

DECLARATION

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**SOLAR PARKWAY I CONDOMINIUM
ASSOCIATION**
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JUNE 11, 2001

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CONDOMINIUM ASSOCIATION**

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REVISED AND RESTATED DECLARATION OF SOLAR PARKWAY I CONDOMINIUM ASSOCIATION

PREAMBLE

The original Declaration and By-laws for Solar Parkway I Condominium were made and entered into by Alpha Venture which was referred to as the Declarant on February 17, 1984. The Declarant terminated its powers concerning the condominium and was succeeded by the Solar Parkway I Condominium Association on February 17, 1994. Chapter 703, Wisconsin Statutes, (hereinafter referred to as the ACT) has been revised and several amendments to the Declaration and By-laws were adopted from August 21, 1985 to the present date. Accordingly, the Board of Directors have determined that it is in the best interest of the Association and Condominium as a whole to revise and restate the original Declaration, By-laws, and Amendments to them to bring the documents into compliance with current law and to codify and affirm existing practices.

The Unit Owners, mortgagees, occupants and other persons hereinafter acquiring any interest in the property shall at all times enjoy the benefits of, and shall hold their interests subject to the rights, easements, privileges and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote, enhance and protect the common interests and the cooperative aspects of ownership and to facilitate the proper administration of this condominium property and are established for the purpose of enhancing and protecting the value, desirability, appearance and aesthetics of the condominium property.

NOW, THEREFORE, the UNIT OWNERS, as the owners of Solar Parkway I Condominium, and for the purposes herein above set forth, DECLARE AS FOLLOWS:

ARTICLE I

LEGAL DESCRIPTION AND SPECIAL PROVISIONS

1.01 a. The real estate subjected to the provisions of the Condominium Ownership Act of the State of Wisconsin is legally described as follows:

Part of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 9, Town 20 North, Range 17 East, Town of Menasha, Winnebago County, Wisconsin, more fully described as follows:

Commencing at the Southwest corner of said Northwest $\frac{1}{4}$ of Section 9;

thence S 89° 52'26"E along the South line of said Northwest ¼, 543.00 feet to the Southeast corner of TOWN OF MENASHA ASSESSOR'S PLAT NO. 4, also being the point of beginning; thence N 0° 08'24"E along the East line of said assessor's plat, 773.16 feet; thence S 89° 52'26"E, 123.53 feet; thence S 0° 08'24" W, 31.87 feet; thence S 89° 52'26"E, 100.07 feet; thence S 0° 08'24"W, 28.14 feet; thence S 70° 00'00"E, 525.57 feet; thence S 0° 05'51"W, 534.49 feet; thence N 89° 52'26" W", 718.31 feet to the point of beginning, containing 10.977 acres more or less.

b. Said real estate and all improvements thereon and appurtenances thereto shall be known as SOLAR PARKWAY I CONDOMINIUM. The initial address of the Condominium shall be 1700 Alpha Drive, Neenah, Wisconsin, 54956. The Association may change its address from time to time by filing a notice thereof with the Register of Deeds.

c. The buildings and improvements which are located on the land described above contains fifty-four (54) residential units. No future additional units are planned. Each unit number and address is as follows:

Unit #	Address	Unit #	Address	Unit #	Address
A1	1600 Alpha Dr.	D1	999 Beta Dr.	E1	999 Solar Pkwy.
A2	1600 Alpha Dr.	D2	991 Beta Dr.	E2	997 Solar Pkwy.
A3	1680 Alpha Dr.	D3	985 Beta Dr.	E3	995 Solar Pkwy.
A4	1700 Alpha Dr.	D4	981 Beta Dr.	E4	993 Solar Pkwy.
A5	1720 Alpha Dr.	D5	975 Beta Dr.	E5	991 Solar Pkwy.
A6	1740 Alpha Dr.	D6	971 Beta Dr.	E6	989 Solar Pkwy.
A7	1760 Alpha Dr.	D7	965 Beta Dr.	E7	987 Solar Pkwy.
		D8A	961 Beta Dr.	E8	985 Solar Pkwy.
C1	990 Beta Dr.	D8B	957 Beta Dr.	E9	983 Solar Pkwy.
C2	986 Beta Dr.	D9A	955 Beta Dr.	E10	981 Solar Pkwy.
C3	980 Beta Dr.	D9B	951 Beta Dr.	E11	979 Solar Pkwy.
C4	976 Beta Dr.	D12A	956 Solar Pkwy.	E12	977 Solar Pkwy.
C5	970 Beta Dr.	D12B	954 Solar Pkwy.	E13	975 Solar Pkwy.
C6	966 Beta Dr.	D13A	960 Solar Pkwy.	E14	973 Solar Pkwy.
C7	960 Beta Dr.	D13B	958 Solar Pkwy.	E15	971 Solar Pkwy.
C8	956 Beta Dr.	D14	966 Solar Pkwy.	E16	969 Solar Pkwy.
C9	950 Beta Dr.	D15	970 Solar Pkwy.		
		D16	976 Solar Pkwy.		
		D17	980 Solar Pkwy.		
		D18	986 Solar Pkwy.		
		D19	990 Solar Pkwy.		
		D20	996 Solar Pkwy.		

1.02—Easements: Holders of Easements as hereinafter provided in Article V and holders of Easements subsequently granted under the powers hereinafter set forth shall be entitled to use any roadway, path, or walkway provided in this Condominium.

1.03—Ownership: The ownership of individual Units is vested in separate owners subject to the Condominium Ownership Act of the State of Wisconsin, this Declaration of Condominium and the By-laws of the Association. Each owner shall have the exclusive rights of ownership, use, and enjoyment of his or her individual Unit and the common ownership, use, and enjoyment of the common areas/elements.

1.04—Special Provisions: The following special provisions apply to the identified units within the condominium:

(a) The Board of Directors reserve all architectural control over all and all improvements to the exterior of all Units unto itself.

Prior to commencement of any construction, the Unit Owner seeking to undertake the construction shall secure prior written approval from the Board of Directors. Written approval shall be obtained for all building designs, additions, exterior materials, including but not limited to solar apparatus, landscaping, and interior window treatments.

(b) Unit owners may make non structural, internal improvements to their units subject to compliance with the Declaration, By-laws, local ordinances and state codes. No such improvements or alterations shall impair the structural integrity or lessen the support of any portion of the property.

(c) For purposes of determining ownership, each unit has an undivided 1/54 ownership interest in the common areas.

ARTICLE II

DEFINITIONS

For the purpose of clarity and brevity, certain words and terms used in this Declaration are defined as follows:

2.01—Appurtenance: Any structure, either attached to or independent of a Unit, which serves a purpose related to the use, occupancy, and enjoyment of the Unit which is not in violation of any of the terms and conditions of this Declaration, the By-laws, rules and regulations of the Association and any applicable laws or ordinances.

2.02—Association: The Association of Unit Owners of Solar Parkway I Condominium.

2.03—Attached Unit: A unit sharing one or more walls in common with one or more other units located under a common roof and appurtenances, if any, but not a duplex unit.

2.04—Board of Directors: The elected representatives of the Solar Parkway I Condominium Association responsible for the direction and administration of the condominium. The Board of Directors shall have all powers set forth in the Act, this Declaration, the By-laws, rules and regulations. Subject to all rights established by easements and covenants running with the land, the Board of Directors shall be responsible for the administration and operation of the condominium.

2.05—By-laws: A document that governs the condominium and affects the rights and responsibilities of Unit owners and others

2.06—Common Areas/Elements:

(a) All lands, including roads, submitted to the Declaration of Condominium including those lands upon which buildings are located subject to the limitations hereinafter set forth governing the use of certain lands which are reserved as a Limited Common Area.

(b) Installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, incinerating, underground cable television system, and sewer sanitation system, as may be present.

(c) All other parts of the property necessary or convenient to its existence, maintenance and safety and normally in common use.

(d) The areas included in the condominium description, excepting the

Units and the Limited Common Elements.

(e) The foundations, columns, girders, beams, supports, main walls, roofs, halls corridors, lobbies, stairs, stairways, fire escapes and entrances and exits of the buildings, excepting therefrom individual units maintained on Individual Grounds. It is intended that this subsection shall apply to the recreational buildings, storage buildings, shelter buildings, office space and any similar building that is or becomes a part of the Common Areas and facilities and used in common by the Unit Owners.

(f) The grounds, basements, yards, gardens, parking areas, storage spaces, play areas, parks, shelter areas and recreational facilities except individual Unit basements, if any;

(g) The premises for the storage of property utilized in the maintenance of the property and for the storage of property owned by the United Owners, exclusive of Storage Buildings located on Individual Grounds as hereinafter defined;

(h) The tanks, pumps, motors, fans, compressors, ducts, and, in general, all apparatus and installations existing for common use, if any;

2.07—Common Expenses

(a) All sums assessed against the unit owners by the Association; and

(b) Expenses declared common expenses by this act or by the Declaration, By-laws, rules or regulations.

2.08—Common Surpluses: The balance of all income, profits and revenues from the Common Areas/Elements remaining after deduction of the common expenses.

2.09—Declaration: The instrument by which the Condominium Property is submitted to the provisions of the Act, including such amendments, if any, to this instrument as from time to time may be adopted pursuant to the terms hereof.

2.10—Designated Unit Areas: The portion of a Limited Common Area on which a residential structure and appurtenance may be erected or located to enclose the Unit designated thereon or any part thereof subject to the terms and conditions of this Declaration.

2.11—Detached Unit: A single unit under a single roof sharing no common walls with any other unit and appurtenances, if any.

2.12—Duplex Unit: A double unit under a single roof sharing one common wall with another unit and appurtenances, if any.

2.13—Limited Common Areas and Elements: Those areas and elements, the use of which are allocated to specific Units and which are a part of the Common Areas and Elements and not a part of any individual Unit. Each Unit Owner owning a Unit to which Limited Common Areas and Elements have been allocated shall be entitled to the exclusive use and possession of the allocated Limited Common Area or Element with the exception of those which are designated for more than one unit.

2.14—Majority or Majority of Unit Owners: The unit owners of at least 28 units.

2.15—Person: Individual, corporation, partnership, association, trustee or other legal entity.

2.16—Plat: The Plat of Survey of the Property, Buildings and all Units in the Property submitted to the provisions of the Act, which Plat is attached hereto as Exhibit "A" and by reference expressly incorporated herein and made a part hereof and registered and filed concurrently with the registration of this Declaration with the Winnebago County Register of Deeds.

2.17—Property: The airspace, land, buildings, all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been or are intended to be subject to the provisions of the ACT.

2.18—Rules and Regulations: A set of directives which governs the condominium and affects the rights and responsibilities of the unit owners and others.

2.19—Streets and Roads: The surfaced portions of the property set aside for use for travel by foot, animal or vehicle to and from the buildings to the public streets or highways.

2.20—Unit or Unit Area: A part of the property subject to the ACT intended for independent use as a single family residence including one or more cubicles of air at one or more levels of space, or one or more rooms or enclosed spaces located on one or more floors (or parts thereof) in any building or comprising an entire building. The specific boundaries of units are described in Section 3.01(f).

2.21—Unit Number: The number, letter, or combination thereof,

designating a Unit.

2.22—Unit Owner: The entity, such as a person, combination of persons, partnership or corporation that owns a unit and an undivided interest in the Common Areas/Elements appurtenant to such Unit in the fraction specified and established in the Declaration.

2.23—Unit Ownership: Ownership of a portion of the Property consisting of one Unit and the undivided interest in the Common Elements appurtenant thereto.

ARTICLE III

PROPERTY AND UNITS

3.01—Units: Description and Ownership:

(a) The legal description of each Unit shall consist of the identifying number or symbol of such Unit set forth in paragraph 1.01c. and shown on the Plat. Every deed, lease, mortgage or other instrument may legally describe a Unit by its identifying number or symbol and every such description shall be deemed good and sufficient for all purposes, as provided in the Act.

(b) **Detached Units.** The following units are Detached Units:

Unit #	Address	Unit #	Address	Unit #	Address
A1	1640 Alpha Dr.	C1	990 Beta Dr.	D14	966 Solar Pkwy.
A2	1660 Alpha Dr.	C2	986 Beta Dr.	D15	970 Solar Pkwy.
A3	1680 Alpha Dr.	C3	980 Beta Dr.	D16	976 Solar Pkwy.
A4	1700 Alpha Dr.	C4	976 Beta Dr.	D17	980 Solar Pkwy.
A5	1720 Alpha Dr.	C5	970 Beta Dr.	D18	986 Solar Pkwy.
A6	1740 Alpha Dr.	C6	966 Beta Dr.	D19	990 Solar Pkwy.
A7	1760 Alpha Dr.	C7	960 Beta Dr.	D20	996 Solar Pkwy.
		C8	956 Beta Dr.		
		C9	950 Beta Dr.		
		D1	995 Beta Dr.		
		D2	991 Beta Dr.		
		D3	985 Beta Dr.		
		D4	981 Beta Dr.		
		D5	975 Beta Dr.		
		D6	971 Beta Dr.		
		D7	965 Beta Dr.		

c) **Duplex Units:** Duplex Unit Owners must have a Declaration of Insurance on file with the Association Secretary showing appropriate casualty coverage for their units as determined by the rules of the Condominium. The following units are Duplex Units:

<u>Unit #</u>	<u>Address</u>	<u>Unit #</u>	<u>Address</u>
D 8A	961 Beta Drive	D 12A	956 Solar Parkway
D 8B	957 Beta Drive	D 12B	954 Solar Parkway
D 9A	955 Beta Drive	D 13 A	960 Solar Parkway
D 9B	951 Beta Drive	D 13 B	958 Solar Parkway

(d) **Attached Units:** Attached Unit Owners must have a Declaration of Insurance on file with the Association Secretary showing appropriate casualty coverage for their units as determined by the rules of the Condominium. The following units are Attached Units:

<u>Unit #</u>	<u>Address</u>	<u>Unit #</u>	<u>Address</u>
E 1	999 Solar Parkway	E 9	983 Solar Parkway
E 2	997 Solar Parkway	E 10	981 Solar Parkway
E 3	995 Solar Parkway	E 11	979 Solar Parkway
E 4	993 Solar Parkway	E 12	977 Solar Parkway
E 5	991 Solar Parkway	E 13	975 Solar Parkway
E 6	989 Solar Parkway	E 14	973 Solar Parkway
E 7	987 Solar Parkway	E 15	971 Solar Parkway
E 8	985 Solar Parkway	E 16	969 Solar Parkway

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(e) Except as otherwise provided by the Condominium Ownership Act, no unit Owner shall, by deed, plat or otherwise, subdivide or in any other manner cause his or her Unit to be separated into any tracts or parcels different from the whole Unit shown on the Plat.

(f) **Unit Boundaries.**

- 1) Each unit in the condominium shall consist of the designated area shown on the plat, attached hereto as Exhibit A, and shall be constructed as provided on the plans and specifications incorporated in Exhibit A, attached hereto. Units located on individual grounds are located as shown on Exhibit A.
- 2) Each attached unit shall consist of the space enclosed and bounded by the horizontal and vertical planes of the interior, unfinished face of the exterior walls, ceilings and lowest floor of the unit. With respect to any interior walls of a unit which are bearing walls, the unit shall not include that portion of the bearing wall located inside the outer unfinished surface of the wall.

- 3) Detached units shall consist of the space enclosed and bounded by the horizontal and vertical planes of the exterior surface of the exterior walls, roof and lowest surface of the unit.
- 4) Duplex units shall consist of the space enclosed and bounded on all sides except for the common side with the other unit on the outside surface of the outside walls, roof and lowest surface of the unit. With respect to the common wall, the boundary shall be the interior surface of the unfinished wall.
- 5) All utility services within the boundaries of a unit which serve other units are common areas and are not part of the unit. All utility services such as wiring to the point of contact with the fixture which ultimately provides service to the unit, such as a light switch, a light fixture, a toilet, a sink, regardless of whether the piping, wires or other items protrude into the unit, are common elements of the condominium. However, all items such as furnaces, duct work, plumbing, wiring and piping located in detached units or not extending through the common wall of a duplex unit are a part of the unit. In all cases any and all appliances and other fixtures contained in the unit which items may include, but not be limited to, refrigerators, dishwashers, disposals, laundry equipment, ranges, compactors, cabinets, carpeting, floor coverings, wall coverings, electric baseboard heaters, electric wall heaters, furnaces including ducts, radiators including piping, controls for heating systems, air conditioning equipment including any external components and including ducts, controls for air conditioning systems and security systems, all doors including garage doors, windows and glass, if any, their casements and all of their opening, closing and locking mechanisms and hardware, all telephone and cable and telephone and cable outlets, if any, all plumbing and natural gas fixtures and piping valves and other connecting and controlling materials and devices lying between the fixtures and the main water sewage lines and natural gas connection at the lowest level of the unit including, but not limited to, water heaters, water softeners and water filters, are a part of the unit.

- (g) Except as otherwise provided by the Condominium Ownership Act, no unit owner shall by deed, plat or otherwise, subdivide or in

any other manner cause his or her unit to be separated into any tracts or parcels different from the whole unit as shown on the plat.

ARTICLE IV

COMMON AREAS/ELEMENTS:

4.01—Ownership of Common Areas/Elements: Each Unit Owner shall own an undivided interest in the Common-Elements as tenants-in common with all other Unit Owners and, except as otherwise limited in this Declaration, shall have the right to use the Common Elements for all purposes incident to the use and occupancy of such Owner's Unit as a place of residence, and such other incidental uses permitted by this Declaration, which right shall be appurtenant to and run with the Unit. The extent or amount of such ownership shall be expressed by a fraction. The fraction of ownership may be changed upon two-thirds written approval of all the Unit Owners in the form of an Amended Declaration duly recorded. In the event of condemnation by public authority as hereinafter provided in Article (VIII 8.02) or of loss as provided in Article (IX), the fraction of ownership may be changed to conform to the provisions set forth therein.

The undivided interest in the Common Areas/Elements shall not be separated from the Unit to which it appertains and shall be deemed to be leased, conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. In the event of loss by condemnation by public authority as hereinafter provided in Article (VIII 8.02) or of loss as provided in Article (IX), any recovery arising thereunder attributable to the Limited Common Areas/Elements shall be the exclusive property of the Unit Owner or the Association as appropriate.

No Owner shall execute any deed, mortgage, lease or other instrument affecting title to his Unit ownership without including therein both his interest in the Unit and his corresponding fraction of ownership in the Common Areas/Elements. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

4.02—No partition of Common Areas/Elements: There shall be no partition of the Common Areas/Elements through judicial proceedings or otherwise unless this Declaration is terminated and the property is withdrawn from its terms or from the terms of any statute applicable to condominium ownership.

4.03—Common Areas/Elements—Description: The Common

Areas/Elements, as specified in the Declaration shall generally be designated and set forth on Exhibit "A", attached hereto, and shall consist of all of the condominium except the Units. They shall be identified thereon as to type, extent and unit or units to which a Limited Common Area/Element is assigned. Fixtures designed to serve a single unit and located contiguous to the boundary of the unit shall be deemed to be Limited Common Elements appertaining to that unit exclusively and need not be shown on Exhibit "A. In addition, all pipes, wires, conduits, public utility lines, ducts and other structural components running through a Unit and serving more than one Unit, whether or not such items shall be located in the floors, ceilings, or perimeter or interior walls of the Unit, are common elements.

ARTICLE V

GENERAL PROVISIONS AS TO UNITS AND COMMON AREAS/ELEMENTS

5.01—Use of the Common Areas/Elements: Subject to the provisions of Section 5.04, each Unit owner shall have the right to use the Common Elements in common with all other Unit Owners as necessary for the purposes of ingress to and egress from, and the use, occupancy and enjoyment of, the respective Unit owned by each Unit owner, and to the use and enjoyment of Common Areas/Elements. Such rights shall extend to the Unit Owner and the members of the immediate family and guests and other authorized occupants and visitors of the Unit Owner. The use of Common Areas/Elements and the rights of the Unit Owners with respect thereto shall be subject to and governed by the provisions of the Act, the Declaration, and the By-laws, and rules and regulations of the Board of Directors.

5.02—Maintenance of Common Areas/Elements—Common Expenses: Except as otherwise provided herein, management, repair, alteration and improvement of the Common Areas/Elements shall be the responsibility of the Board. Each Unit Owner shall pay his proportionate share of the Common Expenses. Payment thereof shall be in such amounts and at such times as may be provided by the By-laws, and/or rules, regulations and resolutions of the Board of Directors. In the event of the failure of a Unit Owner to pay such proportionate share when due, the amount thereof together with interest thereon at the rate of 18% per annum or any other interest rate determined by the Board of Directors from time to time shall constitute a lien on the interest of such Unit Owner, as provided by the Act. The Association may foreclose on any such lien in accordance with the applicable Wisconsin Statutes.

Other than lawn care and snow removal, each Unit Owner owning a Unit to which Limited Common Areas/Elements have been allocated, shall be responsible for the landscaping, maintenance, and appearance of the Limited Common Area/Element, the exclusive use and possession whereof is extended hereby, including grounds care, landscaping, refuse, and natural debris removal. The Condominium is responsible for lawn care, including cutting, weed control, and fertilizing and snow removal of the streets and driveways. In the event a Unit Owner fails to upkeep the Limited Common Area/Element allocated to him, the required upkeep will be provided by the Condominium as directed by the Board of Directors, the cost of same shall be determined by the Board of Directors and shall be an additional assessment to the assessment hereinafter provided and shall be subject to all of the obligations and regulations herein contained governing the payment and collection of assessments, including the right of lien provided herein.

A Unit Owner shall not plant, landscape or surface said Limited Common Areas in any manner contrary to such rules and regulations as may be established by the Board of Directors.

A Unit Owner shall not cause or allow any obstruction on any roadway traversing the Limited Common Areas and shall allow same to remain open for the free and uninterrupted movement of individuals and vehicles over the duly designated roadway.

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5.03—Easements:

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(a) **Encroachments:** In the event that, by reason of the construction, settlement or shifting of any Building, or the design or construction of any Unit, any part of the Common Areas/Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of the Unit encroaches or shall hereafter encroach upon any part of the Common Areas/Elements or any other Unit, or, if by reason of the design or construction of utility systems, any main pipes, ducts or conduits serving more than one Unit encroach or shall hereafter encroach upon any part of any Unit, easements for the maintenance of such encroachments are hereby established and shall exist for the benefit of such Unit and the Common Areas/Elements, as the case may be, so long as all or any part of the Building containing an affected Unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of the Owner of any Unit or in favor of the Owners of the Common Areas/Elements if such encroachment occurred due to the intentional disregard of unit boundaries by said Owner or Owners.

(b) **Easements for Utilities:** Power companies, telephone companies, Town of Menasha Sanitary District, Town of Menasha, and all other public utilities serving the property, are hereby granted the right to install, lay, construct, operate, maintain, renew, repair or replace, conduits, cables, pipes and wires and

other equipment into, over, under, along and on any portion of the Common Areas/Elements for the purpose of providing the property with utility services, together with the reasonable right of ingress to and egress from the property for said purpose. The Board of Directors may hereafter grant other or additional temporary or permanent easements for utility or other purposes over, under, along and on any portion of said Common Areas/Elements, and each Unit Owner hereby grants the Board of Directors an irrevocable power of attorney to execute, acknowledge and record or register for and in the name of such Unit Owner, such instruments as may be necessary or appropriate to effectuate the foregoing. Easements are also hereby declared and granted to install, lay, operate, maintain, repair and replace any pipes, wires, ducts, conduits, public utility lines or structural components running through the walls or grounds of the Common Areas/Elements, whether or not such walls or grounds lie in whole or in part within the boundaries of Limited Common Areas.

(c) **Easements to Run with the Land:** All easements and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the undersigned, their successors and assigns, and any Unit Owner, purchaser, mortgagee and other person having any interest in the Property or any part or portion thereof. Reference in any deed of conveyance or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Article, or described in any other part of this Declaration, shall be sufficient to create and reserve such easements and rights to the respective owners, mortgagees and trustees of such parcels as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

(d) **Easements for Police, Fire, and Emergency Medical**

Protection: A perpetual easement is hereby granted for the free and uninterrupted access to the grounds hereinbefore described for any and all legally designated law enforcement agencies, fire departments, and emergency medical services for the performance of their duties.

(e) **Easements for Post Office:** A perpetual easement is hereby granted for the free and uninterrupted access to the grounds, drives and walkways hereinbefore described for any and all legally designated representatives of the United States Postal Service for the performance of their duties.

(f) **Easements for Refuse Removal:** A perpetual easement is hereby granted for the operation of any vehicles, equipment, and service personnel engaged in the removal of refuse as designated and approved by the Board of Directors.

5.04—Limited Common Areas/Elements:

(a) **Patios and Decks:** All patios and decks are Limited Common Elements, whether or not shown on Exhibit A. Unit Owners are entitled to the exclusive use and possession of the patio or deck located outside of and adjoining their own Unit. Each Unit Owner is responsible for the repair, maintenance and appearance of the patio or deck at their own expense. A Unit Owner shall not paint or otherwise decorate or adorn or change the appearance of any such patio or deck in any manner contrary to the rules and regulations established by the Board of Directors. The right of ownership, installation, and removal of decks and sun porches shall remain in the Unit Owner subject only to the standards, rules and regulations of the Condominium.

(b) **Garages:** Garages are designated as part of the Unit Area and not a Limited Common Element, Exhibit A to the contrary notwithstanding.

(c) **Parking Areas:** There are no parking areas or other portions of the property allocated to parking purposes except individual Unit driveways which are designated as Limited Common Elements.

(d) **Swimming Pools:** One unit has a private swimming pool located on a Limited Common Areas adjacent to the Unit. The use, care, control and maintenance of this swimming pool shall be the responsibility of the Unit Owner. The Unit Owner shall be responsible for obtaining insurance deemed to be sufficient by the Board of Directors. A current Certificate of Insurance must be on file with the Secretary of the Board of Directors of the Condominium. No more pools shall be constructed at the condominium.

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5.05—Separate Mortgages of Units: Each Unit Owner shall have the right to mortgage or encumber his or her own respective Unit, together with his or her respective ownership interest in the Common Areas/Elements. No Unit Owner shall have the right or authority to mortgage or otherwise encumber in any manner whatsoever the Property or any part thereof, except his or her own Unit and his own respective ownership interest in the Common Areas/Elements as aforesaid.

5.06—Separate Real Estate Taxes: It is intended and understood that real estate taxes are to be separately taxed to each Unit Owner for his or her Unit and his or her fraction of ownership in the Common Areas/Elements as provided in the Act. In the event that, for any year, such taxes are not separately taxed to each Unit Owner, but are taxed on the Property as a whole, then each Unit Owner shall pay his or her proportionate share thereof in accordance with his or her respective fraction of ownership interest in the Common Areas/Elements.

5.07—Utilities: Each Unit Owner shall pay for his or her own telephone, electricity and other utilities which are separately metered or billed to each user by the respective utility company.

5.08—Maintenance, Repairs, and Replacements of Units:

(a) **By the Association:** The Association shall be responsible for the maintenance, repair and replacement of all common areas, including those portions, if any, of each Unit which contribute to the support of the 16 attached units, excluding, however interior wall, ceiling and floor surfaces. In addition, the Association shall maintain, repair and replace all pipes, wires, conduits, ducts, plumbing (except for the fixtures) and other facilities for the furnishing of utility services which may be located within the Unit boundaries as specified in Sections 3.01(f), exclusive of any portions of the foregoing which may be located at or beyond the wall outlets, or which may be the responsibility of an individual Owner under any other provision of this Declaration. The foregoing obligations of the Board of Directors shall extend to any Detached Unit. In addition, the Board of Directors shall maintain, repair, and replace all pipes, wires, conduits, public utility lines, ducts, plumbing (except for the fixtures) and other facilities for the furnishing of utility services which may be located within the Unit boundaries as specified in Section 4.03 and 3.01(f), exclusive of any portions of the foregoing which may be located at or beyond the wall outlets, or which may be the responsibility of an individual Owner under any other provision of this Declaration. The foregoing obligations of the Board of Directors shall extend to any Detached Unit. The Board of Directors may provide, by its rules and regulations, for maintenance and repairs and replacements to be furnished to Unit as a Common Expense or a direct charge to the benefitted units. If a unit owner fails to maintain his or her unit in a manner consistent with the standards of maintenance of the condominium, the Association may, upon 30 days' written notice to such unit owner, perform the necessary maintenance or repairs. All costs incurred by the Association in connection therewith shall constitute an expense which shall be specially assessed solely against the benefitted unit.

(b) **By the Unit Owners:** Each Unit Owner shall be responsible for all of the decorating within his/her own Unit from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps, and other furnishings and interior decorating. Each Unit Owner shall be entitled to the exclusive use of such portions of the perimeter walls, floors, and ceilings as lie within the boundaries of his/her Unit as shown on the Plat, and such Unit Owner shall maintain such portions in good condition as his/her sole expense as may be required from time to time, which said maintenance and use shall be subject to the rules and regulations of the Board of Directors. The interior and exterior surfaces of all windows forming part of a perimeter wall of a Unit shall be cleaned or washed at the expense of the Unit owner.

The use of the covering of the interior surfaces of such windows, whether by

draperies, shades or other items visible on the exterior of the Building, shall be subject to the rules and regulations of the Board of Directors. Decorating of the Common Elements (other than interior surfaces within the Units as above provided), and any redecorating of Units to the extent made necessary by any damage to existing decorating of such Units caused by maintenance, repair or replacement work on the Common Elements by the Board of Directors, shall be furnished by the Board of Directors as part of the Common Expenses. Exterior roofing and painting shall be the expense of the Detached Unit Owner as hereinbefore provided. Nothing herein contained shall be construed to impose a contractual liability upon the Board of Directors for maintenance, repair, and replacement, but the Board of Director's liability shall be limited to damages resulting from negligence. The respective obligations of the Board of Directors and Unit Owners set forth in this Declaration shall not be limited, discharged or postponed by reason of the fact that any such maintenance, repair or replacement required to cure a latent or patent defect in material or workmanship in the construction or location of a structure on the property, nor because they may become entitled to the benefit of any construction guarantee or proceeds under policies of insurance. The exterior building decoration of any Detached Unit shall be the responsibility of the Unit Owner subject to the restriction that any decoration shall be approved by the Board of Directors prior to performance of same. All other exterior maintenance of a Detached Unit shall be the obligation of the Board of Directors or the Unit Owner as hereinbefore provided, and as set forth in Article V (5.03). In the event of the failure on the part of a Unit Owner owning a Detached Unit to comply with the maintenance requirements hereinabove set forth, the Board of Directors may perform such obligations to access the expense of compliance against the Detached Unit and shall have the right to place a lien against said Unit to insure payment.

5.09--Negligence of Owner: If, due to the negligent act or omission of a Unit Owner, or of a member of his/her family or household pet, or of a guest or other authorized occupant or visitor of such Unit Owner, damage shall be caused to the Common Areas/Elements or to a Unit or Units owned by others, or maintenance, repairs, or replacements shall be required which would otherwise be at the Common Expense, then such Unit Owner shall pay for such damage and such maintenance, repairs, and replacements as may be determined by the Board of Directors, subject to the rules, regulations, and By-laws of the Condominium Association.

5.10--Joint Facilities: To the extent that equipment, facilities, and fixtures within any Unit or Units shall be connected to similar equipment, facilities or fixtures affecting or serving other Units or the Common Elements, then the use thereof by the individual Unit Owners shall be subject to the rules and regulations of the Board of Directors. The authorized representatives of the Board of Directors, or of the manager or managing agent for the Condominium, shall be entitled to reasonable access to all Units as may be required in connection with

maintenance repairs, or replacements of or to the Common Elements or any equipment, facilities or fixtures affecting or serving other Units or the Common Elements. This is intended to include and provide for the maintenance, service, and repair of the underground facilities serving each Unit on the Limited Common Areas as well as those serving the Common Areas/Elements.

ARTICLE VI

ADMINISTRATION

6.01--Method: The Condominium Property shall be administered as provided in the By-laws by Solar Parkway I Condominium Association, an unincorporated association (referred to as the "Association").

6.02--Determination of Board to be Binding: Notwithstanding that the words "Board of Directors" and "Association" may in some instance be used interchangeably in various sections of the Declaration, matters of dispute or disagreement between Unit Owners relating to the Property or with respect to interpretation or application of the provisions of this Declaration or the By-laws, shall be determined by the Board of Directors, which determination shall be final and binding on the Association and on all Unit Owners.

6.03--Voting Rights: The number of votes at meetings of the Association of Unit Owners shall total 54. The vote appurtenant to each Unit shall be one vote.

6.04--Meetings: Meetings shall be held as provided in the By-laws of the Association.

ARTICLE VII

COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

7.01 The Units and Common Areas/Elements shall be occupied and used as follows:

(a) Purpose—Residential Use: No part of the Property shall be used for other than housing and related common purposes for which the Property was so designed, including accessory buildings. Each Unit is intended for and shall be restricted to use for single family residential purposes only as presently or hereafter defined and permitted by Town of Menasha zoning ordinances and are restricted to that use. Lease or rental of a unit for residential purposes shall not be considered to be a violation of this covenant. That part of the Common Areas/Elements separating any two or more adjoining Units used together as

aforesaid may be altered to afford ingress and egress to and from such adjoining Units in such manner and upon such conditions as shall be determined by the Board of Directors in writing.

(b) Obstruction of Common Areas/Elements: There shall be no obstruction of the Common Areas/Elements, nor shall anything be stored in the Common Areas/Elements without prior consent of the Board of Directors, except as hereinafter expressly provided. Owners shall be obligated to maintain and keep in good order and repair their own Units.

(c) Hazardous Uses and Waste: Nothing shall be done or kept in any Unit or in the Common Areas/Elements which will increase the rate of insurance on the Property, or contents thereof, without the prior written consent of the Board of Directors. Owners shall not permit anything to be done or kept in their Unit or in the Common Areas/Elements which will result in the cancellation of insurance on the Property, or contents thereof, or which would be in violation of any law. No waste shall be committed in the Common Areas/Elements.

(d) Use: The real estate covered by this Declaration includes therein present and possible future recreational areas and facilities. Unit Owners, members of their immediate families, guests and invitees may use these Common Areas/Elements designate for nature trails, walkways, playgrounds, picnic areas, recreational area and facilities may be used for intended purpose including where allowed, the playing, placement of benches or chairs, and allied reasonable use thereof provided said use does not interfere with the use and enjoyment of the Common Areas/Elements by the other Unit Owners.

(e) Signs: The Board of Directors shall determine in its sole discretion whether or not to place "For Sale" or "For Rent" signs on any Unit or on the Property for the purpose of facilitating the disposal of Units by any Owner, mortgagee or the Board of Directors.

ARTICLE VIII

DEFAULTS, CONDEMNATION

8.01—Default: In the event any Unit Owner shall default in the payment of any moneys required to be paid under the provisions of any mortgage or trust deed against his or her Unit Ownership, the Association shall have the right to cure such default by paying the amount so owing to the party entitled thereto and the Association shall thereupon have a lien therefor against such Unit Ownership, which lien shall have the same force and effect and may be enforced in the same

manner together with interest as provided in paragraph 5.02

8.02—Condemnation: In the event of condemnation under the Laws of Wisconsin for a portion of the premises including therein a residential building, or buildings, or Unit, or Units on Limited Common Areas whereby construction of a like building or buildings or Unit or Units on Limited Common Areas cannot be reasonably effected on the remaining premises, the proceeds of said condemnation and rights of action arising thereunder shall be disbursed as follows:

(1) To the Owners of the individual Units condemned, that portion of the condemnation award attributable to each Owner's Unit and the right of action, if any, arising thereunder and attributable to said Unit, together with said Owner's interest in the condemnation award for the common elements condemned plus a sum equal to said Owner's interest in the remaining common elements to be paid by the remaining owners. Any condemnation award together with any right of action arising thereunder, attributable to a Unit with Limited Common Areas allocated thereto, shall be the exclusive property of the Unit Owner insofar as said award or right of action pertains to the Unit constructed thereon.

(2) To the Owners of the common elements whose residential Units were not condemned, as their interests may appear. The Board of Directors shall determine whether legal action shall be brought on any right of action arising under the condemnation. Any award obtained by legal action, shall be disbursed to the owners as their common interests may appear, including the Owners of those Units condemned as though they were voting members.

(3) The decision as to whether a like building, buildings, Unit, or Units on Limited Common Areas may be constructed elsewhere on the premises, shall be determined by the voting members. A favorable vote for construction shall be 51% of the voting members and compliance with the restrictions of record. Any proposed construction shall be subject to the Laws of the State of Wisconsin and the Ordinances of the governing bodies. In the event of condemnation by public authority or any Unit with Limited Common Areas allocated thereto, where after said condemnation there remains sufficient and suitable Limited Common Areas for the construction and/or location of a Unit, the Unit Owner shall have the exclusive option to locate or construct a new Unit thereon subject to the terms, provisions and regulations of this Declaration, and the laws of the State of Wisconsin and the ordinances of the governing bodies.

(4) The condemnation of an Owner's Unit and its non-replacement with a like Unit, shall terminate said Owner's membership. The remaining members shall constitute the Owners of all Common Areas/Elements and their interests therein shall be recomputed to equal the number of Units as set forth in this Declaration.

8.03—Responsibility of Transferees for Unpaid Assessments: In a voluntary transfer of a Unit, the transferee of the Unit shall be jointly and severally liable with the transferor for all unpaid assessments against the latter up to the time of transfer, without prejudice to the transferee's right to recover from the transferor the amounts paid by the transferee therefor. However, any such transferee shall be entitled to a statement from the Board of Directors or President; or managing agent of the Association, as the case may be, setting forth the amount of the unpaid assessments against the transferor due to the Association and such transferee shall not be liable for, nor shall the Unit conveyed be subject to a lien for any unpaid assessments made by the association against the transferor in excess of the amount therein set forth. In the event the Association or the Board of Directors does not provide a statement setting forth any sums due within five (5) business days after transferee's request for same, the Association or the Board of Directors shall be barred from claiming a lien against the transferee.

ARTICLE IX

DAMAGE OR DESTRUCTION AND RESTORATION OF BUILDINGS

9.01—Insurance:

(a) **Unit Owners:** The Unit Owners of detached and duplex units are responsible for their own liability, fire, casualty and personal property insurance. The Attached Units shall have fire insurance and special form perils (natural disasters other than flood and earthquake) insurance for the structure itself, excluding the units purchased by the Board of Directors but paid for by the Unit Owners of the attached units. Other than this coverage, the attached Unit Owner shall be responsible for carrying insurance on everything else owned by him or her.

The Board of Directors shall not be responsible for obtaining insurance on any unit constructed or located on Limited Common Areas or any additions, alterations, or improvements made thereon except that insurance for Building casualties on the attached units shall be purchased by the Board of Directors but paid for by the unit owners of the attached units.

Unit owners hereby waive and release any and all claims which they may have against any other Unit Owner, the Board of Directors, its officers, members of the Board of Directors, the manager and managing agent of the building, if any, and their respective employees and agents, for damage to the Common Areas/Elements, Units, or to any personal property located in the Units or Common Areas/Elements, caused by fire or other casualty, to the extent that such damage is covered by fire and other forms of casualty insurance.

(b) **Sufficient Insurance:** In the event the improvements forming a part of the Property, or any portion thereof, including any Unit, shall suffer damage or destruction from any cause and the proceeds of any policy or policies insuring against such loss, or damage, and payable by reason thereof shall be insufficient to pay the cost of repair or restoration or reconstruction shall be undertaken and the insurance proceeds shall be applied by the Board of Directors or the payee of such insurance proceeds in payment therefor; provided, however, that in the event, within sixty (60) days after said damage, or destruction, shall occur, the Unit Owners elect either to sell the Property as hereinafter provided in Article X or to withdraw the Property from the provisions of the Act, as therein provided, then such repair, restoration or reconstruction shall not be undertaken. In the event of damage or destruction to any single building or the buildings aggregating less than fifty percent (50%) of the total buildings, said building or buildings shall be promptly repaired or restored; subject to the provisions of the By-laws as set forth therein. The foregoing provisions shall be applicable to insurance proceeds and coverage provided by the Board of Directors for any Unit with Limited Common Areas attributable thereto subject to the provisions of the By-laws and Article V (5.08).

(c) **Insufficient Insurance:** In the event the Property or the improvements thereon so damaged are not insured against the risk causing the loss or damage, or the insurance proceeds are not sufficient to pay the cost of repair, restoration, or reconstruction, and the Unit Owners and all other parties in interest do not voluntarily make provision for reconstruction of the improvements within ninety (90) days after said damage or destruction shall occur, then the provisions of the Act in such event shall apply.

(d) **Additional Insurance:** Owners may, at their option, carry additional insurance on their Unit including coverage for any substantial improvements made therein.

9.02—Substantial Restoration: Repair, restoration or reconstruction of the improvements, as used in this Article, means restoring the improvements to substantially the same condition in which they existed prior to the fire or other disaster, with each Unit and the Common Areas/Elements having the same vertical and horizontal boundaries as before.

ARTICLE X

SALE OF THE PROPERTY: REMOVAL FROM CONDOMINIUM OWNERSHIP

10.01 **Voluntary Sale of the Property:** The unit owners, by affirmative vote of 90% of the total number of units, either by proxy or personal vote, at a meeting of

Unit Owners called for such purpose, may elect to sell the property as a whole. Such action shall be binding upon all Unit Owners, and it shall thereupon become the duty of every Unit Owner to execute and deliver such instruments, and to perform all acts as in manner and form necessary to effect such sale, provided, however, that any Unit Owner who did not vote in favor of such action and who has filed written objection thereto with the Board within twenty (20) days after the date of the meeting at which said sale was approved shall be entitled to receive from the proceeds of such sale an amount equivalent to the value of his interest, as determined by a fair appraisal, less the amount of any unpaid assessments or charges due and owing from such Unit Owner. In the absence of agreement on an appraiser, such Unit Owner and the Board may each select an appraiser, and the two so selected shall select a third, and the fair market value as determined by a majority of the three appraisers so selected shall control. If either party shall fail to select an appraiser, then the one designated by the other party shall make the appraisal.

10.02 All of the Owners may remove the property from the provisions of this Declaration by executing and recording an instrument to that effect. All holders of liens affecting any of the units must consent in writing, said consent to be duly recorded, to the transfer of their lien to the percentage of undivided interest of the unit owner in the property.

In the event of the removal of the Condominium Property from the provisions of this Declaration, the property except for the former units themselves shall be deemed to be owned by the unit owners as tenants in common. The percentage of undivided interest in the condominium shall be the undivided percentage interest of the unit owner set forth in paragraph 1.04(c).

ARTICLE XI

REMEDIES FOR BREACH OF COVENANTS, RESTRICTIONS AND REGULATIONS

11.01 **Abatement and Enjoyment**: The violation of any rule, restriction, condition or regulation adopted by the Board, or the breach or default of any covenant, By-Law or provision contained herein or contained in the Act, shall give the Association the right, in addition to the rights set forth in Section 11.02:

(a) To enter upon the Property upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Association, or its successors or assigns, or the Board, or its agents, shall not thereby be

deemed guilty in any manner of trespass; and

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

(c) To seek damages by appropriate legal proceedings.

(d) Have right to make assessment for any default and interest of unpaid assessment to highest legal vote.

11.02 Involuntary Sale: If any owner (either by his own conduct or by the conduct of any other occupant of his unit) shall violate or breach any of the covenants, By-Laws, restrictions or provisions of this Declaration or of the Act, or the regulations adopted by the Board, and such violation shall continue for thirty (30) days after notice in writing from the Board, or shall occur or shall re-occur more than once thereafter, then the Board shall have the power to issue to the defaulting Owner a thirty day notice in writing to terminate the rights of the said defaulting Owner to continue as an owner and to continue to occupy, use or control his Unit and thereupon an action in equity may be filed by the members of the Board against the Owner or occupant or in the alternative a decree declaring the termination of the defaulting Owner's right to occupy, use or control the Unit owned by him on account of the breach of covenant, and ordering that all the right, title and interest of the Owner in the Property shall be sold at a judicial sale upon such notice and terms as the court shall establish except that the Court shall enjoin and restrain the defaulting Owner from re-acquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge the lien of any then existing mortgage, court costs, court reporter charges, reasonable attorneys' fees, and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Owner in said decree.

Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, shall be paid to the Owner. Upon the confirmation of such sale, the purchaser thereat shall thereupon be entitled to a deed to the Unit Ownership and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the Property sold subject to this Declaration, and the purchaser shall become a member of the Association in the place and stead of the defaulting Owner.

ARTICLE XII

FORMATION OF ASSOCIATION

12.01 Formation of Association: The Solar Parkway I Condominium Association is hereby established as an unincorporated association to govern the

Condominium in accordance with the Declaration, the Association's By-laws, rules and regulations and the Act. Every Unit Owner shall be a member therein, which membership shall terminate upon the sale or other disposition by such member of his or her Unit Ownership, at which time the new Owner shall automatically become a member therein. Each Unit Owner agrees to be bound by and observe the terms and provisions of the Association's Charter, its By-Laws, and the rules and regulations promulgated from time to time by said Association, its Board of Directors and officers.

ARTICLE XIII

GENERAL PROVISIONS

13.01 **Notice to Mortgage Lenders** : Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against any Unit Ownership shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Owner or Owners whose Unit Ownership is subject to such mortgage or trust deed.

13.02 **Service of Notices on Devisees and Personal Representatives** : Notices required or desired to be given to any devisee or personal representatives of a deceased Owner may be delivered either personally or by mail to such party at his or its address appearing in the records of the court wherein the estate of such deceased Owner is being administered.

13.03 **Covenants to Run With Land** : Each Unit Owner, by the acceptance of a deed of conveyance, and each purchaser under Articles of Agreement for Warranty Deed or Land Contract or any Contract for any deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such owner in like manner as though the provisions to the Declaration were recited and stipulated at length in each and every deed of conveyance.

13.04 **Non-Waiver of Covenants** : No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur or any time lapse.

13.05 **Waiver of Damages**: Neither the Board of Directors nor its representatives or designees, shall be liable for any claim whatsoever arising out

of or by reason of any actions performed pursuant to any authorities, reserved, granted or delegated to it by, or pursuant to, this Declaration, whether or not such claim (a) shall be asserted by any Owner, Occupant, the Board or the Association, or by any person or entity claiming through any of them; or (b) shall be on account of injury to person or damage to or loss of property wherever located and however caused; or (c) shall arise ex contractu or (except in case of gross negligence) ex delictu. Without limitation to the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any act or neglect of any Owner, occupant, the Board, the Association, and their respective agents, employees, guests and invitees, or by reason of any neighboring property or personal property located on or about the Property or by reason of the failure to function, or disrepair of, any utility services (heat, air conditioning, electricity, gas, water, sewerage, etc.)

13.06 **Amendments to Declaration** : The provisions of Article III, Article IV, and Section 13.06 of this Declaration may be changed, modified, or rescinded by instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the Board, all of the Owners and all mortgagees having bona fide liens of record against Unit Ownerships. Other provisions may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission signed and acknowledged by the Board, the Owners having at least two-thirds (2/3rds) of the total vote and containing an affidavit by an officer of the Board certifying that a copy of the change, modification or rescission has been mailed by certified mail to all mortgagees having bona fide liens of record against any Unit Ownership not less than ten (10) days prior to the date of such affidavit. Such change, modification or rescission shall be effective upon recording of such instrument in the office of the Register of Deeds of Winnebago County, Wisconsin, provided, however, that no provision in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of the Act. No amendment, modification or change may be made in this declaration which would conflict, deprive, impede or interfere with the Restrictions or Record governing the real estate that is the subject of this Declaration.

13.07 **Severability** : The invalidity of any covenant, restriction, condition, limitation, or any other provision of this Declaration or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

13.08 **Interpretation of Declaration** : The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a first class condominium residential development. In the event of any controversy arising under this

Declaration, same shall be submitted to arbitration under the laws of the State of Wisconsin, as a prerequisite to the commencement of any legal proceeding. Such arbitration shall be before one disinterested arbitrator if one can be agreed upon, otherwise before three disinterested arbitrators, one named by the party or parties submitting the matter at issue, one named by the party or parties contesting the matter at issue, and one by the two thus chosen. The arbitrator or arbitrators shall determine the controversy in accordance with the laws of the State of Wisconsin as applied to the facts found by him or them. The expense of arbitration proceeding conducted hereunder shall be borne equally by the parties. All arbitration proceedings hereunder shall be conducted in Oshkosh, Winnebago County, Wisconsin.

13.09 Indemnity to Board Members : The members of the Board and the officers thereof or of the Association shall not be liable to the Unit Owners for any mistake or judgment or any acts or omissions made in good faith as such members or officers. The Unit Owners shall indemnify and hold harmless each of such members or officers against all contractual liability to others arising out of contracts made by such members or officers on behalf of the Unit Owners or the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of this Declaration. Such members or officers shall have no personal liability with respect to any contract made by them on behalf of the Unit Owners of the Association. The liability of any Unit Owner arising out of any contract made by such members or officers or out of the afore said indemnity shall be limited to such proportion of the total liability thereunder as his percentage interest in the Common Elements bears to the total percentage interest of all the Unit Owners in the Common Elements. Each agreement made by such members or officers or by the managing agent on behalf of the Unit Owners or the Association shall be executed by such members or officers or the managing agent, as the case may be, as agents for the Unit Owners or the Board or Association.

13.10 Service of Process: All legal notices and service of process relating to the Condominium and/or the Association shall be served upon its President at his or her residence in the Condominium. The initial individual authorized to accept service of process is Gerald Free living at 954 Solar Parkway, Neenah, Wi. 54956. The Association may change the authorized person from time to time by filing a notice thereof with the Register of Deeds.