shall name the Association officers and the ACC members. **MK/S-EP LLC** shall establish the initial Board within thirty (30) days following the recording of the final Subdivision plat. Prior to the sale of the final Lot, the term of the initial Members of the Board will be at the discretion of **MK/S-EP LLC,** its successors or assigns. At the first annual meeting after the sale of the final **MK/S-EP LLC** owned Lot, the Association members shall elect a new Board of Directors from the members of the Association.

e. **Annual and Special Meetings.** A meeting of the Association members must be held annually at a date, time and location to be determined by the Board of Directors. The purpose of the meeting will be to cover various issues affecting the members including, but not limited to, the annual budget, Subdivision improvements, election of new Directors and other business deemed necessary by the Board. The initial annual meeting shall be held within sixty (60) days after **MK/S-EP LLC** has sold the last Lot in the Subdivision, or at such earlier time as determined by **MK/S-EP LLC.** A special meeting may be called by a majority of the Board or be called upon petition of twenty percent (20%) of the Lot Owners following provision of a notice thereof at least forty-eight (48) hours prior to convention.

f. **Operating Budget and General Annual Assessment.**

- Commencing with calendar year 2025 and for each subsequent year thereafter, the Board shall prepare an operating budget covering the period January 1st through December 31st of each year. The adopted budget shall be posted in a conspicuous area within the Subdivision or delivered to each Lot Owner, at the sole discretion of the Board.
- In accordance with the financial needs of the Association, all Lots shall be subject to a general annual assessment, determined solely by the Board, for the purpose of paying the costs and expenses of the Association and carrying out its stated purposes and functions. Such costs shall include, but not be limited to, payment of Outlot real estate taxes, maintenance, repair, replacement and additions to the commonly owned improvements and property, and the cost of labor, equipment, materials, management and supervision thereof.
- The amount of the annual general annual assessment shall be determined in the month of December in the prior calendar year, and shall be sufficient to raise an amount which, in the judgment of the Association's members represented at the Association's annual membership meeting, may be required for the ensuing calendar year. Such assessments shall be paid by each Lot Owner to the Association in a lump sum, on or before the first day of March of each year.

g. **Special Assessments.** A special assessment may be levied upon each Lot by the Board for the purpose of paying for any unexpected repair or replacement of commonly owned improvements or property, if consented to by a majority of the Association members present at the annual meeting or a special membership meeting called for that purpose.

h. **Delinquent Assessments.** If any assessment, general or special, is not paid on the

date when due, then the assessment shall become delinquent, and shall, together with such interest thereon and costs of collection, reasonable attorney's fees and any lien recording fees thereof as hereinafter provided, shall become a continuing lien on the assessed Lot which shall bind such Lot in the hands of the then Owner, his or her heirs, representatives, successors and assigns. Such assessment shall also be a personal obligation for the statutory period. If the assessment is not paid within thirty (30) days after the delinquent date, the assessment shall bear interest at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law, file a mechanic's lien or lien in equity against the Owner personally obligated to pay the same and foreclose the lien against the Lot, and there shall be added to the amount of such assessment the entire cost of collection, including reasonable attorney's fees and cost of recording and releasing any lien.

i. **Certificates.** The Board shall, upon request, furnish to any Lot Owner a certificate in writing signed by an officer of the Association setting forth whether the assessments have been paid. Such certificate shall be conclusive evidence of the payment of any and all such assessments therein stated to have been paid. The Board may impose a reasonable charge for each such certificate requested and issued.

j. **Duties and Authority.** The administration of these this Declaration, subject to the provisions of Paragraph 5, as well as the authority to run the day-to-day operations of the Association, is vested in the Board of Directors.

k. **No Fees or Assessments in Event of Tax Forfeiture.** Neither Ozaukee County nor the City of Mequon shall be liable for any fees or special charges in the event that Ozaukee County or the City of Mequon become the owner of any Lot or Outlot in the Subdivision by reason of tax delinquency.

l. **Maintenance of Common Areas, Drainage Facilities and Signage.** The Association is responsible to landscape and maintain all commonly owned improvements and property, drainage facilities, including the drain tile and sump line system, easements and entrance signage ("Maintenance Elements"). In the event the Association does not properly landscape or maintain the Maintenance Elements, the City may send written notice to the Association indicating that the City has determined that the Maintenance Elements are not being properly landscaped and/or maintained, and further indicating that the City will perform such landscaping and/or maintenance if not properly done by the Association. The above-referenced notice shall give the Association a minimum of seven (7) days to correct the problem. If the Maintenance Elements are not properly landscaped and/or maintained within the time granted by the above-referenced notice, the City shall then have the authority, but not the obligation, to landscape and/or maintain the Maintenance Elements referred to in said notice and shall have the right to charge the Lot owners on a pro rata basis for any costs incurred by the Village as a result of said landscaping and/or maintenance. Said costs shall be assessed as special charges pursuant to Section 66.0627, Wis. Stats. If such charges are not paid by any Lot owner within the period fixed by the City, charges shall become a lien upon the Lot owner's Lot as provided in Section 66.0627, Wis. Stats., and shall be extended upon the tax rolls as a delinquent tax against the Lot owner's Lot as provided in Section 66.0627, Wis. Stats.

m. Upon recording the final Subdivision plat and creation of the Association, the Lot Owners shall take ownership and be responsible for the maintenance, through the Association, of the stormwater management facilities.

n. Notice of Meetings. Written notice stating the date, place and hour of the special meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than fourteen (14) days before the date of such meeting by: (a) email and/or (b) either personally or by US mail at the direction of the President or Secretary or other officer or persons calling the meeting. A mailed Notice shall be deemed to be delivered when deposited in the United States mail addressed to the members at their addresses with postage thereon prepaid.

5. ARCHITECTURAL CONTROL COMMITTEE (ACC). **MK/S-EP LLC** will initially form an Architectural Control Committee consisting of three (3) persons appointed by **MK/S-EP LLC** hereinafter referred to as "ACC".

a. **Procedures.** The ACC's consent, approval or disapproval of plans and specifications for any improvement on a Lot, as provided herein, shall be in writing. In the event the ACC fails to act on any matter presented to it within sixty (60) days after application (application meaning the submittal of a written request plus copies of building plans, specifications, surveys, etc.), approval will be deemed to have been obtained insofar as required in Paragraph 2 only. No other provisions of this Declaration requiring the consent, decision or action of the ACC shall be affected by the non-action of the ACC.

b. **Responsibility and Purpose.** In order to achieve the purposes set forth in Paragraph 1 above, certain site improvements are subject to written approval by the ACC. These include, but are not limited to, Homes, other buildings or structures of any type, fencing, swimming pools, landscaping and modification or other change to approved drainage patterns (NOTE: changes which will alter drainage patterns will be in violation of the approved site grading plan and/or recorded drainage easements and will require the approval of the City Engineering Department). The ACC shall have the right to reject any such proposed improvement on or alteration to any Lot, which in its conclusive judgment, is not in conformity with this Declaration or is not desirable for aesthetic or other detrimental reasons. In approving or disapproving plans and specifications for such improvements, the ACC may take into consideration, among other things, the suitability of the proposed improvements, the exterior color schemes to be used for any building or structure, the general design and materials to be used and the compatibility of the improvement with surroundings Lots.

c. **Right To Waive Non-Compliance.** The ACC shall have the right to waive minor infractions or deviations from this Declaration in cases of hardship, provided the City Building and Zoning Codes and/or Development Agreement are not violated. The ACC shall have the sole discretion to determine which of the minimum Home size requirements apply to a particular proposed Home and whether the same has been met.

d. **MK/S-EP LLC Control of ACC.** So long as **MK/S-EP LLC**, its successors or assigns, shall own any Lot in SWAN RIDGE FARMS, the authority, responsibility and functions of the ACC shall be vested in and exercised solely by **MK/S-EP LLC**, its successors or assigns, acting through its Board of Directors. When **MK/S-EP LLC**, its successors or assigns has transferred ownership in all the Lots, the ACC shall then be transferred to the members of the Association elected under the provisions of Paragraph 4.d. above. Once transferred to Association control, Architectural Control will be managed by the Association Board of Directors, either directly or through an Architectural Control Committee to be appointed by the Board.

e. **Landscaping and Grading Requirements.**

- **Landscaping and Erosion Control.** Final grading shall be in conformance with the Subdivision's master grading plan and establishment of a finished lawn must be completed within ninety (90) days of Completion of the Home occurring between April 1st and August 1st OR by June 1st for completion between August 2nd and March 30th. During the period of time between gaining occupancy of a Home ("Completion") and establishment of the finish lawn, the Homeowner is responsible for installing and/or maintaining erosion controls for their Lot in accordance with all City, County and DNR requirements. All other landscaping must be completed within one (1) year of Completion. Landscaping by definition includes (a) a hard surfaced drive (asphalt, concrete, paver brick) and pedestrian access; (b) installation of planting beds including at least a total of twelve (12) shrubs, trees or bushed planted in the front and side yards; (c) grass cover established over the balance of the Lot and within the Village's right-of-way abutting a Lot; thereafter, each Lot Owner is responsible for the upkeep and continuous maintenance of all landscaping under the Owner's control.
- **Uniform Mailbox Required.** Developer will furnish and install group mailboxes in a location determined by the U.S. Postal Service and the City. The initial buyer of each Lot shall purchase a mailbox for $500, which includes the cost of installation, from **MK/S-EP LLC** at the time of the Lot closing. The mailbox fee shall be nonrefundable and any amounts collected that are not specifically used for mailboxes shall be used for other costs and expenses of the Developer in establishing the subdivision and its common elements.
- **Grading.** Each Lot owner must strictly adhere to, and finish grade its Lot in accordance with the master grading plan, or any amendment thereto, approved by the City Council and City Engineer, on file in the office of the Village Clerk for the City of Mequon. **MK/S-EP LLC** and/or the City and/or their agents, employees or independent contractors shall have the right to enter upon any Lot, at any time, for the purpose of inspection, maintenance, correction of any drainage condition, and the Lot owner is responsible for cost of the same.
- **No filling of stormwater facilities allowed.** During the grading and landscaping of each Lot in the Subdivision, no part of an Outlot, drainage easement or stormwater management facility that is delineated on the recorded final subdivision plat or grading plan shall be filled or altered in any way without the approval of all necessary governing bodies including the City.
- **Improvements may require permits.** Site improvements of any type that are placed upon or maintained within the public street right-of-way (walks, driveways, etc.) or drainage easements require a permit from the City and/or the State of Wisconsin, as may be applicable, which shall be obtained before construction of the improvement is commenced.

6. STREET MAINTENANCE AND EROSION CONTROL BOND.

a. **Deposit.** Upon approval of Home plans and specifications by the ACC, each Lot Owner will be required to deposit in escrow with **MK/S-EP LLC** the sum of five hundred dollars ($500.00) to guarantee the Lot Owner completes the finish landscaping, driveway and walkway construction and road cleaning. It is the responsibility of the Lot Owner to ensure that its agents or contractors maintain, at all times, streets within the Subdivision clear of any type of mud, dirt, material or other debris, especially during landscaping of a Lot. Also, it is the responsibility of the Lot Owner to ensure that its agents or contractors maintain, at all times, the erosion controls in place on the Lot and/or install new erosion controls to meet the intent of the erosion control plan. Failure

of the Lot Owner to regulate its agents or contractors in this regard will cause **MK/S-EP LLC** to perform the work to clear and clean the street and/or install appropriate erosion controls as required and to charge the cost of the work to the Street Maintenance and Erosion Control Bond account deposited by each Lot Owner in accordance with this paragraph. Once Lot Owner completes the finish landscape, driveway and walkway requirements, the Street Maintenance and Erosion Control Bond will be refunded in full unless a portion of the bond was retained to pay for the cost of erosion control installation or roadway clean-up by **MK/S-EP LLC .**

b. **Excess Costs.** In the event **MK/S-EP LLC** is required to perform street cleaning operations or install additional erosion controls in which the costs exceed the Lot Owner's deposited amount under this Section 6, **MK/S-EP LLC** will assess the respective Lot for the additional costs. Failure of the Lot Owner to reimburse **MK/S-EP LLC** for any such additional costs within ten (10) days of being billed, will give **MK/S-EP LLC** the right to file and foreclose a mechanic's lien upon the Owner's Lot. **MK/S-EP LLC** shall be reimbursed the actual cost of performing the work under this section plus a management fee equal to twenty-five percent (25%) of the actual cost.

c. **Use of Deposited Funds.** Each individual Lot Owner's deposit under this Paragraph 6 is for the sole and exclusive use of each respective Lot Owner and each Lot Owner's deposited funds shall not be used to offset the costs created by acts of other Lot Owners, except in the instance where the violator of these requirements cannot be readily determined; then all Lot Owners having funds on deposit shall be charged equally.

7. SUBDIVISION UTILITY, DRAINAGE EASEMENTS. Upon its creation, the Association has the right to record utility and/or drainage easements under and across all Lots and Outlots and to implement improvements in these easements as necessary to provide additional services to all Lots in the Subdivision. These improvements may include, but are not limited to, drainage improvements to alleviate drainage problems, addition of pipes for drainage and addition of private utilities.

8. OWNERSHIP OF OUTLOTS. Each Lot owner within the Subdivision, including any lot owners of Additional Properties, shall have an equal undivided interest in the Outlots depicted on the final subdivision plat, and all deeds and other conveyances of any Lot within the Subdivision shall be deemed to include such interest in the Outlots, whether or not so specifically stated in any such deed or other conveyance.

9. POSSIBLE FUTURE EASEMENTS. **MK/S-EP LLC** reserves the right for a period of three (3) years after closing all Lots in the Subdivision to grant easements to WE Energies, AT&T, Charter, or other communications company for utility purposes over, upon, under or across all Lots in this Subdivision, whether owned or not by **MK/S-EP LLC.** Such easements shall, so far as reasonably possible, be confined to areas within twenty (20) feet of all Lot lines and be granted on standard utility easement forms. **MK/S-EP LLC** reserves the right for a period of three (3) years after closing all Lots in the Subdivision to grant easements to the City of Mequon for the purpose of creating swales alongside or rear Lot lines for drainage purposes across all Lots in the Subdivision, whether owned or not by **MK/S-EP LLC.** Such swales shall, so far as reasonably possible, be confined to an area within twenty (20) feet of all Lot lines and may involve tree removal and grading within such areas.

10. AMENDMENT.

a. **MK/S-EP LLC Amendment Rights.** Any of the restrictions, covenants or other provisions contained in this Declaration may be annulled, waived, changed, modified or amended at any time by a written declaration, executed in such manner as to be recordable, setting forth such annulment, waiver, change, modification or amendment, as executed solely by **MK/S-EP LLC** or its successors or assigns, until such time as **MK/S-EP LLC** or its successors or assigns, no longer own any Lot in the Subdivision. These rights are subordinate to the provisions of the Developerment Agreement with the City of Mequon.

b. **Homeowner Amendment Rights.** When **MK/S-EP LLC** or its successors or assigns no longer retain interest in the Subdivision, the Owners of at least seventy-five percent (75%) of the Lots may amend this Declaration as described in this Paragraph 10.

c. **City Amendment Rights.** No amendment to this Declaration shall be effective unless it is approved by the City, demonstrated by the signature of authorized City officials on the recorded document.

d. **Effective Date.** The effective date of any such annulment, waiver, change or amendment shall be as of the date of recording of such document at the offices of the Ozaukee County Register of Deeds.

11. GENERAL PROVISIONS.

a. **Initial Term and Extensions.** This Declaration shall be deemed to be running with the land and shall be binding upon all persons, parties and entities having an interest in the land affected thereby, or claiming such rights for a period of twenty-five (25) years from the date hereof, at which time this Declaration shall be automatically extended for successive periods of ten (10) years each, unless, prior to the end of the initial (or any successive) period, an instrument signed by the Owners of at least seventy-five percent (75%) of the Lots in the Subdivision has been duly recorded terminating or amending this Declaration in whole or in part. This section does not terminate, and shall not be interpreted to authorize termination of, any drainage easements, pond maintenance requirements, or other restriction herein that affects an interest in real estate while the record title to the real estate or an interest in the real estate remains in the State of Wisconsin or a political subdivision or municipal corporation of the State of Wisconsin, including the City of Mequon, and the duration of any such restriction shall be unlimited and perpetual, unless terminated by the benefitted political subdivision by recorded document.

b. **Period For Protesting Violations.** Any violation of this Declaration which shall exist for a period of one (1) year or more and known to the Association without protest thereof being received by the Owner of the Lot containing such violation and the Association, shall not be considered a violation thereafter. The Association must take enforcement action within one (1) year of notice of the violation or the violation shall be deemed waived by the Association and its members; and they, and any other party, shall be forever barred from proceeding to enforce the provisions of this Declaration as to the violation. Collection of past due dues or past due assessments shall be expressly excluded from this provision and may not be waived by the Association without the vote of 75% of its members.

c. **Enforcement of Declaration: No Reversion of Title.**

- The Association or, until formation of the Association, **MK/S-EP LLC** shall have the exclusive right to enforce, by proceedings at law or in equity, all the terms, conditions, and provisions of this Declaration and any Rules or Regulations adopted by the Association, except that any Lot Owner may proceed, at such Lot Owner's expense, to enforce any such terms, conditions or provisions (other than for collection of assessments against Lot Owners of other Lots) if the Association fails to take such action within sixty (60) days following a written request by such Lot Owner for the Association to do so. Any Lot Owner proved to be in violation of any of the terms, conditions or provisions of this Declaration or any Rules and Regulations shall pay all costs, expenses and actual attorney's fees incurred by the Association or by a prosecuting Lot Owner in the successful enforcement thereof. Neither the Board, Association or the ACC, nor any member, director or officer thereof, shall be subject to any suit or claim by any Lot Owner for failure of the Board, Association or ACC to take any action requested by a Lot Owner.

- Each remedy set forth in this Declaration and/or in Rules and Regulations shall be in addition to all other rights and remedies available at law or in equity. All such remedies shall be cumulative and the election of one shall not constitute a waiver of any other. Any forbearance or failure of the Board, Association or ACC to exercise any such right or remedy for any violation shall not be a waiver of such right or remedy under any circumstances (except as specifically provided in this Declaration) unless a written waiver is obtained from the Board, Association or ACC.

- Under no circumstances shall any violation of this Declaration or of any Rule and Regulation result in any revert or reversion of title to any Lot.

d. **Invalidation.** Invalidation of any of the restrictions or covenants herein contained, or any part thereof, by any judgment or court order shall not affect any of the other provisions herein contained, which shall remain in full force and effect.

e. **Governing Law.** The Laws of the State of Wisconsin shall govern and control this document and its interpretation..

MK/S-EP LLC, its successors and assigns and all parties hereafter having an interest in the Subdivision are subject to all rules, codes, regulations and ordinances of the City of Mequon, Ozaukee County, the State of Wisconsin and the United States government, and the same may be more restrictive than this Declaration (or, in some cases, less restrictive). In the event that there is a conflict between the requirements of this Declaration and any applicable provision of a City, County, State or Federal law or regulation, the more restrictive provision shall govern and apply.

f. **ACC Approval.** Prior to any permit submittal to the City, said applicant shall first obtain approval of the ACC as outlined elsewhere in this Declaration.

g. **Additional Property. MK/S-EP LLC** reserves the right, at any time during the term

of this Declaration, to subject other real property (the "Additional Properties") to the provisions of this Declaration and to add the Additional Properties to the Subdivision. The Additional Properties shall be located in Mequon, Ozaukee County, Wisconsin and, when added to the Subdivision, shall be adjacent to the Subdivision. Developer shall add Additional Properties to the Subdivision by recording with the Register of Deeds for Ozaukee County one or more amendments to this Declaration, with each amendment setting forth the legal description of the Additional Properties thereby added to the Subdivision, together with identifying the additional lots and outlots which shall be subject to this Declaration.

h. Ownership of Outlots. Undividable, fee simple fractional ownership in Outlots 1 through 6 is hereby dedicated, given, granted and conveyed by the Developer to each individual Lot Owner. Consequently, the Outlots shall be owned by the Lot Owners, including any Lot Owners of Additional Properties. This undividable fractional interest exists into perpetuity and runs with the parcel; Ozaukee County shall not be liable for any fees or special assessments in the event they become the owner of any Outlot in the Subdivision by way of tax delinquency.

i. City of Mequon/Development Agreement Covenants.

- Lot Owners are prohibited, without the express written consent from the City Engineer and approval by the Planning Commission, from (a) removing any berms, landscaping or amenities installed on the Subdivision as a condition of landscaping, open space, grading or drainage plans, and (b) placing landscape features, berms or plantings which disrupt flow of run-off in drainage ways or courses approved as a condition of the grading and drainage plans.

- Any Lot Owner who constructs or causes the construction of a building in the Subdivision shall be responsible for siting the principal building and rough and fine grading their lot to comply with the approved master grading plan or any amendment thereto approved by the City Engineer.

- Any Lot Owner who constructs or causes the construction of a building in the Development shall submit, at the time of architectural review and approval, a sump pump discharge and roof drainage plan in accordance with the Storm Water Management Plan approved by the City Engineer.

- Public sanitary sewer lateral locations shall not deviate from the approved site improvement plans unless first approved by the City.

This Declaration shall be binding upon and inure to the benefit of **MK/S-EP LLC**, its successors and assigns, and all persons, parties or entities who may hereafter become Owners of any Lot, and their legal representatives, heirs, successors and assigns.

IN WITNESS WHEREOF, **MK/S-EP LLC** has caused these presents to be signed by Michael J. Kaerek, its Member, at West Allis, Milwaukee County, Wisconsin this _____day of _____, 202__.

MK/S-EP **LLC**

_____
Michael J. Kaerek
Member

STATE OF WISCONSIN)
)ss.
COUNTY OF MILWAUKEE)

Personally came before me this _____ day of _____, 202__ Michael J. Kaerek, Member of **MK/S-EP LLC,** to me known to be the person who executed the foregoing instrument, and to me known to be such Member of **MK/S-EP LLC** and it is acknowledged that he executed the foregoing instrument as such member of said **MK/S-EP LLC** by its authority.

_____
Notary Public
Milwaukee County, Wisconsin
My Commission Expires:

Return to:
MK/S-EP **LLC**
11600 W. Lincoln Avenue
West Allis, Wisconsin 53227

This instrument was drafted by: Michael J. Kaerek
MK/S-EP LLC
11600 W. Lincoln Avenue
West Allis, WI 53227
414-321-5300