

**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
TOWNHOMES OF BIENEMAN FARM**

THIS DECLARATION is made on this 27th day of October, 1999, by BrightKEYS Building & Development Corporation, a Minnesota corporation (hereinafter referred to as "Declarant").

RECITALS:

A. Declarant is the fee simple owner of certain real property described on Exhibit "A" attached hereto and by this reference incorporated herein, being located in the City of Hudson, County of St. Croix, State of Wisconsin.

B. Declarant desires to subject the Property to the covenants, restrictions, easements, charges and liens hereinafter set forth.

C. Declarant has caused to be incorporated as a non-profit corporation under the laws of the State of Wisconsin, Townhomes of Bieneman Farm Homeowners Association, Inc. for the purpose of exercising the powers and duties hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that the property shall be held, built upon, sold, conveyed and occupied subject to the following easements, restrictions, covenants, conditions, charges and liens which are for the purpose of protecting the value and desirability of, and the benefits and burdens of which shall run with, the property and shall be binding in all parties having any right, title or interest in the property or any part thereof, and their heirs, successors and assigns.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Townhomes of Bieneman Farm Homeowners Association, Inc. a Wisconsin non-profit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the holder of the fee simple title to, to a contract for deed vendee of, or to any life tenant or lessee of a lease having a term of more than three years in, and Lot which is part of the property, or any combination thereof, whether one or

more persons or entities, but excluding contract for deed vendors and others having such interest merely as security for the performance of an obligation.

Section 3. *"Property"* shall mean and refer to that certain real property described on Exhibit "A", and such additions thereto as may hereafter be brought within the jurisdiction of the Association in accordance with the provisions hereof.

Section 4. *"Common Area"* shall mean all real property and improvements thereon owned by the Association for the common use and enjoyment of the Owners and such other persons to whom the Owners may delegate this right pursuant to the Declaration. The Common Area owned or to be owned by the Association at the time of the conveyance of the first Lot is legally described on Exhibit "B" attached hereto.

Section 5. *"Private Yard Area"* shall mean and refer to that portion of a Lot not covered by a Living Unit.

Section 6. *"Living Unit"* shall mean and refer to the improvements located on any Lot designed for use as a single-family dwelling unit.

Section 7. *"Lot"* shall mean and refer to any plot of land shown upon any recorded plat of the property and shall, when the context hereof requires, include any improvements thereon. "Lot" shall not be construed to mean Common Area even though Common Area is identified as a lot on the plat.

Section 8. *"Declarant"* shall mean and refer to BrightKEYS Building & Development Corporation, a Minnesota corporation, its successors and assigns if (i) any such successor or assign should acquire more than one undeveloped Lot from the Declarant for the purpose of development and the instrument of conveyance recites that such successor or assign has acquired all of the rights and obligations of the Declarant, or (ii) such rights and obligations pass to such successor or assign by operation of law.

Section 9. *"Declaration"* shall mean and refer to this Declaration of Covenants, Restrictions, Conditions and Easements for Townhomes of Bieneman Farm as from time to time amended in accordance with the provisions hereof.

Section 10. *"First Mortgage"* shall mean the Owner or holder of a mortgage which is a first lien on any Lot.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

Section I. Every Owner of a Lot which is subject to assessment by the Association shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

Section 2. The Association shall have two (2) classes of membership, Class A and Class B as follows:

Class A: Class A members shall be all Owners, with the exception of Class B members, if any, and shall be entitle on all issues to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more then one vote be case with respect to any Lot.

Class B: Class B members shall be Declarant and persons succeeding to the rights of Declarant as provided in Article I, Section 8 of this Declaration and shall be entitled to three (3) votes for each Lot owned until the termination of Class B membership as provided below. The Class B membership shall cease and be converted to Class A membership upon the happening of the earlier of the following:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) December 31, 2002

From and after the happening of the earlier of these events, any Class B member shall be deemed to be a Class A member entitled to one (1) vote for each Lot in which it holds the interest required for membership.

Section 3. The right of any member to vote shall be suspended during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for any infraction of any rules or regulations published by the Association

ARTICLE III***PROPERTY RIGHTS IN THE COMMON AREA***

Section 1. Easements in Favor of All Owners. Subject to the provisions hereinafter contained, there shall exist the following easements in favor of each Owner of a Lot and appurtenant to such Owner's Lot over, across and upon the following:

(a) A non-exclusive easement over all common areas for ingress and egress to and from such Lot over and across designated pedestrian or vehicular passageways or access areas in the Common Area and to and from dedicated or public street, highways, or rights of way;

(b) A non-exclusive easement to construct, maintain, install, repair, and replace sanitary and storm sewer, water, gas, electric, telephone, cable television and other utility lines which may or may hereafter serve such Lot in the location as the same shall be initially constructed or installed by the Declarant, in locations designated by Declarant, or such other locations as may be later approved by the Board of Directors of the Association;

(c) An exclusive easement in favor of each Lot to maintain any encroachment by fireplaces, roof overhangs, air conditioning equipment, flower boxes, decks, balconies or other appurtenances which are a part of the original construction of any Living Unit or which are altered or added pursuant to the provisions of Article VII hereof; and ,

(d) A non-exclusive easement for the use of the enjoyment of those portions of the Common Area developed for open space, recreational or vehicular parking purposes.

Section 2. Extent of Member's Easements. The right and easement in favor of the Lots and the Owners created hereby and the title of the Association to all Common Area, shall be subject to the following and as further provided herein:

(a) The right of the Association, as provided in its Articles and Bylaws, to borrow monies for the purpose of improving, repairing, and maintaining the Common Area, or any improvements thereon, and in aid thereof to mortgage said properties, provided that the rights of such mortgagee in said properties shall be subordinate to the rights of the members hereunder, and provided, further, that any requisite consent shall have been first obtained;

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure;

(c) The right of the Association, as provided in its Bylaws, to suspend the voting and enjoyment rights of any member for any period during which any assessment remains unpaid; provided, however, that nothing contained in this subparagraph (c) shall be deemed to deny an Owner access to and from his or her Lot;

(d) The right of the Association, as provided in its Bylaws, and from time to time, to adopt reasonable regulations regarding the use and enjoyment of the Common Act;

(e) The right of the Association so long as construction on, and initial sales of, Lots shall continue, to create easements upon, across, over and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining cable television antenna systems, security and similar systems, walkways and all utilities, including but not limited to, water, sewer, telephone, gas and electricity. The Board of Directors shall, upon written request of the Declarant, grant such easements as may be reasonably necessary for the development of any part of the property;

(f) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility (including, without limitation, utilities furnishing gas, electricity, water, telephone or cable television) or to grant permits, licenses and easements over such Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the property, provided that, except as otherwise provided herein, no dedication or transfer of any portion of the Common Area, nor any easements, license, or permit over or with respect to any portion thereof of more than 180 days duration, shall be effective unless an instrument signed by Members entitled to case two-thirds (2/3) of the votes of each class of membership has been recorded agreeing to such dedication, transfer, grant, permit, license or easement, and unless written notice of the proposed agreement and action thereunder is sent to every member at least ninety (90) days in advance of any action taken. The consent requirements of Article XI, if applicable, must also be satisfied with respect to any transaction of the nature therein described; and,

(g) Notwithstanding any provisions contained herein to the contrary, so long as construction and initial sale of Lots and Living Units shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area or upon any Lot owned by Declarant such facilities and activities as, in the sole opinion of Declarant,

may be reasonably required, convenient or incidental to the construction or sale of such residences to Lots, including, without limitations, vehicular ingress and egress, vehicular parking, material storage, and the maintenance of business offices, signs, model units, and sales offices, and Declarant shall have an easement for access to such facilities; provided, however, that Declarant shall promptly restore any damage to the Common Area by reason of any construction incident to the foregoing. This Section may not be amended without the express written consent of the Declarant.

Nothing herein contained shall be construed as a dedication of any part of the Common Area to the public or to public use.

Section 3. Delegation of Use. Any owner may delegate such Owner's property rights in the Common Area to his or her family and his or her tenants who reside on the property, subject to all the provisions herein contained.

Section 4. Taxes and Municipal Special Assessments on Common Areas. Taxes and special assessments that would normally be levied against the Common Area shall be divided and levied in equal amounts against the individual Lots, or in such amounts as the governmental taking authorities shall determine, which levies shall be a lien against said individual Lots.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot now or hereafter owned by it within the property, hereby covenants, and each subsequent Owner of any Lot, by acceptance of a deed or other conveyance therefore, whether or not is shall be so expressed in such deed, or other conveyance, is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges with respect to maintenance or improvement of the Common Area; (b) special assessments for capital improvements to the Common Area; and (c) assessments with respect to maintenance or improvements of Lots or Living Units, such assessments to be established and collected for the purposes and in the manner hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon each Lot and shall not be affected by the sale or transfer of any Lot except to a first mortgagee of such Lot as provided in Section 9 below. Recording of this Declaration

shall constitute record notice of such lien and no further recordation of any claim for such lien shall be required. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by such successor.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the property, to promote and maintain the aesthetics and exteriors of the Living Units, and for the aesthetics, improvement and maintenance of the Common Area and other areas that the Association is obligated to maintain, as elsewhere provided herein. Annual general assessments shall include the cost of hazard and liability insurance for Common Areas, as hereinafter described, an adequate reserve fund for maintenance, repairs and replacement of improvements upon the Common Area, including interior streets and roadways (all of which streets and roadways are private and remain the responsibility of the Association to maintain), common area lighting, all recreational facilities, and the maintenance, repair and replacement of water, sewer and the utility lines and fixtures located upon the Common Area, or, if located upon a Lot, which serve the Common Areas, or on any easement area outside the property in which the Association has easement rights. Annual general assessments shall also include the cost of maintenance and replacement of lawns, ponds, pond maintenance equipment (including, without limitation, water level and water quality maintenance and weed control), irrigation systems, landscaping and resurfacing and striping of parking and roadway areas, maintenance of roadway areas on any easement area outside the property in which the Association has easement rights and for such other purpose as the Association may, from time to time, deem appropriate and consistent with the purpose of this Declaration. Living Unit exterior maintenance assessments shall be used as more particularly described in Article V hereof.

All general assessments levied pursuant to this Declaration shall include monthly contributions to adequately reserve funds for maintenance, repair, and replacement of those elements of the Common Area or Living Unit exteriors (as elsewhere provided herein) that must be maintained, repaired or replaced by the Association on a periodic basis.

Section 3. Basis of Annual Assessments: Maximum Annual Assessment. Annual assessments shall be levied on each Lot on the basis of the number of Living Units in each class of membership as follows:

(a) Class A: Lots which are owned by Class A members shall be assessed on the basis of one (1) Living Unit per Lot.

(b) Lots which are owned by the Class B member shall be assessed on the basis of one Living Unit per Lot, provided, however, that such Lot shall be assessed at the rate of twenty-five percent (25%) of the annual assessment for a Class A member until the first day of the month following issuance of a certificate for such Lot. Once a certificate of occupancy has been issued or three months have elapsed since the issuance of a building permit for a Living Unit owned by a Class B member, said Lot shall pay the same annual assessment as a Class A member.

(c) Procedures Prior to Third Annual Meeting Following Termination of Class B Membership: From and after the date of the first conveyance of a Lot to a person or entity other than Declarant, and until the first annual meeting following termination of Class B membership, the maximum annual assessment for the Class A members shall be \$ _____ per Lot, which amount shall include an amount equal to the member's share of the annual premium for insurance coverage required by Article X. From and after the first annual meeting following termination of Class B membership, the maximum annual assessment (exclusive of the premium for any insurance carried by the Association pursuant to Article X hereof) may be increased by the greater of (i) ten percent (10%) of the maximum assessment for the previous year; or (ii) the percentage increase, if any, over the twelve-month period preceding the year for which such assessment is levied in the Consumer Price Index, all items, published by the United States Department of Commerce, Bureau of Labor Statistics, for the region including Hudson, Wisconsin. The maximum annual assessment may be increased above the amount of the maximum established hereunder only by a vote of members of the Association holding two-thirds (2/3) of the votes in each class of voting membership who are voting in person or proxy, at a meeting duly called for that purpose; otherwise, the Board of Directors may fix the annual assessment at an amount no in excess of the maximum.

(d) Procedures After the Third Annual Meeting Following Termination of

Class B Membership: After the third annual meeting following termination of Class B membership, the Board of Directors shall have the authority to fix the annual assessment and to fix an increase to the annual assessment in an amount no greater than 10% of the annual assessment for the previous year (exclusive of the premium for any insurance carried by the Association pursuant to the Article X hereof). Any increase greater than the stated 10% increase shall require approval by a vote of members of the Association holding two-thirds (2/3) of the votes in the Class A membership who are voting in person or proxy, at a meeting duly called for that purpose.

Section 4. Special Assessments for Capital Improvements. In addition to the annual general assessments and maintenance assessments authorized above, the Association may levy in any assessment year, (i) a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including the fixtures and personal property related thereto; provided, however, that any such special assessment shall have the assent of Members holding two-thirds (2/3) of the votes of each class of voting Members at such votes shall be cast in person or by proxy at a meeting duly called for this purpose. Special assessments shall be levied on each Lot on the basis of a single assessment share for each Lot, regardless of ownership, unless the Board of Directors determines that such special assessment is for the benefit of fewer than all Lots, in which event such special assessment shall be levied on each Lot benefitted on the basis of a single assessment share for each such lot.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast two-thirds (2/3) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Collection of Assessment. Both annual and special assessments may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of a Lot to an Owner, (or, in the case of the Lot owned by a Class B member, the first day of the month following the occurrences referred to in Section 3(b) of this Article). The first annual assessment shall be prorated according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect on Non-Payment of Assessment; Remedies of Association.

(a) If any assessment provided for herein is not paid on the date when due, then such assessment shall become delinquent and shall, together with such interest thereon and costs of collection thereof, as hereinafter provided, thereupon become a continuing lien on such Lot or Lots which shall be enforceable in the manner hereinafter set forth. Such lien shall run in favor of the Association and shall be superior to all other liens and encumbrances on such Lot except for the following:

(i) Liens for general real estate taxes and special assessments levied by any governmental authority; and

(ii) The lien of any first mortgage as provided in Section 9 hereof.

(b) All other lienors acquiring on any Lot after this Declaration shall have been filed or recorded and whose liens shall also have been filed or recorded, shall be deemed to consent that their liens shall be and remain inferior to future liens provided for herein whether or not such consent has been expressed in the instruments creating their liens.

(c) To evidence a lien for sums assessed pursuant to this Article, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot and a description of the Lot and file or record the same, but such notice of lien shall not be filed or recorded until such assessment has been wholly or partially unpaid for at least thirty (30) days from the date due. Such lien may be enforced and foreclosed whether by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Wisconsin or by foreclosing the lien in the manner prescribed by Wisconsin Statutes for the foreclosure of a mechanic's lien. All persons or parties holding a record interest in the Lot shall be served with notice of the foreclosure. Each Owner, by acceptance of a deed for any Lot, does further hereby give full and complete power of sale to the Association shall prevail in any such foreclosure, the person personally obligated to pay the same shall be required to pay all costs of foreclosure, including but not limited to, reasonable attorneys' fees. All such costs and expenses shall be further secured by the lien being foreclosed. The person personally obligated to pay such lien shall also be required to pay the Association any assessments against the Lot which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the Lot as the Owner thereof.

A release or satisfaction of the notice of lien shall be executed by an officer of the Association and recorded or filed upon payment of all sums secured by such lien.

(d) Any encumbrancer holding a lien on any Lot may pay, but shall not be required to pay, any amounts secured by the lien created and authorized by this Section and, upon payment of such sums, such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including but not limited to, priority as to any other lien or interest in such Lot.

(e) Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date until paid at the rate of twelve percent (12%) per annum. No Owner may waive or otherwise escape personal liability for the assessments provided for herein by non-use of the Common Area or abandonment of his or her Lot. Suit to recover a money

judgment for such assessments, with costs of collection and interest as provided for herein, shall be maintained by the Association without foreclosing or waiving the lien securing the same.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed on any Lot subject to assessment; provided that such subordination shall apply only to the assessments which have become due prior to the sale or transfer of a Lot pursuant to the remedies provided in a first mortgage on such Lot or pursuant to mortgage foreclosure or any deed or proceedings in lieu thereof and the expiration of any applicable period of redemption.

Accordingly, the sale or transfer of any Lot pursuant to the remedies provided in a first mortgage on such Lot, or pursuant to mortgage foreclosure or any deed or proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer and the expiration of any applicable redemption period, and any first mortgagee who so obtains title to a Lot or any purchaser at any such foreclosure sale will not be liable for any unpaid assessments which accrue prior to the acquisition of title to such Lot by the mortgagee or purchaser and the expiration of any applicable redemption period. No such sale or transfer, however, shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Nor shall any such sale or transfer relieve an Owner from the personal obligation for assessments coming due prior to any such sale or transfer and the expiration of any applicable redemption period and the same may be collected by the Association by civil action or by such other lawful method or methods as the Association shall deem fit, and all such rights and remedies of the Association shall be cumulative and not exclusive of one another. The foregoing provisions of this Section 9 shall not prevent the Association from reallocating any assessments, the lien of which has been extinguished as above provided in this Section 9, to all Lots including that sold or transferred as described in this Section 9.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

- (a) All properties to the extent of any easement or other interest therein dedicated to and accepted by the local public authority and devoted to public use;
- (b) All properties exempt from taxation by the laws of the State of Wisconsin upon the terms and to the extent of such legal exemption;
- (c) All Common Area.

ARTICLE V***RIGHTS AND OBLIGATIONS OF THE ASSOCIATION***

Section 1. Exteriors. In addition to maintenance of the Common Area, the Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the maintenance and repair of roofs and exterior surfaces of all buildings on the property, including, without limitation, the Living Units located on the Lots and including, without limitation, the painting of the same as often as necessary, the replacement of trim and caulking, and the maintenance and repair of roofs, overhangs, gutters and downspouts (but excluding any repair or replacement, other than painting, of glass, storm windows, screens, doors, decks and garage doors constituting a part of the Living Unit located on a Lot) and for the maintenance and repair of any portion of any Living Unit damaged as a result of the roof or exterior surfaces thereof being in a state of disrepair. The Association shall maintain and repair the driveways and walkways, including any portion thereof located on any Lot. The Association shall be responsible for the maintenance and repair of the water supply system up to the inlet side of the water meter in each Living Unit, the underground sprinkler lines and the sanitary sewer system up to the foundation wall of each Living Unit on each Lot which is subject to assessment under this Declaration. The Association shall be responsible for snow removal from driveways and parking areas located on the Lots. The Association shall not be responsible for the removal of snow from walkways, Living Unit steps or patios located on the Lots. No Owner shall repair or redecorate the exterior of the Living Unit or the exterior of any other improvements located on his Lot except according to plans and specifications approved in writing by the Board of Directors of the Association, so that the exterior of all buildings on the property shall always be maintained according to a harmonious plan. If any item of maintenance or repair to be performed by the Association is required because of the willful or negligent act or omission of an Owner, his family, guests or tenants, the cost of such maintenance or repair, in excess of net insurance proceeds received by the Association in connection therewith, shall be added to and become a part of the next monthly assessment to which the Lot of such Owner is subject and any amount so added shall be taken into account in determining whether the maximum monthly assessment described in Section 3 of Article IV has been exceeded.

Section 2. Lawn and Planting Maintenance. The Association shall mow, rake, water and maintain, all to the extent the Board deems necessary or desirable, all lawns and exterior

plantings on the Lots. In the event an Owner's actions causes any sod or plantings to die, the Association shall have the right to replace any sod or plantings that had died, and the cost thereof shall be added to and become part of the Owner's assessment.

Section 3. Maintenance of Interior. Maintenance and repair of the interior of any Living Unit located on a Lot and all other portions thereof, structural or non-structural, not required hereunder to be maintained and repaired by the Association, shall be performed by each Owner and such interior and other portions shall be maintained in a good, clean, attractive and sanitary condition, order and repair commensurate with this first class, residential property.

Section 4. Services. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Property whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration. The Association may arrange with others to furnish water, trash collection, snow removal, sewer service and other common services to each Lot. Any agreement entered into by the Association for the management of all or a portion of the affairs of the Association or any other agreement providing for services by Declarant shall be of a duration which does not exceed one year, shall be terminable by the Association or the other party thereto without cause and without payment of a termination fee upon not more than 90 days written notice and shall be terminable by the Association for cause upon not more than 30 days written notice.

Section 5. Rules and Regulations. The Association may make reasonable rules and regulations governing the use of the Lots which rules and regulations shall be consistent with the rights and duties established in this Declaration.

Section 6. Parking. The Association may from time to time establish rules and regulations concerning the use of parking spaces on the Common Area and may cause to be towed improperly parked vehicles at the Owner's expense.

Section 7. Association's Easement. The Association shall have an easement over each Lot, including the right of access and entry into any Living Unit, for maintenance of the

exterior of all improvements, for the maintenance, repair and replacement of water, sewer and other utility pipes, ducts, and wires and for the purpose of performing any emergency repairs or other duty of the Association. The Association's use of this easement is subject to reasonable notice to affected Owners and performance of work at reasonable hours. Notice is hereby waived from the Association in the event of emergency repairs being required. If work performed by the Association shall damage real or personal property of Owner, such loss or damage shall be repaired or replaced by the Association as a common expense.

Section 8. Legal Proceedings. If any Owner or his or her family, tenants or guests shall not comply with the provisions of this Declaration, or with rules and regulations adopted by the Association, such person(s) shall be subject to legal action for damages, for injunctive relief, foreclosure of liens, or any combination thereof, without limitation or election of remedies, which relief may be sought by the Association or by one or more aggrieved Owners, or both. In any proceeding arising from an alleged failure to comply with this Declaration, or rules and regulations, of the Association, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorney's fees as may be determined by the Court.

Section 9. Exterior Storage. Exterior storage including but not limited to storage of boats, trailers, and recreational vehicles, shall be prohibited.

ARTICLE VI

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the property and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in

proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligence or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribute Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title, in an amount mutually agreed to or determined by arbitration pursuant to Section 6 of this Article, and upon docketing of judgment pursuant to the arbitrator's decision, judgment may be enforced as provided by law.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator. The decision shall be by a majority of all the arbitrators and shall be final and conclusive of the questions involved. The Owners shall share equally the cost of the arbitrators. If any Owner fails to appoint his or her arbitrator within ten (10) days after appointment of the last arbitrator to be appointed, the Owner or Owners who have appointed their arbitrators may appoint an arbitrator for each Owner who has so failed.

Section 7. Reciprocal Easements. The title of the Owner of each Lot shall be subject to an exclusive easement, which shall be appurtenant to and which shall run in favor of each adjoining Lot to which this Article shall apply, for the continuing existence, use and repair of the party wall or walls which are wholly or partially on such Owner's Lot and which are part of the original construction of the improvement upon each such adjoining Lot or which are added pursuant to the provision of Article VII hereof.

ARTICLE VII

ARCHITECTURAL CONTROL

From and after the completion of construction on and sale of any Lot, no building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition or change or alteration be made to any Living Unit until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall

have been submitted to and approved in writing as to qualify of workmanship and materials, harmony of external design and location in relation to surrounding structures, finish grade elevation, and topography by the Board of Directors of the Association, or by an architectural control committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, such approval will not be required and this Article will be deemed to have been fully complied with. The prevailing party in an action brought by the Association to enforce this Article shall be entitled to recover from the other reasonable attorneys fees together with all necessary costs and disbursements incurred in connection herewith.

ARTICLE VIII

GENERAL PROVISION

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver to the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. Except as provided herein to the contrary, this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners, and thereafter by an instrument signed by not less than two-thirds (2/3) of the Lot Owners. Any amendment shall also require the consent of the holders of fifty-one percent (51%) of the first mortgages of record with respect to Lots (based on one vote for each Lot mortgaged). Any amendment must be recorded.

Section 4. FHA/VA Approval. The following actions will require the prior approval of the Federal Housing Administration and the Department of Veteran Affairs as long as there is a Class B membership: Annexation of additional properties other than the Additional Real Estate, dedication of Common Area and amendment of this Declaration.

Section 5. Use Restrictions.

(a) No Lot shall be used except for residential purposes, provided that Declarant shall be entitled to maintain model Living Units upon the Lots during the construction and sales period.

(b) The Board of Directors of the Association shall have the right to restrict, limit or prohibit the use of signs within the property including those advertising a lot for sale or rent; provided, however, that Declarant shall be permitted to erect and maintain upon the property such signs as it deems appropriate to advertise the property until the Declarant conveys the last Lot.

(c) No animals, birds or reptiles of any kind shall be raised, bred or kept in any portion of the property except as allowed herein:

(i) Each Living Unit may be occupied by no more than a total of two (2) animals - one dog and one declawed cat. No such dog or cat shall be kept, bred or maintained for any commercial purpose.

(ii) The owner of any animal shall indemnify the Association and hold the Association harmless against any loss or liability of any kind or character whatsoever arising from or related to any animal kept in the Living Unit.

(iii) Any pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the property at the expense of the animal's owner upon ten (10) days' written notice from the Association.

(iv) No pets shall be allowed out of the Living Unit unless it is on a leash.

(v) Damage caused by any pet to any part of the property shall be the full responsibility of the owner of the pet and that owner shall promptly pay all costs involved in restoring such damaged portion of the property to the condition it was in prior to the time that such damage occurred. Any damage caused by cleaning, chemicals or

other such materials used in the attempt to remedy said damage shall be the full responsibility of the owner of the pet and said owner shall pay the full cost of removal and replacement of such damaged items.

(vi) Each pet owner shall be financially responsible for any personal injury or property damage caused by his or her pet.

(vii) Each pet owner shall be responsible for cleaning up after his or her pet at all places on the property.

(viii) Each pet owner shall comply with all applicable provisions of any state, municipal or local law or ordinance regulating the ownership and maintenance of pets.

(d) No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Garbage, rubbish and trash shall not be kept on said premises except in sanitary containers. All or other equipment used or kept for the storage or disposal of such material shall be kept in a clean and sanitary condition.

(e) No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

(f) No structure of a temporary character, trailer, tent, shack, garage, barn or other building shall be used upon a Lot at any time as a residence, either temporarily or permanently.

Section 6. Encroachment. If any portion of a dwelling unit or any Lot shall actually encroach upon any other Lot, or if any such encroachment shall hereafter arise because of settling or shifting of the building or other cause, there shall be deemed to be an easement in favor of the Owner of the encroaching dwelling unit to the extent of such encroachment so long as the same still exist.

Section 7. Notices. Any notice required to be sent to any member under the provisions of this Declaration shall be deemed to have been properly sent when mailed postage prepaid to the last known address of the member as shown on the records of the Association at the time of such mailing. Any notice to the Association shall be deemed to have been properly

sent when mailed postage prepaid to the address of the Secretary of the Association at the time of such mailing.

Section 8. Total or Partial Condemnation, Loss or Destruction: Termination of Declaration. In the event of the taking of any of the Common Area by eminent domain or any action or proceeding in lieu of eminent domain (hereinafter "condemnation"), the Association shall represent the Owners in any such condemnation, or in negotiations, settlements and agreements with the condemning authority, and each Owner hereby appoints the Association as his or her attorney-in-fact, irrevocably, for such purposes. If deemed necessary by the Association, it may obtain the services of a trustee to act on behalf of the Owners in carrying out any functions under this Section. In the event of a condemnation of part or all of the Common Area, the award of proceeds of settlement shall be payable to the Association, or any trustee, for the use and benefit of the Owners and their mortgagees as their interest may appear.

All proceeds payable with respect to any condemnation of Common Area shall be applied to the restoration or repair of such Common Area remaining after such condemnation or, subject to the provisions of Article X hereof, to such other purposes as may be in accordance with the functions and powers of the Association and the welfare of the Owners. Any proceeds of any condemnation with respect to a Lot or Living Unit shall belong and be paid to the Owner thereof and his or her mortgagee, as their interests may appear.

In the event of any termination or abandonment of this Declaration, and the dissolution of the Association pursuant thereto, the Common Area shall be disposed of as provided in the Articles of Incorporation.

Section 9. No Discrimination in Sale, Lease, etc., of Living Unit. Neither the Declarant nor any Owner shall discriminate in the sale, lease, rental or in the use or occupancy of a Living Unit because of religion, race, color, creed, national origin, sex, marital status, or status with respect to public assistance or disability or, in furtherance of such covenant, in contravention of the provisions of applicable Wisconsin Statutes and of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and regulations thereunder, which relate to civil rights and discrimination.

ARTICLE IX**EASEMENTS**

Section 1. Additional Easements. In addition to the easements, covenants, restrictions and conditions described elsewhere in this Declaration, all Living Units and Lots shall be subject to easements and covenants hereinafter specifically described for the benefit of the property or for the limited benefit of specified adjoining Lots, all as more fully set forth in this Article.

Section 2. Private Yard Area. Except as otherwise provided herein, each Owner shall be entitled to the exclusive use and occupancy of the Private Yard Area in his or her Lot to the exclusion of all others; provided, however, the property generally and all other Owners shall be entitled to a visual easement over all Private Yard Areas, subject to and limited by the original structures erected thereon by the developer. No Owner shall erect or cause to be erected any structure of any sort upon his or her Lot, or plant any trees or shrubs prior to obtaining the written approval of the Association. Except as permitted under the limited circumstances described in the preceding sentence, all planting, landscaping and private yard maintenance shall be performed by the Association and as provided for in Article IV the costs thereof shall be and constitute a portion of the annual assessment by the Association upon all Lots in the property.

Section 3. Utility Easements. Each lot over which a public utility easement has been dedicated, as shown on the recorded plat of the property, shall be subject to a right and easement for underground general utility purposes over that portion of such Lot which is burdened with such dedicated public utility easement. Such utility purposes shall include, but not be limited to, sewer, water, gas, electrical, telephone and cable television purposes, including the right to build, construct, reconstruct, rebuild, repair, maintain and operate underground sewer, water, gas electrical mains and telephone or television cables, and any surface connections to such underground mains, along with the right to enter upon, and open the ground for such purposes providing that all such openings shall be filled and the surface restored to its former condition.

Section 4. Priority. The utility easements described hereinabove in Section 3, are and shall continue to be superior to the private yard easements described hereinabove in Section 2; provided, however, in the event that it shall be necessary to install, repair or maintain any utility facilities crossing any Private Yard Area, such repairs and maintenance shall be undertaken so as

to cause, to the extent practicable, minimal interference with the use of such areas, and any and all damage to the driveway, driveway apron surfaces, walkway or yard areas shall be repaired and the surface fully restored.

Section 5. Easements Perpetual and Appurtenant. The easements described herein shall be perpetual in duration and shall be appurtenant to the Lots which are burdened and benefitted by such easements.

Section 6. Easement Rights of Association. Notwithstanding anything herein to the apparent contrary, all the easements created herein which run in favor of the Association may only be used by the Association in connection with the exercise of those rights and obligations of the Association which are more fully described elsewhere in this Declaration.

Section 7. Special Utility Easements. Due to specific local regulations concerning the connection of electrical service to each eight (8) unit townhome building, it is necessary for the end units to grant an easement to the interior units for the running of utilities thereto. The easements shall run from the outside of each end unit and two (2) feet on the inside of the interior wall, between the ceiling of the first floor and the floor of the second floor, up to and through the common wall and into the interior unit. The easements shall run through the following units marked "easement units" to the units marked "benefitted units".

| Easement Units | Benefitted Units |
|----------------|------------------|
| 1 | 2 |
| 4 | 3 |
| 5 | 6 |
| 8 | 7 |
| 9 | 10 |
| 12 | 11 |
| 13 | 14 |
| 16 | 15 |

Should it become necessary to repair any of the various cables, wires or piping running through the easement area, which is not the fault of the owner through which the easement runs, then the owner of the benefitted unit shall be responsible for all repairs, including any repairs necessary to

the unit through which the easement runs. If the repairs are not made and paid for in a timely manner, the Association may make the repairs and assess the benefitted unit.

ARTICLE X

INSURANCE AND RECONSTRUCTION

Section 1. Liability Insurance: Fidelity Bonds. The Board of Directors of the Association, or its duly authorized agent shall obtain a broad form of public liability insurance covering all of the Common Area insuring the Association, with such coverages and limits of liability as the Association shall determine to be necessary, but in no event less than \$1,000,000.00, covering all claims for personal injury and/or property damage arising out of a single occurrence. Such insurance policy shall, if reasonably available, contain a "severability of interest" clause which shall preclude the insurer from denying the claim of an Owner because of the negligence of the Association or other Owner. The Board of Directors shall, to the extent such coverage is available and affordable at what the Board of Directors determines to be reasonable rates, also provide fidelity bonds providing protection to the Association against loss by reason of acts of fraud or dishonesty on the part of the Association's directors, managers, officers, employees or volunteers who are responsible for handling funds of the Association in an amount sufficient to provide no less protection than one and one-half (1 ½) times the estimated annual operating expenses of the Association, including reserves. Any policy or bond obtained hereunder shall provide that it may not be canceled modified (including cancellation for non-payment of premium) without at least thirty (30) days' prior written notice of First Mortgagees. The expense of the liability insurance and fidelity bonds, if any, maintained by the Association under this Section 1 shall be borne by all Members through annual general assessments.

Section 2. Casualty Insurance on Insurable Common Area. Except as such requirements shall be modified by Federal National Mortgage Association ("F.N.M.A."), or Federal Home Loan Mortgage Corporation ("F.H.L.M.C."), the Association shall keep all insurable improvements and fixtures of the Common Area, if any, insured as follows:

(a) Against loss or damage by fire and other hazards covered by the standard extended coverage endorsement and by sprinkler leakage (if applicable), debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage, as well as other risks customarily covered in similar projects for an amount equal to the full replacement value (i.e.,

100% of current "replacement costs") excluding land, foundation, excavation, and other items normally excluded from coverage, such insurance to cover all common facilities owned by the Association (including all fixtures and building service equipment to the extent they are a part of the Common Area, as well as common personal property and supplies), together with such endorsements as may be required by F.N.M.A., or F.H.L.M.C.:

(b) If any portion of the Common Area is located within an area which has special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program ("NFIP"), the Association shall obtain flood insurance on buildings in the Common Area and any other common property covered by the required form of policy (herein, "Insurable Property"), in an amount deemed appropriate, but not less than the lesser of (i) the maximum coverage available under any portion of the Common Area; or (ii) 100% of the current "replacement cost" of such buildings and other Insurable Property; and

(c) Against such other hazards and casualties as the Association may deem desirable.

All insurance cover with respect to the Common Area shall be written in the name of, and the proceeds thereof shall be payable to, the Association. The insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses included in the annual general assessments made by the Association under Article IV hereof. Any policy herein described may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association.

Section 3. Casualty Insurance on Living Units. In addition to casualty insurance on the Common Area, the Association, through the Board of Directors, may elect to obtain and continue in effect, on behalf of all Owners of Lots, adequate blanket casualty insurance against loss or damage by fire and other hazards covered by the standard extended coverage endorsements, and against loss or damage by debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage and other risks customarily covered in similar projects, in such form as the Board of Directors deems appropriate, or in such form (and with such further coverage) as may be required by F.N.M.A., or F.H.L.M.C., in an amount equal to the full replacement value (i.e., 100% of current "replacement cost"), without deduction for

depreciation or co-insurance, of all of the Living Units, including the structural portion and fixtures thereof, owned by such Owners. Insurance premiums for any such blanket insurance coverage shall be included in the annual general assessments of the Association. The insurance coverage shall, if the Association has elected to obtain such blanket casualty insurance, be written in the name of, and the proceeds thereof shall be payable to, the Association as trustee for the Owners, and mortgagees of record.

Nothing herein contained shall be construed to preclude an Owner from maintaining property insurance on his or her Living Unit, provided such insurance shall not be bought into contribution with any insurance maintained by the Association.

Section 4. Maintenance of Insurance By Owners of Living Units. In the event the Association shall not maintain the master policy of casualty insurance referred to in Section 3 above, each Owner of any Lot, by his or her acceptance of a deed thereof, whether or not it shall be expressed in any such deed or other conveyance, covenants to carry, maintain and timely pay the premium or premiums on the policy of fire and extended coverage insurance, with the coverages included in the standard "all risk" endorsement. Such insurance shall cover at all minimum the full insurable replacement cost of the Living Unit located on such Lot, shall be in a form satisfactory to the Association and, as applicable. F.N.M.A., F.H.L.M.C., or any governmental or provide purchaser, insurer or guarantor of any mortgage on a Lot, shall provide that such policy may not be canceled or substantially modified by any party without at least thirty (30) days prior written notice to the Association. Each Owner shall furnish the Association satisfactory evidence of the maintenance of such insurance. The Association may, but shall not be required to, make payments of casualty insurance premiums on behalf of any Owner who so paid by the Association shall be immediately due and payable by such Owner and may be included in the townhouse exterior maintenance assessment against such Owner's Lot.

Section 5. Replacement or Repair of Common Area. In the event of damage to or destruction of any part of the Common Area, the Association shall repair or replace the same and may make a reconstruction assessment against all Owners to cover the cost of such repair or replacement (or, if the Association has maintained a policy of casualty insurance, as herein described, the additional cost of such repair and replacement not covered by the proceeds of such insurance). Any assessment under this Section 5 shall be in addition to any other assessments

made against such Owners. First Mortgagees shall receive notice from the Association in the event of any damage or destruction to Common Areas in excess of \$10,000.00. Any reconstruction assessment adopted hereunder shall be adopted in accordance with the procedures set forth in Article IV of this Declaration with respect to annual assessments and special assessments, as therein provided, and the lien of any reconstruction assessment levied hereunder shall be subordinate to the lien of any First Mortgage, in the same manner and to the same extent as the subordination of annual assessments and special assessments, as provided in Article IV, Section 9, of this Declaration.

Section 6. Repair or Replacement of Living Unit: Association as Insurance Trustee.

In the event that any Living Unit or Living Units are destroyed or damaged by causes covered by the insurance referred to in Sections 3 and 4 above, and in the event the Association has elected, pursuant to Sections 3 and 4 above, and in the event the Association has elected, pursuant to Section 3 above to maintain policy of blanket casualty insurance therein described, all proceeds of such insurance coverage shall be payable to the Association as insurance trustee for the Owner or Owners of said Living Unit or Living Units and the First Mortgagee or First Mortgagees or record of said Living Unit or Living Units. Said insurance proceeds shall be applied and administered as follows:

(a) In the event of an insured loss to a Living Unit or Living Units, all insurance proceeds paid to the trustee and First Mortgagee or Mortgagees of record shall be deposited by said trustee and First Mortgagees in escrow with a title insurance company acceptable to them, as hereinafter provided.

(b) In the event of an insured loss of a Living Unit, the Owner of the Living Unit with respect to which the insured loss occurred shall, within thirty (30) days after the insurance proceeds are deposited with a title insurance company in accordance with Paragraph (a) above, enter into a firm contract with a qualified builder providing for the reconstruction or remodeling of the Living Unit to substantially the same condition as existed immediately prior to the insured loss; provided, however, that no contract shall be entered into by the Owner for an amount in excess of the insurance proceeds then held by the title insurance company for said Living Unit, until additional funds are deposited by the Owner sufficient to cover all construction costs as determined by the title insurance company. Said reconstruction or remodeling shall be

commenced and completed with due diligence and in no event shall said work be completed later than 180 days after said insurance proceeds are deposited in escrow as aforesaid. The Association and First Mortgagee of record of the Living Unit affected shall have the right, but not the obligation, to deposit such additional funds in excess of insurance proceeds as may be required to permit construction as herein provided.

(c) In the event the Owner fails to enter into a contract as provided in Paragraph (b) above, for the reconstruction or remodeling of the Living Unit as provided above; or in the event that reconstruction or remodeling is not commenced or completed as provided above, then the trustee, or the First Mortgagee of record, with the consent of the trustee, shall have the right, but not the obligation, to enter into those contracts which it deems necessary to complete said reconstruction or remodeling of the Living Unit, and the trustee or First Mortgagee shall have the right to have said insurance proceeds applied in satisfaction of any obligations incurred pursuant to the said contracts, without liability of any kind to the Owner, including, but not limited to, without liability for interest on said insurance proceeds. The Association may employ any bonded party or parties as its agents in exercising those functions given to it in this Section. The Association shall be empowered to pay said agent a reasonable fee for the services rendered by said agent and to collect said charge from the Owner or Owners, as the case may be, and in the same manner as that which is provided in Article IV with respect to exterior maintenance assessments.

(d) Disbursement of funds on deposit pursuant to Paragraph (a) above, for contracts for reconstruction or remodeling entered into under Paragraphs (b) and (c) above, shall be made by the title insurance company selected as hereinabove provided, subject to the following:

(i) Compliance with Article VII hereof entitled, "Architectural Control", which shall apply to all such reconstruction or remodeling.

(ii) Receipt by the title insurance company of written consent of any party holding a lien or encumbrance on the Living Unit.

(iii) Receipt by the title insurance company of such sworn construction statements, lists of subcontractors, lien waivers and receipts as it shall determine to be appropriate. Disbursements may be by periodic or progress payments, and the title

insurance company may make such inspections and withhold such payments as it deems necessary to ensure completion in compliance with plans and specifications. The title insurance company shall be entitled to charge and the trustee shall be empowered to pay a reasonable fee for the services rendered by the title insurance company, and the trustee may collect such charge from the Owner or Owners, as the case may be, and in the same manner as that provided for in Article IV with respect to exterior maintenance assessments.

(iv) In the event a contract is entered into pursuant to Paragraph (b) above, the written consent of the Owner to such payment or payments.

(e) Nothing contained in this Section shall be construed to make the Association or its Board of Directors, or the First Mortgagee or Mortgagees of record, if any, responsible for collection or non-collection of any insurance proceeds; said Association or Board of Directors or First Mortgagees being responsible solely for the insurance proceeds which come into their hands, the Owner of each Living Unit damaged or destroyed by caused referred to above shall collect or cause to be collected from the insurance carrier involved, the proceeds of the policy covering his or her Living Unit for the use of the trustee as hereinabove provided.

(f) In the event that a remodeling or construction contract is, for any reason, not entered into pursuant to the provisions of Paragraphs (b) and (c) above, within 180 days after deposit of insurance proceeds with the title insurance company for a damaged or destroyed Living Unit, as herein provided, said title insurance company shall disburse said proceeds in the following order of priority:

(i) To the Association for the sole purpose of restoration of any exterior surface caused to be exposed to the elements and to be restored in accordance with Article X hereof;

(ii) To each mortgagee of the affected Lot or Living Unit as its interest appears to retire the indebtedness secured under its mortgage; and

(iii) The remaining deposit, if any, to the Owner or Owners of the destroyed Living Unit(s) as their interests may appear.

Section 7. Waiver of Subrogation. To the extent permitted by the standard Wisconsin form of fire and extended coverage insurance with all risk endorsements and to the

extent benefits are paid under such a policy, each Owner of a Living Unit and the Association do hereby mutually release each from the other, and their respective officers, agents, employees and invitees, from all claims for damage or destruction of their respective physical properties if such damage or destruction results from one or more of the perils covered by the standard Wisconsin form of fire and extended coverage.

Section 8. Other Insurance. The Association may maintain such other insurance as the Board deems appropriate.

ARTICLE XI

RIGHTS OF FIRST MORTGAGEES

Section 1. Conflicting Provisions. The provisions of this Article take precedence over any other conflicting provisions of this Declaration.

Section 2. Notices of Action. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor of a First Mortgage on a Lot and the number or address of the Lot or Living Unit mortgaged (a holder of such First Mortgage who has requested such notice is referred to herein as an Eligible Holder) any such Eligible Holder shall be entitled to the timely notice of:

(a) Any condemnation loss or casualty loss which affects a material portion of the Property, or any Living Unit on which there is a First Mortgage held by such Eligible Holder;

(b) Any delinquency in the payment of assessment or charges owed by the Owner of a Living Unit subject to a First Mortgage held by such Eligible Holder which remains incurred for a period of sixty (60) days;

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of First Mortgages as specified in this Article or elsewhere in this Declaration.

Section 3. Certain Amendments. In addition to any other requirements for the amendment of this Declaration, unless the approval of Eligible Holders representing 51% of the Living Units subject to First Mortgages held by Eligible Holders (based on one vote for each First Mortgage held), and at least sixty-seven percent (67%) (or such higher percentage as is required by law or this Declaration) of the Owners of Living Units(and, or so long as there is a

Class B membership, the Class B Member), have given their proper written approval, the Association shall not be entitled to:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any Common Area owned, directly or indirectly, by the Association for the benefit of the Lots (provided, however, that the granting of easements for public utilities and for other public purposes consistent with the intended use of the Common Area shall not be deemed such a transfer);

(b) Use hazard insurance proceeds for losses to any Common Area for other than the repair, replacement or reconstruction of such improvements;

(c) Add or amend any material provisions of this Declaration, the Articles of Incorporation of the Association or the Bylaws of the Association which establish, provide for, govern or regulate any of the following:

- (i) Voting;
- (ii) Assessments, assessment liens, or subordination of such liens;
- (iii) Reserves for maintenance, repair, and replacement of the Common Area (or Living Units, if applicable);
- (iv) Insurance or Fidelity Bonds;
- (v) Rights to use of the Common Area;
- (vi) Responsibility for maintenance and repair of Living Units;
- (vii) Except for annexation of additional properties by Declarant as provided herein, expansion or contraction of the Property or the addition, annexation, or withdrawal of property to or from Property;
- (viii) Leasing of Living Units;
- (ix) Imposition of any right of first refusal or similar restriction of the right of an Owner to sell, transfer, or otherwise convey his or her Living Unit; or
- (x) Any provisions which are for the express benefit of mortgage holders, mortgage insurers or mortgage guarantors.

Section 4. Discontinuance of Professional Management. Where professional management has been previously required by any Eligible Holder, whether such entity became an Eligible Holder at that time or later, any decision to establish self-management by the

Association shall require the prior consent of all Owner of Living Units to which at least sixty-seven percent (67%) percent of the votes in the Association are allocated and the approval of Eligible Holders or Guarantors holding mortgages on Living Units which have at least fifty-one percent (51%) of the votes of Living Units subject to mortgages held by Eligible Holders.

Section 5. Examination of Association Books and Records; Financial Statements.

The Association shall make available to the Owner, and to any holder, insurer, or guarantor of any First Mortgage, a current copy of this Declaration, the Bylaws, any other rules or regulations governing the Property and, upon payment of the costs of copying, the books, records, and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

Section 6. Right to Pay Association Obligations. First Mortgagees may, jointly and singly, pay any charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance coverage on the lapse of a policy for such property and First Mortgagees making such payments shall be owed immediate reimbursement from the Association. The Board of Directors of the Association shall have power to enter into an agreement in favor of all First Mortgagees to effectuate the provisions of this Section 6.

Section 7. Agreements for Professional Management. The length of any agreement for professional management of the Property or any contract providing for any services of the Declarant, may not exceed one (1) year, renewable thereafter for successive one (1) year periods. Any such agreement or contract shall provide for termination by either party without cause and without payment of a termination fee upon sixty (60) days' written notice.

Section 8. Priority of First Mortgagees. No provision of this Declaration or the Bylaws of the Association shall be construed to give any Owner, or any other party, priority over the rights of any First Mortgagee of a Lot pursuant to its First Mortgage in the case of a distribution to an Owner of insurance proceeds or condemnation award for losses to or a taking of Common Area or any portion thereof or any Lot or portion thereof. The Association shall give timely written notice of any damage or proposed condemnation to all First Mortgagees, if such damage or condemnation affects the Common Area, and to the First Mortgagee of any Lot affected by such damage or condemnation.

Section 9. Attendance at Meeting of Members. Any Eligible Holder who so requests to the Association in writing shall be given notice of all meetings of the Members as if such First Mortgagee were a Member entitled to notice. Each such First Mortgagee shall have the right to designate a representative to attend all such meetings, which representative shall not have the right to cast a vote.

ARTICLE XII

OPTION TO ADD PROPERTY

Section 1. Option. Declarant shall have the option ("Option") without the consent or joinder of the Owners, the Association, any holder of an interest as security for an obligation or any other person or entity, to add to the Property all or a portion of the land (hereinafter referred to as the "Additional Real Estate") described in Exhibit C attached hereto and located in the City of Hudson, County of St. Croix, State of Wisconsin. Such Option shall be subject to the terms and conditions hereinafter set forth.

Section 2. Duration of Option. The Option will expire on that date which is seven years after the date upon which this Declaration is recorded. There are no circumstances that will terminate the Option before the expiration of said seven year period. However, the Declarant or anyone to whom Declarant has assigned said Option as hereinafter set forth, may terminate said Option as to all or a portion of the Additional Real Estate above described by executing a writing to such effect and recording the same in the same manner as an amendment to the Declarations.

Section 3. Timing. Portions of the Additional Real Estate may be added at different times and in any order.

Section 4. Buildings. Any improvements that may be erected upon any Additional Real Estate which is added to the Property will be compatible with the improvements originally constituting a part of the Property in terms of architectural style, quality of construction, principal materials employed in construction, and size.

Section 5. Applicability of Restrictions. All restrictions in this Declaration affecting the use, occupancy, and alienation of the Property will apply to any Additional Real Estate which is added to the Property.

Section 6. No Assurances. Nothing herein contained shall bind the Declarant to add any portion of the Additional Real Estate to the Property or to adhere to any particular plan of

development or improvement for any portion of the Additional Real Estate not added to the Property. None of the assurances set forth in Sections 4 or 5 above will apply to any Additional Real Estate which is not added to the Property.

Section 7. Exercise of Option. Declarant may exercise its option to add all or a portion of the Additional Real Estate by filing for record in the offices of the St. Croix County Register of Deeds a supplementary declaration with respect to the Additional Real Estate being added.

Section 8. Assignment of Option. The Option may be assigned by Declarant insofar as it affects any portion of the Additional Real Estate to the owner of any such Additional Real Estate, if other than the Declarant. Any such assignment shall be in writing, shall be recorded among the real estate records in the same manner as an amendment to this Declaration and shall be subject to all of the terms and conditions of this Article XII.

Section 9. Reservations of Easements. Declarant hereby reserves the right, in the event that all of the Additional Real Estate is not added to the Property (whether due to lapse of time or termination pursuant to Section 2 above) to create the following perpetual, non-exclusive easements appurtenant to those portions of the Additional Real Estate which are not added to the Property in, over, upon and under portions of such Additional Real Estate as have or may be added to the Property pursuant to this Article XII:

A. Non-exclusive easements for the following purposes: a) To connect any improvements constructed on the portions of the Additional Real Estate which are not added to the Property (hereinafter referred to as the "Excluded Parcels", whether one or more) to any natural gas, storm sewer, water, sanitary sewer, electrical, telephone or other utility line, pipe, wire or other facilities, including the right to connect any improvements constructed on the Excluded Parcels into, and the right to utilize, such utility lines, pipes, wires or other facilities which are or may be located within and/or which may serve those portions of the Additional Real Estate as have or may be added to the Property; b) to obtain natural gas, water, electricity, telephone and other utility services from, and to discharge storm and sanitary waste into, all such lines, pipes, wires or other facilities; and c) to install, repair, maintain, operate and replace all such natural gas, storm sewer, water, sanitary sewer, electrical, telephone or other utility lines, pipes, wires, or other facilities; and d) to do such other acts or things as are necessary in order to

connect into and/or to utilize such utility facilities to serve any improvement constructed or to be constructed on the Excluded Parcels provided, however, that Declarant, its successors or assigns, as the owner or owners of the Excluded parcels benefitted by the easements hereby reserved, shall be responsible for the restoration of any damage done or sustained in connection with the use of such easements.

B. Non-exclusive easements for the purposes of: a) affording the Excluded Parcels and any improvements constructed or to be constructed thereon with access to and from a public road; b) installing, repairing, maintaining, surfacing, resurfacing, grading, replacing and extending any private drives, lanes, streets, roads, or rights-of-way over which the easements hereby reserved are or may be located; and c) to do such other acts or things as are necessary in order to afford any improvement constructed or to be constructed on the Excluded Parcels with access to a public road provided, however, that Declarant, its successors or assigns, as the owner or owners of the Excluded Parcels benefitted by the easements hereby reserved, shall be responsible for the restoration of any land, drives, streets, roads or rights-of-way which are disturbed in connection with the use of such easements, and provided further, however, that the location of the easements hereby reserved shall, to the extent practicable, be limited to the location of the private drives, lanes, streets, roads, and rights-of-way existing within the Common Elements at the time or times that the easements hereby reserved are created.

The easements herein reserved may be created in the event that, and from time to time as, one or more Excluded Parcels are created due to lapse of time or termination pursuant to Section 2 of this Article XII. As evidence of the creation of one or more of the easements reserved in this Section 9, the then owner or owners of the Excluded Parcels for whose benefit the easement is created shall execute and cause to be filed for record a Declaration of Easement setting forth a description of the easements thereby created and a description of the Excluded Parcels so benefitted by the easements thereby created. No consent or joinder of the Association or any Owner or any mortgagee or other holder of an interest in any Lot or Excluded Parcel as security for the performance of an obligation, nor any release therefrom, shall be required to effect or to evidence the creation of the easements hereby reserved. In addition, the owner of an Excluded Parcel or of a platted lot within an Excluded Parcel may at any time waive or terminate any easement hereby reserved or hereafter created for the benefit of such owner's Excluded Parcel or

platted lot within an Excluded Parcel, as the case may be, by the execution and recording of an instrument specifying such waiver or termination, and without the necessity of any consent or joinder by the Association, any Owner, or any mortgagee or other holder of an interest in any Unit or Excluded Parcel or platted lot within an Excluded Parcel as security for the performance of an obligation, or any release therefrom. In the event that easements reserved in this Section are created, the Owners and the owner or owners of the Excluded Parcels benefitted by such easements shall, so long as the easements reserved herein are in existence, share all expenses of maintaining, repairing and replacing the private drives, lanes, streets, roads, or rights-of-way, and the utility lines, pipes, wires and other facilities, which may be commonly used pursuant to the easements herein reserved in the following manner. A portion of any such costs and expenses equal to a fraction, the numerator of which is the number of Living Units in the Property and the denominator of which is the total number of Living Units in the Property plus the total number of units, lots or other individual parcels within the Excluded Parcels benefitted by such easements, shall be paid by the Association. The balance of any such costs or expenses shall be paid by the owner or owners of the Excluded Parcels benefitted by such easements. Any portion of the costs and expenses to be paid on account of the Property shall be paid by the Association as a common expense. Notwithstanding the foregoing, if one or more Excluded Parcels benefitted by such easements are used for other than residential purposes, then such costs and expenses shall be apportioned to, and shared by the Association and the owner or owners of such Excluded Parcel or Parcels on a fair and equitable basis.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on the day and year first above written.

BrightKEYS Building & Development Corporation

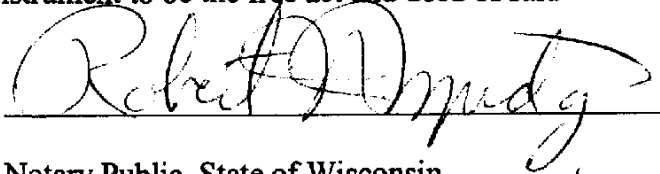
By:  Donna M. Caywood
Its: Treasurer

STATE OF WISCONSIN

)
)SS
)

COUNTY OF ST. CROIX

Personally came before me this 27th day of October, 1999, the above named BrightKEYS Building & Development Corporation, a Minnesota corporation, by Donna M. Caywood, its treasurer, to me known to be the person who executed the foregoing instrument and acknowledged the same. Said instrument was signed in behalf of said corporation by authority of its Board of Directors and said BrightKEYS Building & Development Corporation by Donna M. Caywood, its treasurer, acknowledged said instrument to be the free act and deed of said corporation.



Notary Public, State of Wisconsin

My Commission (expires) permanet

THIS INSTRUMENT DRAFTED BY:

Robert W. Mudge, Attorney
MUDGE, PORTER, LUNDEEN & SEGUIN, S.C.
110 Second Street
P.O. Box 469
Hudson, Wisconsin 54016

TOWNHOMES OF BIENEMAN FARM

"EXHIBIT A"

Legal Description:

Lots 1 through 16, inclusive, and Outlot 1, all in Townhomes of Bieneman Farm according to the recorded Plat thereof, located in St. Croix County, Wisconsin.

TOWNHOMES OF BIENEMAN FARM

"EXHIBIT B"

Common Areas Description:

Outlot 1, Townhomes of Bieneman Farm according to the recorded Plat thereof,
located in St. Croix County, Wisconsin.

TOWNHOMES OF BIENEMAN FARM

"EXHIBIT C"

Additional Real Estate:


Lots 17 through 48, inclusive, Outlot 2, and a portion of Outlot 3, all in Townhomes of Bieneman Farm according to the recorded Plat thereof, located in St. Croix County, Wisconsin.

CONSENT OF MORTGAGEE

Citizens State Bank, a Wisconsin banking corporation, mortgagee of the property described in the within Declaration establishing Townhomes of Bieneman Farm Homeowners Association pursuant to that certain mortgage filed in Volume 1427, page 636 in the Office of the Register of Deeds for St. Croix County, Wisconsin, hereby joins in and consents to, all of the terms, provisions, covenants, conditions, restrictions and easements contained in said Declaration, and agrees that its interest in the property covered by and pursuant to aid Mortgage is subject to said Declaration and to all of the terms, provisions, covenants, conditions, restrictions and easements therein contained.

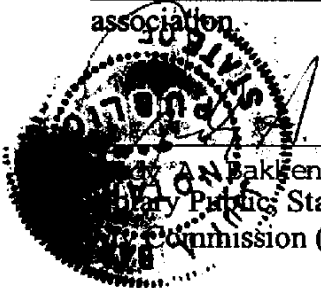
Dated: November 17, 1999.

CITIZENS STATE BANK


 By: Daniel G. Schmit
 Its: Vice President

STATE OF WISCONSIN)
) SS
 ST. CROIX COUNTY)

On the 17 day of November, 1999, before a notary public within and for said county, personally appeared Daniel G. Schmit, to me personally known, who, being by my duly sworn, did say that s/he is the V. President of Citizens State Bank, a Wisconsin banking association, the association named in the foregoing instrument, and that said instrument was signed in behalf of said association by authority of its Board of Directors and said Daniel G. Schmit acknowledged said Consent to be the free act and deed of said association.


A. Bakken
 Notary Public, State of Wisconsin
 Commission (expires): 9/30/2001



847980

KATHLEEN H. WALSH
REGISTER OF DEEDS
ST. CROIX CO., WI
RECEIVED FOR RECORD
04/09/2007 09:55AM

COVENANTS
EXEMPT #

REC FEE: 17.00

PAGES: 4

Document Number

**SUPPLEMENTARY DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR TOWNHOMES OF BIENEMAN FARM**

This Supplementary Declaration supplements and amends the Declaration of Covenants, Conditions, Restrictions and Easements for Townhomes of Bieneman Farm dated October 27, 1999 and recorded in the office of the Register of Deeds of St. Croix County, Wisconsin on November 23, 1999 in Volume 1473 at Page 123 as Document Number 614333 and as amended by Supplementary Declaration of Covenants, Conditions, Restrictions and Easements for Townhomes of Bieneman Farm dated the 20th day of February, 2002 and recorded the 4th day of April, 2002 in the office of the Register of Deeds for St. Croix County, Wisconsin in Volume 1867 at Page 141 as document number 675422.

Return to:

Brightkey
707 Commerce Dr. # 410
Woodbury, MN 55125
Donna Gaywood

PIN: _____

ATTACHED

This is not homestead property.

The purpose of this Supplementary Declaration is to add to said Declaration of Covenants, Conditions, Restrictions and Easements additional real estate as described in Exhibit C of said recorded Declaration of Covenants, Conditions, Restrictions and Easements for Townhomes of Bieneman Farm and which consists of that part of Outlot 2 which contains Lots 81 through 104 and common areas as shown on the plat thereof all in Townhomes of Bieneman Farm 1st Addition according to the recorded plat thereof, located in St. Croix County, Wisconsin.

Declarant, pursuant to the Declaration of Covenants, Conditions, Restrictions and Easements for Townhomes of Bieneman Farm, dated October 27, 1999, exercised its option contained therein, to add to the original property all or a portion of the land described in exhibit C thereof, which includes Lots 81 - 104 of the Townhomes of Bieneman Farm, 1st Addition. Such election was authorized by the said Declaration of Covenants, Conditions, Restrictions and Easements for Townhomes of Bieneman Farm and was done consistent with the terms thereof. Declarant properly and in a timely fashion exercised the option to add the said lots to the property and subject said lots to the Declaration of Covenants, Conditions, Restrictions and Easements for Townhomes of Bieneman Farm. Declarant acknowledges that all of the owners of Lots 81-104 received title from declarant and as part of the transfer of title all of the owners thereof received copies of the Declaration of Covenants, Conditions, Restrictions and Easements for Townhomes of Bieneman Farm and that the deeds from declarant to the owners recited that the lots were subject to the Declaration of Covenants, Conditions, Restrictions and Easements for Townhomes of Bieneman Farm as well as the title policies which were issued for the owners of said lots indicating that said lots were subject to the Declaration of Covenants, Conditions, Restrictions and Easements for Townhomes of Bieneman Farm.

This Supplement further amends said Declaration of Covenants, Conditions, Restriction and Easements for Townhomes of Bieneman Farm as it relates to the additional lots and common areas as shown on the plat of Townhomes of Bieneman Farm 1st Addition and which are being added pursuant to this Supplement as hereinabove described to provide that the Townhomes of Bieneman Farm Homeowners Association, Inc., shall be responsible for all private streets and private utilities except any looped water line located within the additional lots and common areas as shown on the plat thereof and land being added hereby. Private streets are to be maintained by the Homeowners Association. With the exception of the looped water lines identified on the plat as public, all sanitary sewer, storm sewer and water facilities are private and shall be maintained by the Homeowners Association. The Homeowners Association shall be responsible for the maintenance of all said private streets, private water, private sanitary sewer, private storm sewer and private storm water management/erosion control facilities located within the added lots and common areas as shown on the plat thereof and property as hereinabove described.

Further, the City of Hudson shall have the authority, but not the obligation, to enter onto any lot or outlot to perform maintenance or repairs which may not have been performed by the Homeowners Association following written notice by the City to the Homeowners Association that said private facilities require repair or maintenance and following a thirty (30) day opportunity for it to do so. The costs and expenses of the City in performing said maintenance or repair shall be deemed to be for the benefit of all lots and common areas as shown on the plat of this subdivision and shall be considered a special charge pursuant to Wis. Stat. 66.0627, which shall then be charged back against the property tax bill of each lot in said subdivision. Reference herein to subdivision means the lots and common areas as shown on the plat of Bieneman Farm and property being added by this Supplement. The City of Hudson will have no liability for property damage or personal injury that may result from any private street, private water, private sanitary sewer, private storm sewer, or private storm water management device located in said subdivision.

Further, any drainage areas and ponds shall not be altered or filled and the Homeowners Association shall be responsible for maintenance of said drainage ponds, except for drainage areas, ponds and easements which are dedicated for the City trunk storm water drainage system. The Homeowners Association shall also be responsible for maintenance of any ornamental lighting including payment of ongoing electric charges associated with ornamental lighting, maintenance of private streets and utilities which are not owned by the City of Hudson Utility and are located in or along private streets, including but not limited to private water, private sanitary sewer and private storm sewer utilities, maintenance of any other common facility such as private trails, private parking areas, private recreation areas, et cetera and payment of ongoing charges associated with private water, private sewer, private fire protection facilities or devices located on private property, such as private fire protection charges, or any other charge related to the private water, private sanitary sewer and private storm sewer utilities associated with private streets. The costs and expenses relating to the maintenance, repair and improvement of the private streets, private water, private sanitary sewer, private storm sewer, private lighting and other private services not specifically enumerated, together with other common area cost and expense, shall be treated as an expense to the Homeowners Association for which assessment will be made against lot owners. The Homeowners Association shall provide for payment of ongoing charges which may be billed by the Hudson Water Utility or the City of Hudson in connection with said privately owned water, sewer and storm sewer utilities, including but not limited to private fire protection charges.

IN WITNESS WHEREOF, the Declarant has executed this Supplementary Declaration on the 5th day of April, 2007.

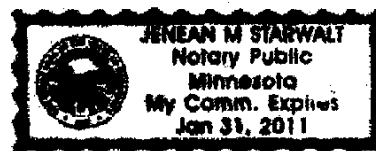
BrightKEYS Building and Development Corporation

Donna M. Caywood
By: Donna M. Caywood
Its: Treasurer

STATE OF MN)
COUNTY OF Washington)ss

Personally came before me this 5th day of April, 2007 the above named BrightKEYS Building and Development Corporation by Donna M. Caywood as Treasurer to me known to be the person who executed the foregoing instrument and acknowledged the same. Said instrument was signed on behalf of said corporation by authority of its Board of Directors and said BrightKEYS Building and Development Corporation by Donna M. Caywood its Treasurer acknowledged said instrument to be the free act and deed of said corporation.

Janean M. Starwalt
Notary Public, State of MN
My Commission is permanent/expires:



THIS INSTRUMENT DRAFTED BY:
D. Peter Seguin, Attorney at Law
MUDGE, PORTER, LUNDEEN & SEGUIN, S.C.
110 Second Street, PO Box 469
Hudson, WI 54016
(715) 386-3200

PIN 236-1990-02-081; 236-1990-02-082; 236-1990-02-083;
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