

**BY-LAWS  
OF  
PARADISE TRAILS  
CONDOMINIUM ASSOCIATION, INC.**

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**BY-LAWS  
OF  
PARADISE TRAILS  
CONDOMINIUM ASSOCIATION, INC.**

**ARTICLE 1**

**Name and Purpose**

Pursuant to the Articles of Incorporation of PARADISE TRAILS CONDOMINIUM ASSOCIATION, INC., and the Condominium Declaration for Paradise Trails, a Condominium recorded in the Office of the Register of Deeds for Waukesha County, Wisconsin (hereinafter "Declaration"), the following are adopted as the By-Laws of PARADISE TRAILS CONDOMINIUM ASSOCIATION, INC. (hereinafter sometimes referred to as the "Association"), which is a non-profit non-stock corporation formed and organized to serve as an association of Unit Owners who own real estate and improvements in Paradise Trails Condominium (hereinafter the "Property") under the condominium form of ownership, as provided in the condominium Ownership Act of the State of Wisconsin and subject to the terms and conditions of the Declaration.

These By-Laws shall be deemed covenants running with the land and shall be binding on the Unit Owners, their heirs, personal representatives, successors and assigns.

**ARTICLE II**

**Members, Voting and Meetings**

**2.1 Members.** The rights and qualifications of the members are as follows:

**a. Defined.** Members of the Association shall be all Unit Owners, and members shall have one vote for each unit owned. Every Unit Owner upon acquiring title to a unit under the terms of the Declaration shall automatically become a member of the Association and shall remain a member thereof until such time as his/her ownership of such unit ceases for any reason, at which time his/her membership in the Association shall automatically cease.

**b. One Membership and Vote Per Unit.** One membership and one vote shall exist for each unit. If title to a unit is held by more than one person, the membership related to that unit

shall be shared by such owners in the same proportionate interests and by the same type of tenancy in which the title to the unit is held. Voting rights may not be split. When more than one person holds an interest in any unit the vote for such unit shall be exercised as they, among themselves, determine, but in no event shall there be more than one vote cast with respect to any unit. If only one of multiple owners of a unit is present at a meeting of the Association, the owner present is entitled to cast the vote allocated to that unit. If more than one of the multiple owners is present, and any one of them purports to cast the vote allocated to that unit on any issue without protest being made promptly by any other owner(s) of such unit to the person presiding over the meeting, it shall be conclusively presumed that such voting owner had the authority to cast the vote. In the event of such a protest, if such dispute is not resolved by the multiple owners prior to the vote being completed, they shall not be entitled to cast a vote.

**c. Membership List.** The Association shall maintain a current Membership List showing the membership pertaining to each unit, the address to which notice of the meetings of the Association shall be sent, and the name and address of any mortgagee of a unit from which the Association has received a written demand for notice of meetings.

**d. Transfer of membership.** Each membership shall be appurtenant to the unit upon which it is based and shall be transferred automatically upon conveyance of that unit. Membership in the Association may not be transferred, except in connection with the transfer of a unit. Upon transfer of a unit, the Association shall, as soon as possible thereafter, be given written notice of such transfer, including the name and address of the new owner, identification of unit, date of transfer, and any other information about the transfer which the Association may deem pertinent, and the association shall make appropriate changes to the Membership List effective as of the date of transfer. The Association may provide Membership Certificates to its members.

**2.2 Quorum and Proxies for Member's Meetings.** The Presence at the meeting of members entitled to cast, or of proxies entitled to cast, twenty-five percent (25%) of the votes shall constitute a quorum for any action except as otherwise provided in the Declaration or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to

adjourn the meeting from time to time without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented. At such adjourned meeting at which a quorum shall be present or represented any business may be transacted which might have been transacted at the meeting as originally noticed. Votes may be cast in person or by proxy. All proxies shall be in writing and filed with the Association, by delivery to any Officer or Director. The Officer or Director receiving same shall promptly transmit same to the Secretary of the Association. Every proxy shall be effective for a maximum period of one hundred eighty (180) days (unless granted to a Mortgagee or lessee), shall be revocable and shall automatically cease upon conveyance by the Member of his, her or their unit.

**2.3 Act by Majority.** The act of a majority of votes of the Association present in person or by proxy at any meeting at which quorum is present shall be the act of the Association, unless otherwise provided in the Declaration, By-Laws, Articles of Incorporation or the Condominium Ownership Act of the State of Wisconsin.

**2.4 Time, Place, Notice and Calling of Members' Meetings.** Written notice of all meetings stating the date, time and place of the meeting shall be given by the President or Secretary, unless waived in writing by all Unit Owners entitled to vote, to each member at his address as it appears on the books of the Association and shall be mailed, emailed or personally delivered not less than ten (10) days nor more than sixty (60) days prior to the date of the meeting. The inadvertent failure to give notice to any Unit Owner or mortgagee entitled to notice shall not invalidate any action taken at the meeting, unless such invalidation is otherwise required by law. Notice of meetings may be waived before or after meetings. Meetings shall be held at such time and place as may be designated by the Board of Directors, and may be held at the principal office of the property or at such other suitable place convenient to the Owners as may be designated by the Board of Directors. Notice of Special Meetings shall further specify the purpose of the meeting.

**2.5 Annual and Special Meetings.** The first annual meeting of the Members shall be held prior to the conveyance of twenty-five percent (25%) of the Common Element interest to purchasers, but in no event more than within one (1) year from the date of recording of the Declaration, and each subsequent annual meeting of Members shall be held on such date as may be determined each year by the Board of Directors, providing such date shall be a date within thirty (30) days prior to the anniversary date of the first annual meeting. The purpose of each annual meeting of the Members shall be for the election of Directors and the transaction of such other business as may come before the meeting. Special meetings of the members shall be held whenever called by the President or by the Board of Directors and must be called by such Officers and Directors upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes.

## ARTICLE III

### Board of Directors

**3.1 Number and Membership in Association.** The affairs of the Association shall be managed initially by a board of directors ("Board of Directors") composed of three (3) directors selected by the Declarant. No more than one director at any given time may be a person who is not also a Unit owner; provided, however, that during the period of Declarant control, any person named by the Declarant to the Board of Directors shall be deemed to be a "Unit Owner" for purposes of this requirement only and provided further, that in the case of a Unit that is owned by an entity rather than an individual, any person who is an officer, member, partner, director, employee or designee of such entity shall be deemed to be a "Unit Owner" for purposes of this requirement only.

**3.2 Term of Office.** The initial Board of Directors shall serve until the Declarant has conveyed seventy-five percent (75%) of the percentage interest in the Common Elements to purchasers. Prior to the conveyance of seventy-five percent (75%) of the Common Element interest of the Condominium to purchasers, the Association shall hold a meeting, and the Unit Owners other than the Declarant shall elect at least thirty-three and one-third percent (33 1/3%) of the directors on the board of directors Not later than thirty (30) days after the expiration of the period of Declarant control, a special meeting of the Unit Owners shall be called, and the Unit Owners shall elect all three (3) directors to serve on the Board of Directors. Such directors shall take office upon such election and shall serve until the first annual meeting of the Unit Owners.

**3.3 Determination of Declarant Control.** For purposes of calculating the percentages set forth in the Declaration and these Bylaws with respect to determination of Declarant Control, the percentage of Common Element interest conveyed shall be calculated based on the percentage of undivided interest pertaining to each Unit conveyed, assuming that all Units Declarant has the right create by expansion are included in the Condominium.

**3.4 Election and Term of Directors.** At the first annual meeting of the Association after Association control passes to the Unit Owners, the members shall elect three (3) Directors to the classified with respect to the terms for which they hold office by dividing them into three (3) classes as follows:

- (a) One Director whose term will expire at the first annual meeting of the Association after his or her election, or at such time as his or her successor is duly elected and qualified (Class "A" Director).

(b) One Director whose term will expire at the second annual meeting of the Association after his or her election, or at such time as his or her successor is duly elected and qualified (Class "B" Director).

(c) One Director whose term will expire at the third annual meeting of the Association after his or her election, or at such time as his or her successor is duly elected and qualified (Class "C" Director).

The successors to the class of Directors whose terms expire as set forth above shall be elected to hold office for a term of two (2) years or until their successors are duly elected and qualified, or until any of said Directors shall have been removed in the manner hereinafter provided, so that the term of one class of Directors shall expire in each year.

**3.5 Vacancies on Board.** Vacancies on the Board of Directors caused by any reason other than the removal of a Director by a vote of the members shall be filled by a vote of the majority of the remaining Directors, even though they may constitute less than a quorum, and each person so elected shall be a Director until a successor is elected at the next annual meeting of the members at which that class of Directors is to be elected.

**3.6 Removal of Directors.** At any annual meeting of the membership, or at any special meeting of the membership called for that purpose, any one or more of the Directors may be removed with or without cause by a majority of the votes of the membership present or represented at such meeting, provided a quorum is in attendance, and a successor may then and there be elected to fill the vacancy thus created.

**3.7 Annual Meeting and Notice.** An annual meeting of the Board of Directors shall be held immediately after, and at the same place as, the annual meeting of the members, for the purpose of election of Officers and transacting such business as may come before the meeting. Notice of the regular annual meeting of the Board of Directors shall not be required.

**3.8 Regular Meetings and Notice.** The Board of Directors may provide by resolution for regular or periodic meetings of the Board, to be held at a fixed time and place, and upon the passage of any such resolution, such meetings shall be held at the stated time and place without the necessity of notice other than such resolution. Regular meetings may further be called by the President or by any two Directors upon not less than 1 day's written notice to each Director, given personally or by mail, or email, or facsimile transmission.

**3.9 Special Meetings and Notice.** Special meetings of the Board of Directors may be called by the President or by two (2) Directors on twenty-four (24) hours prior



written notice to each Director, given personally or by mail, or email, or facsimile transmission, which notice shall state the time, place and purpose of the meeting.

**3.10 Waiver of Notice.** Before, at or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver by him of notice of the time and place thereof. If all of the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**3.11 Quorum of Directors - Adjournments.** At all meetings of the Board of Directors, a majority of the Directors then in office (but not counting any Director who has tendered a written resignation to any other Director) shall constitute a quorum for the transaction of business, and the act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. If, at any meeting of the Board of Directors, there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time without further notice. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted.

**3.12 Fidelity Bonds.** The Board of Directors may require that some or all Officers and/or employees of the association handling or responsible for Association's funds shall furnish adequate fidelity bonds. The premiums on any such bonds shall be paid for by the Association.

**3.13 Action Taken Without a Meeting.** The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors, including approval via email. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

## **ARTICLE IV**

### **OFFICERS**

**4.1 Designation, Election and Removal.** The principal Officers of the Board of Directors shall be a President, Vice-President, and Secretary/Treasurer, to be elected annually by the Board of Directors, and such other Officers as the Board of Directors may from time to time by resolution create. At any meeting of the Board of Directors at which

a quorum is present, and upon the affirmative vote of a majority of the members of the Board of Directors in attendance at such meeting, any Officer may be removed, either with or without cause, and his successor elected. Any two or more offices, except a combination of the offices of President and Secretary and a combination of the offices of President and Vice-President, may be held by the same person.

**4.2 President.** The President shall be selected from among the members of the Board of Directors and shall be the chief executive Officer of the Association. He or she shall preside at all meetings of the Association and of the Board of Directors. He or she shall have the general powers and duties which are usually vested in the office of President, including but not limited to, the power to sign, together with any other Officer designated by the Board, any contracts, checks, drafts or other instruments on behalf of the Association in accordance with the provisions herein. The President shall perform such other duties and have such other authority as may be delegated by the Board of Directors.

**4.3 Vice-President.** The Vice-President shall take the place of the President and perform his or her duties whenever the President shall be absent or unable to act. If both the President and the Vice-President are unable to act, the Board of Directors shall appoint some other member of the Board to act on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him or her by the Board of Directors.

**4.4 Secretary/Treasurer.** The Secretary/Treasurer shall keep the minutes of all meetings of the Board of Directors and of the Association and shall have charge of the Association's books and records, and shall, in general, perform all duties incident to the office of the Secretary/Treasurer. The Secretary/Treasurer shall be responsible for maintaining the Membership List and, if so required by the Board, the issuance of membership certificates for the Association. The Secretary/Treasurer shall have responsibility for the Association's funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements and financial records and books of account on behalf of the Association. He or she shall be responsible for the deposit of all monies and all valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors. The Secretary/Treasurer shall also be responsible for the billing and collection of all common and special charges and assessments made by the Association. The Secretary/Treasurer shall count votes at meetings of the Association.

**4.5 Liability of Directors and Officers.** No person shall be liable to the Association for any loss or damage suffered by it on account of any action taken or omitted to be taken by him or her as a Director or Officer of the Association, if such person (a) exercised and used the same degree of care and skill as prudent person would have exercised or used under the circumstances in the conduct of his or her own affairs, or (b) took or omitted to take such action in reliance upon advice of counsel for the association

or upon statements made or information furnished by Officers or employees of the association which he or she had reasonable grounds to believe to be true. The foregoing shall not be exclusive of other rights or defenses to which he may be entitled as a matter of law. The Board of Directors may provide Directors' and Officers' liability insurance in such amounts and with such coverage as may be determined by the Board of Directors to be necessary or advisable from time to time, and the premiums on any such insurance shall be a common expense of the Association.

**4.6 Compensation.** No Director or Officer of the corporation shall receive any fee or other compensation for services rendered to the Association except by specific resolution of the membership. No Director or Officer shall receive any fee or compensation for performing his or her duties as an Officer or Director. However, any Director or Officer may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

## **ARTICLE V**

### **Declarant Control**

Notwithstanding any other provision contained in these By-Laws (other than the provisions of Section 3.1 above), and to the extent not limited or prohibited by applicable law, Declarant, its successors and assigns, shall have the right at its option to appoint and remove the members of the Board of Directors and Officers of the Association, to amend these By-Laws and/or the Rules and Regulations of the Association, and/or to have sufficient votes to constitute a majority of all votes until the earlier of: (a) ten (10) years after the first sale of a unit in Paradise Trails Condominium by Declarant, (b) thirty (30) days after the conveyance of one hundred percent (100%) of the Common Element interest to purchasers by Declarant, or (c) until such earlier time as may be determined by Declarant, subject in each case to provisions of the Condominium Ownership Act of Wisconsin. Each owner of a condominium unit in Paradise Trails Condominium shall be deemed by acceptance of any deed to any unit to agree, approve and consent to the right of Declarant to so control the Association. The determination of Common Element interest conveyed shall be made in the same manner as provided in Section 3.3 of these By-Laws.

## **ARTICLE VI**

### **Operation of the Property**

**6.1 The Association.** The Association, acting through the Board of Directors, shall be responsible for administration, maintenance, management and operation of the condominium property, in accordance with the Condominium Ownership Act, the Declaration, the Articles of Incorporation, and these By-Laws. The Association, by

resolution of the Board of Directors, shall have full power and authority to borrow money and acquire and convey property on behalf of the Association, provided that any single Association loan, acquisition, or conveyance, involving the sum of \$10,000.00 or more, shall first be approved by majority vote of the membership at an annual or special meeting called for such purpose. The Association may, to the extent it deems advisable, contract for management services or for a managing agent with respect to the administration and operation of the condominium.

**6.2 Rules and Regulations.** The Association, through the Board of Directors, shall from time to time adopt rules and regulations governing the operation, maintenance and use of the units and the Common and Limited Common Elements and facilities by the Unit Owners and occupants. Such Rules and Regulations of the Association shall not be inconsistent with the terms of the Declaration or the documents and easements referred to in the Declaration, and shall be designed to prevent unreasonable interference with the use of the respective units and the Common Elements and facilities by persons entitled thereto. The Association members, their lessees or guests, and any occupants of the units shall conform to and abide by all such Rules and Regulations. A violation of any such Rules or Regulations shall constitute a violation of the Declaration. The Association through its Board of Directors shall designate such means or enforcement thereof as it deems necessary and appropriate. The Rules and Regulations may be adopted, altered, amended or repealed by either the members of the Association or the Board of Directors, in each case by an affirmative vote of 67% or more of the votes present or represented at a meeting at which a quorum is an attendance, provided that no Rule or Regulation adopted by the members shall be amended or repealed by the Board of Directors if the Rule or Regulation so adopted so provides.

**6.3 Common Expenses.** The Board of Directors shall determine the common expenses of the Association, and shall prepare an annual operating budget for the Association in order to determine the amount of the assessments payable by each unit to meet the estimated common expenses of the Association for the ensuing year. The amounts required by such budget shall be assessed against the units and allocated among the members of the Association according to their respective percentages of ownership in the Common Elements and facilities of the Condominium and as set forth in the Declaration. The assessments shall be made on an annual basis and shall be prorated and due and payable monthly. Commencement of assessments as to each Unit shall be in the manner provided in the Declaration. Any assessments, or installments thereof, which are not paid when due shall be delinquent. If the assessment is not paid within ten (10) days after the due date, the assessment shall bear interest from the date of delinquency at a rate of interest which is two percent higher than the rate prescribed by the Wisconsin Statutes to be collected upon execution upon judgments. (In lieu of charging such interest the Board may, from time to time, fix a reasonable late fee, for each month or fraction thereof that such assessment is delinquent.) If delinquent for more than thirty (30) days, the Association may accelerate the annual assessment remaining unpaid with respect to such delinquent unit for purposes of collection or foreclosure action by the Association.

In the event the annual budget and assessments are not determined prior to the beginning of a fiscal year of the Association, the assessment for the prior year shall remain in effect until revised by the Board of Directors.

**6.4 Operating Budget.** The annual operating budget shall provide for two funds, one of which shall be designated the "operating fund" and the other the "reserve fund". The operating fund shall be used for all common expenses which occur annually or more frequently, such as amount required for the cost of maintenance and repair of the Common Elements, management services, security, insurance, common services and utilities, administration, materials and supplies. The reserve fund shall be used for contingencies and periodic expenses such as painting or renovation. In the event the Association incurs extraordinary expenditures not originally included in the annual budget, then such sums, as may be required in addition to the operating fund may be charged against the reserve fund, up to a maximum of 10% of the reserve fund. In the event that such funds prove inadequate to meet the necessary common expenses, or at the discretion of the Board of Directors, the Directors may levy further assessment(s) against the Unit Owners or by majority vote of the Unit Owners authorize additional funds to be withdrawn from the reserve fund.

The reserve fund may also be used to discharge mechanic's liens or other encumbrances levied against the entire property, or against any unit, if resulting from action by the Association. The Unit Owner or owners responsible for any lien which is paid by the Association but not the obligation of the Association shall be specifically assessed for the full amount thereof. The Directors may also use the reserve fund for the maintenance and repair of any unit if such maintenance and repair, although the obligation of the Unit Owner, is necessary to protect the common property. The full amount of the cost of any such maintenance or repair shall be specifically assessed to the Unit Owner responsible therefor. Any charges against the reserve fund in accordance with the foregoing paragraphs which are not otherwise repaid to the fund shall be replenished by additional assessments against the Unit Owners in subsequent years.

An annual budget shall be prepared and determined prior to the annual meeting of each calendar year. The Board of Directors shall advise all members of the Association in writing of the amount of common assessments payable on behalf of each unit by the date of the annual membership meeting and shall furnish copies of the budget on which such common assessments are based to each member.

If within fifteen (15) days after the annual membership meeting a petition is presented to the Board of Directors protesting the budget, and the petition is signed by members representing more than fifty percent (50%) of the membership entitled to vote, the Association may revise the budget, and such revised budget and corresponding assessments shall replace for all purposes the ones previously established, provided, however, that the annual budget and assessments may not be revised downward to a point lower than the average total budget for the preceding two years and provided

further, that if a budget and assessments have not been established and made for any two preceding years, then the budget and assessments may not be revised downward until two years of experience exist.

The reserve account referred to above shall not be construed as a Statutory Reserve Account pursuant to Section 703.163 of the Wisconsin Statutes, unless the Association decides to establish a Statutory Reserve Account in a manner allowed by law. If the Association establishes a Statutory Reserve Account, the use of said account shall comply with the statutory provisions.

**6.5 Default and Liens.** All assessments of common expenses and special assessments until paid, together with interest and actual costs of collections, constitute a lien on the units on which they are assessed and on the undivided interest in the Common Elements appurtenant thereto, to the extent permitted by law. If a member of the Association is delinquent in payment of any charges or assessments, the Board of Directors, in the name of the Association, may file liens therefor and bring suit for and on behalf of the Association, as representative of all members, to enforce collection of such delinquencies or to foreclose the lien therefor, as provided by law, and there shall be added to the amount due the costs of collection and interest, together with attorney's fees. Liens shall be signed and verified on behalf of the Association by any Officer or agent of the Association. The owners of a unit against which a lien has been filed by the Association shall not be entitled to vote at Association meetings until the lien has been paid in full.

## **ARTICLE VII**

### **Repairs and Maintenance**

**7.1 Individual Units.** Each Unit Owner, at his sole expense, shall be responsible for keeping the interior and exterior of his unit and all of its equipment, fixtures and appurtenances in good order, condition and repair and in a clean and sanitary condition. Each Unit Owner must perform properly or cause to be performed all maintenance and repair work within his own unit which, if omitted, would affect the project in its entirety or a portion belonging to other owners, and such owner shall be personally liable to the Association or the adjoining Unit Owner(s) as the case may be, for any damages caused by his or her failure to do so. As set forth in the Declaration, the Association may, by resolution, assume responsibility, in whole or in part, for the maintenance, repair and/or replacement of some or all of those portions of Units which affect the exterior appearance of the condominium.

**7.2 Common Elements and Facilities.** The Association shall be responsible for the management and control of the Common Elements and facilities and shall cause the same to be maintained, repaired and kept in good, clean, attractive and sanitary condition, order and repair, except to the extent individual Unit Owner(s) are responsible

therefor as provided by the Association with respect to Common Elements and/or Limited Common Elements. Without in any way limiting the foregoing, the Association shall be responsible, at Association expense (unless necessitated by the negligence or misuse of a Unit Owner, in which case such expense shall be charged and specially assessed to such Unit Owner, or except as delegated to the Unit Owners), for accomplishment of the following specific items of maintenance and repair with respect to the Common Elements:

- All Maintenance, repair, painting, cleaning and decorating of common areas and fixtures including sidewalks and parking areas.
- Lawn care, including landscaping, fertilizing, watering, weed control, tree pruning, grass cutting, edging and trimming, as required, except as delegated to the Unit Owners as set forth herein.
- Repair, replacement or restoration of sidewalks, driveways, retaining walls and parking areas which are a part of the Condominium property.
- Snow and ice removal and salting and cleaning walks, drives and parking areas, except as delegated to the Unit Owners as set forth herein or by the Declaration.
- General repair, maintenance and replacement of Common Element exterior fixtures including exterior lighting fixtures and associated equipment, entry signs into the condominium project and roadway signs therein.
- General repair, maintenance and replacement of common fixtures and equipment such as mailboxes, and associated fixtures and equipment.
- General repair, maintenance and replacement of all sewer (sanitary and storm) and water mains and connecting pipes and conduits not dedicated to the utility or the municipality.
- Provisions for maintenance and storage of equipment and materials required to accomplish the foregoing.

**7.3 Association Services.** The Association may provide any service or maintenance requested by a Unit Owner or owners with respect to individual units that the Association is able and willing to provide or perform and shall specially assess such requesting owner or owners therefore. The Board of Directors may establish policies requiring prepayment for some or all of such service or maintenance, and/or may refuse to provide same to Unit Owners who are delinquent in the payment of any sum due the Association.

## **ARTICLE VIII**

### **Duties and Obligations of Unit Owners**

**8.1 Rules and Regulations.** The units and the Common Elements and facilities and Limited Common Elements shall be occupied and used in accordance with the Declaration, the Articles of Incorporation, these By-Laws, and the rules and regulations adopted by the Association from time to time, including but not limited to the following:

**(a) Use.** No Unit Owner shall occupy or use his or her unit or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for the owner, the owner's family, or the owner's lessees or guests. No trade or business shall be conducted on the condominium property or from any unit without the prior written approval of the Board of Directors of the Association and in full compliance with all applicable law.

**(b) Occupancy.** Units in Paradise Trails Condominium shall not be rented for transient or hotel purposes, which shall be defined as: (i) any rental for periods of less than 6 months (or a greater period if required by the Declaration); or (ii) any rental if the occupants of the unit are provided customary hotel services, such as room service for food and beverage, maid service, bellboy service or laundry service.

**(c) Leases.** Owners of Units in Paradise Trails Condominium may lease their units on whatever terms and conditions they may wish, provided that in each instance the following terms and conditions are met:

- The lease must be in writing, signed by the owner and the tenant.
- The lease must be for a period of no less than one hundred eighty (180) consecutive days.



- The lease must specifically obligate the tenant to abide by the terms and conditions of the Declaration, these By-Laws, and all Rules and Regulations of the Association.
- Prior to the beginning of the lease term, the owner must give the Association notice of the name and permanent address of the tenant, and the term of the lease.
- Such other requirements as are set forth in the Declaration.

**(d) Animals and Poultry.** No animals, livestock or poultry of any kind shall be raised, bred or kept in any unit or in any of the Common Elements, except that birds and fish, and not more than a total of 2 dogs and cats (2 dogs, or 1 dog and 1 cat, or 2 cats), may be kept as household pets by Unit Owners, provided they are not kept or maintained for commercial or breeding purposes, and are kept subject to Rules and Regulations set forth below and such other Rules and Regulations which may be adopted by the Association regarding same.

**(e) Pet Rules and Regulations.**

**(1) Leashes.** Dogs and cats shall not be permitted on the Common Elements unless on a leash and within control of a person.

**(2) Waste.** The Unit Owners shall be responsible for the proper disposal of their pet's waste, without regard to their control over the pet at the time or location of the waste. Clean up of pet waste shall be contemporaneous.

**(3) Exercise.** If the Board designates an area of the Common Element as a "pet's area", then pets shall be exercised only within this area. Such designation shall not operate to diminish the Unit Owner's responsibility under (8) hereof.

**(4) Behavior.** Unit Owners are responsible for the behavior of pet occupying their unit and any handler thereof.

**(5) Housing.** Exterior pens or cages are not allowed. Pets shall not be left outside unattended in Paradise Trails

**(6) Licenses.** Pets shall be licensed by the municipality if required, and a copy of such license shall be furnished to the Association within 10 days after issuance by the municipality.

**(7) Noises.** All pets shall be maintained in a manner as to keep any noise at a minimum level which, in any event, must not be an unreasonable annoyance to the other condominium residents.

**(8) Insurance.** No dogs or cats shall be allowed unless the Unit Owner provides continuous proof to the Association, in the form of an insurance binder or policy, confirming that the Unit Owner has liability insurance in effect providing coverage for actions of the pet. Uninsured dogs and cats and uninsurable dogs and cats are prohibited.

**(f) Window Treatments.** All windows within a unit open to exterior view shall be either uncovered or treated with draperies or curtains properly hung on drapery or curtain rods, shades and/or window blinds. For purpose of uniformity of exterior appearance, the Association, by Rule and Regulation, may from time to time determine and specify the type, quality and appearance of draperies and window treatments which will be visible from the exterior of the building. Unless and until such Rules and Regulations are adopted, all window treatments shall have a neutral, wood, white or off-white backing.

**(g) Increase of Insurance Rates.** Nothing shall be done or kept in any unit or in the Common Elements that will increase the rate of insurance on the units or the Common Elements, without the prior consent of the Association. No Unit Owner shall permit anything to be done or kept in his or her unit or in the Common Elements which will result in the cancellation of insurance on any unit or any part of the Common Elements, or which would be in violation of any law or ordinance. No waste shall be committed in the Common Elements.

**(h) Signs.** No sign of any kind shall be displayed to the public view on or from any unit or the Common Elements, without the prior consent of the Association. The Association

may establish Rules and Regulations for the size and placement of "For Sale" and "For Rent" signs. This provision shall not prohibit Declarant from erecting signs to expedite the sale of its units.

**(i) Noxious Activity.** No noxious or offensive activity shall be carried on in any units or in the Common Elements, nor shall anything be done therein which may be or become an annoyance or nuisance to others.

**(j) Alteration, Construction or Removal.** Nothing shall be altered or constructed in or removed from the Common Elements and facilities, except upon the written consent of the Association.

**(k) Use of Common Areas.** No owner may keep or store, or permit to be kept or stored any of the following items on any portion of the Common Elements or Limited Common Elements, including but not limited to all driveways:

**(1)** Any truck larger than a 3/4-ton pickup truck.

**(2)** Any truck used as a commercial vehicle containing any type of signage.

**(3)** Junked, inoperative or unlicensed vehicles.

**(4)** Boats, campers, recreational vehicles, snowmobiles, or any type of trailer.

Notwithstanding the foregoing, such vehicles as are reasonably necessary for the construction, reconstruction, repair and/or remodeling of units and Common Elements, and/or for moving or delivery purposes, shall be allowed, providing same do not remain on the property for any time period longer than is reasonably necessary, and providing further that all owners of the Unit, jointly and severally, shall be responsible and liable to the Association for the repair of any damage to the Common or Limited Common Elements resulting there from. Permanent parking of any vehicle outside of the homeowner's garage or on the street will be limited to a maximum of 10 days.

**(l) Temporary Structures.** Temporary structures, such as sheds or other storage facilities, are prohibited on Common Elements.

**(m) Storage.** Patios and decks shall not be used for any storage of any kind, including, but not limited to, the storage of motorcycles, baby carriages, bicycles, or wagons, nor shall patios be used for the drying or airing of laundry, carpets, rugs, or clothing. Furthermore, no grills shall be used or stored on patios or decks unless they are of a type using a cover in place while in use. No clotheslines shall be hung in Common or Limited Common Elements.

**(n) Access.** No vehicle shall occupy, park upon or otherwise block access to or exit from another unit or the approach thereto.

**(o) Vehicle Maintenance.** No maintenance or lubrication of any vehicle shall be permitted anywhere on the Common or Limited Common Elements.

**(p) Rummage Sales.** No rummage or garage type sales shall be conducted in or about any unit on more than four (4) calendar days in any calendar year.

**(q) Seasonal Decorations.** Exterior home decorating for seasonality shall be subject to Association authority and control. Offensive or inappropriate decorations will not be allowed. Halloween decorations may be placed between October 1<sup>st</sup> and November 7<sup>th</sup> of each year, and decorations for December holidays may be placed from the day following Thanksgiving to the day after New Year's Day.

**(r) Other Exterior Decorations.** All exterior decorating, including hanging baskets, bird houses and the like are subject to Association approval.

**(s) Enforcement.** The Declaration, these By-Laws and the Rules and Regulations as may be adopted by the Association from time to time may be enforced by such means as the Association deems necessary and appropriate, including recourse to civil authorities, court action if necessary, and monetary fines in such amounts as may be enacted from time to time as a part of the Rules and Regulations to be charges and

assessed against the owners of units who violate or whose guests or unit occupants violate these provisions or the rules and regulations. Such fines shall be charged and assessed against the subject unit and may be enforced and collected as an assessment for common expenses, including the foreclosure of a lien therefore.

## ARTICLE IX

### General

**9.1 Fiscal Year.** The fiscal year of the Association shall begin on the first day of January and end on the last day of December in each year, unless a different fiscal year is elected on the first annual tax return filed by the Association.

**9.2 Address.** The mailing address of the Association shall be Paradise Trails, c/o: Steve DeCleene, N27 W24025 Paul Ct, Suite 100, Pewaukee, WI 53072. or such other address as may be designated by the Board of Directors from time to time.

**9.3 Seal.** The Board of Directors may provide a corporate seal which, if provided, shall be circular in form and shall have inscribed thereon the name of the corporation and the words "Corporate Seal, Wisconsin".

## ARTICLE X

### Amendments

**10.1 By Members.** These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by the members, at any meeting called for such purpose, by the affirmative vote of Unit Owners having sixty-seven percent (67%) or more of the votes in the Association.

**10.2 Rights of Declarant.** No amendment, repeal or alteration of these By-Laws shall alter or abrogate the rights of Declarant as contained in the Declaration or these By-Laws.

## ARTICLE XI

### Miscellaneous

**11.1 Record of Ownership.** Every Unit Owner shall, upon the acquisition of a Unit, or any interest therein, promptly notify the Association, in writing, of the change of ownership, which notification shall include the Unit Number, the names of all owners of the Unit, and the address to which notices should be sent for such Unit. Every Unit Owner shall further promptly notify the Association, in writing, of any change of address.

**11.2 Statement of Assessments.** The Association, at the request of any mortgagee or any prospective purchaser of any unit or interest therein, shall provide a statement to such person as to the amount of any assessments against such unit then due and unpaid, within ten (10) business days after such request is received.

**11.3 Subordination.** These By-Laws are subordinate and subject to all provisions of the Declaration and any amendments thereto and the Condominium Ownership Act under the laws of the State of Wisconsin, which shall control in case of any conflict. All terms herein (except where clearly repugnant to the context) shall have the same meanings as set forth in the Declaration and in said Condominium Ownership Act.

**11.4 Interpretation.** In case any provision of these By-Laws shall be held invalid, such invalidity shall not render invalid any other provision thereof which can be given effect. Nothing in these By-Laws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in any active business for profit on behalf of any or all of the Unit Owners.

**11.5 Transfer Fee.** The Condominium Association may charge a reasonable fee to a Unit Owner upon the sale of a Unit. This fee may be determined from time to time by the Board of Directors of the Condominium Association as a part of the Rules and Regulations. The transfer fee shall not be charged on initial sales by the Developer.

**11.6 Number and Gender.** Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

## ARTICLE XII

### Liability and Indemnity

#### 12.1. General Scope and Definitions.

(a) The rights of directors and officers of the Association provided in this Article shall extend to the fullest extent permitted by the Wisconsin Nonstock Corporation Law and other applicable laws as in effect from time to time.

(b) For purposes of this Article, “director or officer” means a natural person (i) who is or was a director or officer of the Association, (ii) who, while a director or officer of the Association, is or was serving at the Association’s request as a director, officer, partner, trustee, member of any governing or decision-making committee, employee, or agent of another corporation or foreign corporation, partnership, limited liability company, joint venture, trust, or other enterprise, or (iii) who, while a director or officer of the Association, is or was serving an employee benefit plan because his or her duties to the Association also imposed duties on, or otherwise involved services by, the person to the plan or to participants in or beneficiaries of the plan. Unless the context requires otherwise, “director or officer” shall also mean the estate and personal representative of a director or officer.

(c) For purposes of this Article, “proceeding” means any threatened, pending or completed civil, criminal, administrative, or investigative action, suit, arbitration, or other proceeding, whether formal or informal, which involves foreign, federal, state, or local law (including federal or state securities laws) and which is brought by or in the right of the Association or by any other person.

(d) For purposes of this Article, “expenses” means fees, costs, charges, disbursements, attorneys’ fees, and any other expenses incurred in connection with a proceeding, including a proceeding in which a director or officer asserts his or her rights under this Article, and, if the context requires, liabilities, including the obligation to pay a judgment, settlement, penalty, assessment, forfeiture, or fine, including any excise tax assessed with respect to an employee benefit plan.

#### 12.2. Mandatory Indemnification.

(a) To the extent that a director or officer has been successful on the merits or otherwise in the defense of any proceeding (including, without limitation, the settlement, dismissal, abandonment, or withdrawal of any action where he or she does not pay or assume any material liability), or in connection with any claim, issue, or matter therein, he or she shall be indemnified by the Association against expenses actually and reasonably incurred by him or her in connection therewith to the extent that he or she

was a party to the proceeding because he or she is or was a director or officer of the Association.

(b) In cases not included under Section 12.2(a), the Association shall indemnify any director or officer against expenses actually and reasonably incurred by the director or officer in a proceeding to which the director or officer was a party because he or she is or was a director or officer, unless liability was incurred because the director or officer breached or failed to perform a duty he or she owed to the Association and the breach or failure to perform constituted any of the following: (i) a willful failure to deal fairly with the Association or its members in connection with a matter in which the director or officer had a material conflict of interest; (ii) a violation of criminal law, unless the director or officer had reasonable cause to believe his or her conduct was lawful or no reasonable cause to believe his or her conduct was unlawful; (iii) a transaction from which the director or officer derived an improper personal profit or benefit; or (iv) willful misconduct. The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea of no contest or an equivalent plea, does not, by itself, create a presumption that indemnification of the director or officer is not required under this subsection.

(c) Indemnification under this Section is not required to the extent that the director or officer has previously received indemnification or allowance of expenses from any person, including the Association, in connection with the same proceeding.

(d) To the extent indemnification is required under this Article XIII, the Association has purchased or is required under Section 12.10 to purchase insurance on behalf of the indemnified person and the insurance policy includes a provision obligating the insurer to defend such person, the Association shall be obligated to extend such defense. To the extent possible under such insurance policy, the defense shall be extended with counsel reasonably acceptable to the indemnified person. The Association shall keep the indemnified person advised of the status of the claim and the defense thereof and shall consider in good faith the recommendations made by the indemnified person with respect thereto.

**12.3. Determination of Right to Indemnification.** Unless otherwise provided by written agreement between the director or officer and the Association, the director or officer seeking indemnification under Section 12.2 shall make a written request for indemnification which shall designate one of the following means for determining his or her right to indemnification: (a) by a majority vote of a quorum of the Board of Directors or a committee of directors consisting of directors not at the time parties to the same or related proceedings; (b) by independent legal counsel selected by a quorum of the Board of Directors or its committee in the manner prescribed in Section 12.3(a) or, if unable to obtain such a quorum or committee, by a majority vote of the full Board of Directors, including directors who are parties to the same or related proceedings; (c) by arbitration;



or (d) by an affirmative vote of a majority of the Unit Owners entitled to vote; provided, however, that Unit Owners who are at the time parties to the same or related proceedings, whether as plaintiffs or defendants or in any other capacity, may not vote in making the determination. Any determination under this Section shall be made pursuant to procedures consistent with the Wisconsin Non-stock Corporation Law unless otherwise agreed by the Association and the person seeking indemnification. Such determination shall be completed, and eligible expenses, if any, shall be paid to the person requesting indemnification hereunder within sixty (60) days of the Association's receipt of the written request required hereunder.

**12.4. Allowance of Expenses as Incurred.** Within thirty (30) days after a written request by a director or officer who is a party to a proceeding because he or she is or was a director or officer, the Association shall pay or reimburse his or her reasonable expenses as incurred if the director or officer provides the Association with all of the following: (a) a written affirmation of his or her good faith belief that he or she has not breached or failed to perform his or her duties to the Association; and (b) a written undertaking, executed personally or on his or her behalf, to repay the allowance and, if required by the Association, to pay reasonable interest on the allowance to the extent that it is ultimately determined under Section 12.3 that indemnification under Section 12.2 is not required and indemnification is otherwise not ordered by a court. The undertaking under this Section shall be an unlimited general obligation of the director or officer and may be accepted without reference to his or her ability to repay the allowance. The undertaking may be secured or unsecured.

**12.5. Partial Indemnification.**

(a) If it is determined pursuant to Section 12.3 that a director or officer is entitled to indemnification as to some claims, issues, or matters in connection with any proceeding, but not as to other claims, issues, or matters, the person or persons making such determination shall reasonably determine and indemnify the director or officer for those expenses which are the result of claims, issues, or matters that are a proper subject for indemnification hereunder in light of all of the circumstances.

(b) If it is determined pursuant to Section 12.3 that certain expenses (other than liabilities) incurred by a director or officer are for any reason unreasonable in amount in light of all the circumstances, the person or persons making such determination shall authorize the indemnification of the director or officer for only such amounts as he or she or they shall deem reasonable.

**12.6. Indemnification of Employees and Agents.** The Board of Directors, may, in its sole discretion, provide indemnification and/or defense and/or allowance of expenses in advance of a final determination of any proceeding to an employee or agent of the Association who is not a director or officer in connection with any proceeding in which the employee or agent was a defendant because of his or her actions as an employee or

agent of the Association; provided, however, that prior to such indemnification, defense, or allowance of expenses, the Board of Directors shall first determine that the employee or agent acted in good faith and in a manner he or she reasonably believed to be in, and not opposed to, the best interests of the Association.

**12.7. Limited Liability of Directors and Officers.**

(a) Except as provided in subsection 12.7(b) and (c), a director or officer is not liable to the Association, its members or creditors, or any person for damages, settlements, fees, fines, penalties, or other monetary liabilities arising from a breach of, or failure to perform, any duty resulting solely from his or her status as a director or officer, unless the person asserting liability proves that the breach or failure to perform constitutes any of the acts of misconduct listed in Section 12.2(b).

(b) Except as provided in Section 12.7(c), this Section 12.7 does not apply to any of the following: (i) a civil or criminal proceeding brought by or on behalf of any governmental unit, authority, or agency; (ii) a proceeding brought by any person for a violation of state or federal law where the proceeding is brought pursuant to an express private right of action created by state or federal statute; or (iii) the liability of a director under Wisconsin Statutes Sections 181.0832 and 181.0833.

(c) Wisconsin Statutes Sections 12.7(b)(i) and (ii) do not apply to a proceeding brought by a governmental unit, authority, or agency in its capacity as a private party or contractor.

**12.8. Severability of Provisions.** The provisions of this Article and the several rights to indemnification, advancement of expenses, and limitation of liability created hereby are independent and severable and, if any such provision or right shall be held by a court of competent jurisdiction in which a proceeding relating to such provisions or rights is brought to be against public policy or otherwise to be unenforceable, the other provisions of this Article shall remain enforceable and in full effect.

**12.9. Non-exclusivity of Rights.** The rights to indemnification, defense and advancement of expenses provided for in this Article shall not be deemed exclusive of any other rights to which those seeking indemnification, defense, or advancement of expenses may be entitled under any agreement authorized by the Board of Directors, any of the Bylaws, any vote of the members or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office. Notwithstanding the foregoing, the Association may not indemnify a director or officer, or permit a director or officer to retain any allowance of expenses, pursuant to any such additional rights unless it is determined by or on behalf of the Association that the director or officer did not breach or fail to perform a duty he or she owes to the Association which constitutes conduct under Section 12.2(b). A director or officer who is a party to the same or related proceeding for which indemnification, defense, or an

allowance of expenses is sought may not participate in a determination under this Section.

**12.10. Purchase of Insurance.** The Association shall use its reasonable best efforts to purchase and maintain insurance on behalf of any person who is or was a director or officer of the Association, to the extent that such director or officer is insurable and such insurance coverage can be secured by the Association at rates, and in amounts and subject to such terms and conditions as shall be determined in good faith to be reasonable and appropriate by the Board of Directors of the Association, and whose determination shall be conclusive (provided, however, that such insurance shall contain a provision obligating the insurer to defend the director or officer, if such provision is available at reasonable rates), against liability asserted against or incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify or defend him or her against such liability under the provisions of this Article.

**12.11. Benefit.** The rights to indemnification, defense, and advancement of expenses provided by, or granted pursuant to, this Article shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors, and administrators of such a person.

**12.12. Amendment.** No amendment or repeal of this Article shall be effective to reduce the obligations of the Association under this Article with respect to any proceeding based upon occurrences which take place prior to such amendment or repeal.

These Bylaws were adopted by the unanimous consent of all of the directors on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Secretary/Treasurer

# Paradise Trails

## *Condominium Declarations*

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PARADISE TRAILS CONDOMINIUM  
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**DECLARATION OF CONDOMINIUM  
FOR  
PARADISE TRAILS CONDOMINIUM**

THIS DECLARATION OF CONDOMINIUM FOR PARADISE TRAILS CONDOMINIUM (the "Declaration") is made pursuant to The Condominium Ownership Act of the State of Wisconsin, Chapter 703 of the Wisconsin Statutes (hereinafter sometimes referred to as the "Act"), by Paradise Trails, LLC, a Wisconsin limited liability company, (hereinafter "Declarant").

**1. STATEMENT OF DECLARATION.**

Declarant, as the sole owner of the Land described in Section 3 hereof, together with all buildings and improvements constructed or to be constructed thereon all easements, rights, and appurtenances thereto (hereinafter referred to as "The Property") hereby submits and subjects said Property to the condominium form of ownership pursuant to the Act and this Declaration, which property shall be held, conveyed, devised, leased, encumbered, used, improved, and in all respects otherwise affected subject to the provisions, conditions, covenants, restrictions and easements of this Declaration and of the Act. All provisions hereof shall be deemed to run with the land and shall constitute benefits and burdens to the Declarant, its successors and assigns, and all parties hereafter having any interest in the Property.

**2. NAME.**

The name of the condominium created by this Declaration ("Condominium") shall be **PARADISE TRAILS CONDOMINIUM**.

**3. LEGAL DESCRIPTION.**

The real property comprising the Property (the "Land") which is hereby submitted and subjected to the provisions of the Act is legally described as set forth on **EXHIBIT A** attached hereto and incorporated herein.

**4. DEFINITIONS.**

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

- (a) "**ASSESSMENTS**" refers to both General Assessments and Special Assessments and means the amount determined by the Association to be due with respect to a Unit for Common Expenses and other charges.
- (b) "**ACC**" shall mean the Architectural Control Board as established by the Declarant.
- (c) "**ASSOCIATION**" shall mean and refer to **PARADISE TRAILS CONDOMINIUM ASSOCIATION, INC.** a corporation formed

under the Non-Stock Corporation Statute, Chapter 181, Wis. Stats, its successors and assigns.

- (d) **"BUILDING"** shall mean any freestanding structure constructed or to be constructed upon the Property containing Units.
- (e) **"BY-LAWS"** means the by-laws of the Association.
- (f) **"COMMON ELEMENTS"** shall mean all portions of the Condominium other than Units.
- (g) **"DECLARANT"** shall mean and refer to Paradise Trails, LLC and its successors and assigns.
- (h) **"EXPANSION REAL ESTATE"** means the real property together with all buildings and improvements constructed or to be constructed thereon and all easements, rights, and appurtenances thereto, described on **EXHIBIT B**, which may be added in whole or in part at any time within ten (10) years of the date of recording of this Declaration of Condominium in accordance with the provisions of this Declaration and the Act.
- (i) **"LIMITED COMMON ELEMENTS"** shall mean those Common Elements identified in this Declaration or on the Condominium Plat as reserved for the exclusive use of one or more, but less than all, of the Unit Owners.
- (j) **"MAJORITY"** shall mean the Condominium Unit Owners with more than fifty percent (50%) of the votes assigned to the Units in this Declaration.
- (k) **"MORTGAGE"** shall mean any recorded mortgage, land contract or other security instrument by which a Unit or any part thereof is encumbered.
- (l) **"MORTGAGEE"** shall mean the holder of any Mortgage or any land contract vendor.
- (m) **"OWNER"** shall mean and refer to the Person who holds legal title to a Unit, or the holder of an equitable interest as a land contract vendee, but excluding any Mortgagee before such Mortgagee takes title to a Unit by foreclosure or process in lieu thereof.
- (n) **"PERCENTAGE INTEREST"** means the undivided percentage interest from time to time of each Unit, determined as provided in Section 9, below.

- (o) **"PERSON"** shall mean an individual, corporation, partnership, association, trust, limited liability company or other legal entity.
- (p) **"PLAT"** shall mean the condominium plat of the condominium a copy of which is attached hereto as **EXHIBIT C**, being recorded pursuant to the Act contemporaneously with this Declaration, as the same may be amended from time to time.
- (q) **"RULES AND REGULATIONS"** means the Rules and Regulations of the Association, and as amended from time to time.
- (r) **"UNIT"** shall mean that part of the Condominium designed and intended for the exclusive use by an Owner, as further defined herein.
- (s) **"UNIT NUMBER"** shall mean the number identifying a Unit.

## **5. DESCRIPTIONS OF BUILDINGS AND UNITS**

**5.1 UNIT IDENTIFICATION.** Each Unit shall be specifically designated by a Unit number. The Unit numbers are set forth on the Condominium Plat. Every deed, lease, mortgage or other instrument may legally describe a Unit by identifying its Unit number, and every such description shall be deemed good and sufficient for all purposes, as provided in the Act. The street addresses of the Units are set forth on the attached **EXHIBIT D**.

### **5.2 DESCRIPTION OF UNITS.**

(a) The Initial Condominium shall consist of thirty-five (35) units (individually, a "Unit" and collectively, the "Units"). Units are identified by number as indicated on the Condominium Plat. Each Unit and common area to which it has access are shown on the Condominium Plat.

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

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

(ii) The lower boundary of the Unit shall be parallel to, and extending 25 feet below the horizontal plane of the surface of the Land within, and perpendicular to, the vertical boundaries.



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

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

(d) The curb located along the private drive is specifically NOT part of the unit. The driveway approach and the grass terrace next to the curb is part of the unit.

5.3 **DECLARANT'S RIGHT TO CHANGE PLANS.** Declarant reserves the right to change, without the approval of the Unit Owners or the Association, the layout, location, dimensions and construction details of the Buildings, Units and Common Elements, including, but not limited to any Limited Common Elements shown on the Condominium Plat, which are not yet constructed, provided that such changes shall not substantially alter the nature and quality of the Buildings, Units or Common Elements.

## 6. EXPANSION OF CONDOMINIUM

6.1 **Option to Expand.** The Declarant, its successors and assigns, for a period of ten (10) years from the date of the recording of this Declaration, hereby expressly reserves an option to expand the Property in compliance with Section 703.26 of the Act without the consent of any Unit Owner or Mortgagee. Declarant shall be under no obligation to and makes no representations that it will expand or construct any part or all of the Condominium and no Unit Owner or other person shall have the right to require the same. The option to expand is subject to the following:

(a) the total area of Expansion Real Estate added to the Condominium shall not exceed the total area of the Expansion Real Estate as depicted on the Condominium Plat and described in **Exhibit B**.

(b) the maximum number of Units in the Condominium as expanded will not exceed 47.

(c) each time Declarant desires to exercise its right to expand, Declarant shall execute and record an amendment to this Declaration, and an Addendum to the Condominium Plat which shall describe the portion of the Expansion Real Estate to be added to the Condominium, the number of Units to be added, a description of the additional Units and any additional Common Elements, the percentage Interest of each Unit, and any complimentary additions and modifications to the Declaration as may be necessary and desirable to reflect the different character, if applicable, of the Expansion Real Estate being submitted to the Declaration, including a provision for additional easements, or

to reflect any adjustment to the Common Expenses in connection with the condominium as expanded.

(d) the Declarant has the sole right to determine the location, size, quality and other similar features of the Expansion Real Estate, including without limitation the Common Elements, Limited Common Elements, building size, and the Units; provided, however, the improvements to the Expansion Real Estate shall be completed in a manner which is substantially similar in quality and workmanship to the improvements theretofore subject to this Declaration. The Expansion Real Estate added to the Condominium shall be subject to the same use restrictions contained herein.

(e) in the event the Declarant exercises its right to expand the Condominium pursuant hereto, then upon any such expansion all references in this Declaration to the "Buildings," the "Condominium," "Units," "Property," "Owners," "Association," "Common Expenses" and all other terms which refer to the Condominium automatically shall refer to the Condominium as expanded.

(f) in the event the Condominium is expanded, the Percentage Interest shall be adjusted as set forth herein and the Common Expenses, Assessment and other similar expenses assessed by this Declaration and any other Condominium document shall be adjusted according to the then existing needs of the Condominium.

(g) in the event the Condominium is expanded, Unit Owners of Units added to this Declaration shall be entitled to vote, with each Unit having one vote, upon the recording of the Amendment to this Declaration which adds the Units to the Condominium, subject, however, to the prohibited voting provisions set forth elsewhere in this Declaration

6.2. **Consent.** By acceptance of a deed of conveyance of a Unit, the grantee is hereby deemed to:

(a) agree to the expansion of the Condominium and shall make no attempts to prevent the expansion of the Condominium in the event the Declarant decides to exercise its option to expand the Condominium; and

(b) acknowledge that the Expansion Real Estate or parts thereof may be developed for uses other than as part of the Condominium.

## 7. COMMON ELEMENTS AND FACILITIES.

**7.1 Description.** The common elements shall include all of the Condominium except its Units and shall include, but not be limited to, the following: the private roadways and curbs located on the Land, all access easements that provide access to the Land, the retention ponds and other storm water management improvements serving the Land, and all other utilities serving the Land. By way of explanation but not by way of limitation, the common elements shall include:

- (a) Private Roadways (Private Driveways) as depicted and described on the Condominium Plat recorded on \_\_\_\_\_, as Document No. \_\_\_\_\_;
- (b) The land that is subject to the Stormwater Maintenance Agreement recorded on \_\_\_\_\_, as Document No. \_\_\_\_\_;

The common elements shall be operated, repaired and maintained by and at the expense of Paradise Trails Condominium Association, Inc. (the "Association"), except as otherwise provided in this Declaration or the By-Laws of the Association.

**7.2 Owner's Right to Ingress and Egress and Easement of Enjoyment.**

Each Owner shall have the right to use the Common Elements, except for Limited Common Elements not appurtenant to their Unit, as may be required for any purpose, including, but not limited to ingress and egress to and from and the use, occupancy, and enjoyment of the Unit owned by such Owner. Such rights shall extend to the Unit Owner, his family members, agents, guests and invitees. The use of the Common Elements and the rights of Unit Owners with respect thereto shall be subject to and governed by the provisions of the Act and the Declaration, By-Laws and the Rules and Regulations.

**7.3 Easements.**

- (a) Common Elements Easement. The Common Elements are hereby made subject to the following easements in favor of the Units benefited for the installation, repair, maintenance, use, removal and/or replacement of water, sewer and gas mains and laterals, and all other utility lines and distribution systems, to the extent any such system or that portion of a system serves a particular Unit or is necessary for service to a Unit;
- (b) Sidewalk Easements. Unit owners are provided an easement to walk along sidewalks located in the community, regardless of whether these sidewalks are a common element or are part of another Unit in the community.

**9. PERCENTAGE OF OWNERSHIP IN COMMON ELEMENTS AND FACILITIES AND LIMITED COMMON ELEMENTS.**

Each Unit Owner shall own an undivided interest in the Common Elements as a tenant in Common with all other Unit Owners and, except as otherwise limited by the Act, this Declaration, the By-laws, and the Rules and Regulations, shall have the right to use and occupy the Common Elements (other than Limited Common Elements not appurtenant to the Unit Owner's Unit) for all purposes incident to the use and occupancy of the Unit as a place of residence, and such other incidental uses permitted by this Declaration, which rights shall be appurtenant to and run with the Unit. The Percentage Interest in Common Elements shall be determined by dividing one (1) by the number of Units then included in the Condominium, except as modified by merger or separation of units per section 21 of this Declaration.

## **10. ASSOCIATION OF UNIT OWNERS.**

**10.1 Membership, Duties and Obligations.** All Unit Owners shall be entitled and required to be a member of the Association of Unit Owners known as Paradise Trails Condominium Association, Inc. which shall be responsible for carrying out the purposes of this Declaration, including the exclusive management and control of the Common Elements and facilities and Limited Common Elements. Such Association shall be incorporated as a non-stock, non-profit corporation under the laws of the State of Wisconsin. Each Unit Owner and the occupants of the Units shall abide by and be subject to all of the rules, regulations, duties and obligations of the Act, this Declaration and the By-Laws and Rules and Regulations including the sharing of common expenses as described therein.

**10.2 Voting Rights.** Each Unit shall be entitled to one vote at meetings of the Association, except as modified by merger or separation of units per section 21 of this Declaration, subject, however, to the prohibited voting provisions set forth elsewhere in this Declaration (including section 15.13 hereof) and/or otherwise allowed by law. When more than one person holds an interest in any Unit the vote for such Unit shall be exercised as they, among themselves, determine, but in no event shall there be more than one vote cast with respect to any Unit. There can be no split vote. If only one of multiple Owners of a Unit is present at a meeting of the Association, the Owner present is entitled to cast the vote allocated to that Unit. If more than one of the multiple Owners is present, and any one of them purports to cast the vote allocated to that Unit on any issue without protest being made promptly by any other Owner(s) of such Unit to the person presiding over the meeting, it shall be conclusively presumed that such voting Owner had the authority to cast the vote. In the event of such a protest, if such dispute is not resolved by the multiple Owners prior to the vote being completed, said Unit shall not be entitled to cast a vote on that issue.

The respective rights, qualifications, prohibitions and obligations of the members relative to voting may be further set forth in the Articles of Incorporation and/or the By-Laws of the Association.

**10.3 Control.** Notwithstanding anything contained in this Declaration to the contrary, the Declarant shall totally govern the affairs of the Condominium until the first Unit has been sold to any person other than the Declarant. The Declarant may exercise any rights granted to, or perform any obligations imposed upon, Declarant under this Declaration through its duly authorized agent. Except as provided in Section 10.4, after the first Unit has been sold by Declarant to any person other than Declarant, the Declarant shall have the right to appoint and remove the officers of the Association and to exercise any and all of the powers and responsibilities assigned to the Association and its officers by the Articles, Bylaws, the Condominium Ownership Act, this Declaration, and the Wisconsin Nonstock Corporation Law, until the earliest of: (a) ten (10) years from the date of recording of this Declaration, unless the statute governing expansion of condominiums is amended to permit a longer period, in which event, such longer period shall apply; or (b) thirty (30) days after the conveyance of seventy-five percent (75%) of the Common Element interest to purchasers. Nothing herein contained shall be construed to prevent Declarant from waiving its right to control at an earlier date. Each owner of a condominium Unit in the Condominium shall be deemed, by acceptance of any deed to any Unit, to agree, approve and consent to the right of Declarant to so control the Association.

**10.4 Board of Directors.** The affairs of the Association shall be governed by a board of directors ("Board of Directors"). Prior to the conveyance of seventy-five percent (75%) of the Common Element interest of the Condominium to purchasers, the Association shall hold a meeting, and the Unit Owners other than the Declarant shall elect at least thirty-three and one-third percent (33 1/3%) of the directors on the board of directors. For purposes of calculating the percentages set forth in Section 10.3 and this Section 10.4, the percentage of Common Element interest conveyed shall be calculated based on the percentage of undivided interest pertaining to each Unit conveyed, assuming that all Units Declarant has the right create by expansion are included in the Condominium.

**10.5 Association Personnel.** The Association may obtain and pay for the service of any person or entity to manage its affairs to the extent it deems advisable, and may hire such other personnel as it shall determine to be necessary or advisable for the proper operation of the Condominium. The Association may contract for common services or utilities as may be required for the Condominium or individual Units. All amounts payable by the Association to under such contracts shall be chargeable to the Owners as a Common Expense.

**10.6 Rules and Regulations.** The Association, through the Board of Directors, shall from time to time adopt rules and regulations governing the operation, maintenance and use of the units and the Common and Limited Common Elements and facilities by the Unit Owners and occupants. Such Rules and Regulations of the Association shall not be inconsistent with the terms of the Declaration or the documents and easements referred to in the Declaration, and shall be designed to prevent unreasonable interference with the use of the respective units and the Common Elements and facilities by persons entitled thereto. The Association members, their lessees or guests, and any occupants of the units shall conform to and abide by all such Rules and Regulations. A violation of any such Rules or Regulations shall constitute a violation of the Declaration. The Association through its Board of Directors shall designate such means or enforcement thereof as it deems necessary and appropriate. The Rules and Regulations may be adopted, altered, amended or repealed by either the members of the Association or the Board of Directors, in each case by an affirmative vote of 67% or more of the votes present or represented at a meeting at which a quorum is an attendance, provided that no Rule or Regulation adopted by the members shall be amended or repealed by the Board of Directors if the Rule or Regulation so adopted so provides.

## **11. RESIDENTIAL PURPOSE.**

The Buildings and the Units contained therein, and the Common Elements, are intended for and restricted exclusively to residential use as governed by the terms and conditions contained herein and by the By-Laws and/or Rules and Regulations. Notwithstanding the foregoing, until such time as the Declarant has sold all of its Units in the Condominium, the Declarant shall have the right to use any or all unsold Units, and any portion of the Common Elements (including but not limited to the Clubhouse) as may be necessary to expedite the sale of Units, including but not limited to the maintaining of a sales office, the maintaining of one or more model Units, the holding of open houses and the erecting of signs. The Association may not charge rent or bill the Declarant while the Declarant exercises its rights to use any portion of the Common Elements. The use of Units and Common Elements is further subject to the following:

- (a) The Declarant may lease a Unit on such terms and conditions as it desires in its sole discretion. After a Unit has been conveyed by Declarant to an

Owner, it may not thereafter be leased except for a term of no less than one hundred eighty (180) days. If a Unit is leased by an Owner, the Owner of such Unit shall notify the Association of the tenant's or tenants' name or names, telephone number, and email address, and such Owner shall notify the Association prior thereto of the Unit Owner's forwarding address and of a telephone number and email address where the Unit Owner can be reached. Within five (5) business days after entering into or renewing a written condominium rental agreement, the Unit Owner shall provide a copy of the agreement to the Association along with proof of rental insurance. Any rental agreement shall contain a provision obligating the tenant to abide by this Declaration, the Articles, the By-laws, and/or the Rules and Regulations and shall provide that any default arising out of the tenant's failure to abide by the Declaration, the Articles, the By-laws, and the Rules and Regulations shall be enforceable by the Association as a third-party beneficiary to the lease and that the Association shall have, in addition to all rights and remedies provided under the Declaration, the Articles, the By-laws and/or the Rules and Regulations, the right to evict the tenant and/or terminate the lease should any such violation continue for a period of ten (10) days following delivery of written notice to the tenant specifying the violation. The Association shall keep a copy of any condominium rental agreement on file while the agreement is in effect. Before a tenant occupies a Unit, the Unit Owner shall provide a copy of the Declaration, By-laws and Rules and Regulations to the tenant or place the information in the Unit. In no event shall a Unit Owner be relieved from any obligation imposed by the Act, this Declaration, the By-Laws and/or Articles of Incorporation, and/or Rules and Regulations adopted pursuant thereto, including but not limited to the duty to pay Assessments and Common Expenses. The rental of Units is further subject to such further conditions and restrictions as may be set forth in the By-Laws and/or Rules and Regulations of the Association, including but not limited to a limit on the percentage of Units that are not owner occupied.

(b) A Unit shall not be rented for transient or hotel purposes, which shall be defined as: (i) any rental for periods of less than one hundred eighty (180) days; or (ii) any rental if the occupants of the Unit are provided customary hotel services, such as room service for food and beverage, maid service, bellboy service or laundry service.

(c) No sign of any kind shall be displayed to the public view on any Unit without the written consent of the Association or, if Declarant owns at least one Unit, the Declarant. The Declarant reserves the right to erect signs, gates, or other entryway features surrounded with landscaping at the entrances to the Condominium and to erect appropriate signage for the sales of Units.

(d) Parking areas (including driveways on which parking is allowed), whether designated Units, Common Elements or Limited Common Elements, shall be used only for the parking of private passenger automobiles, pickup trucks, motorcycles and bicycles. Such vehicles shall at all times, be in running condition and bear current license plates. Persons using such parking areas shall, at reasonable times, for a reasonable period and upon reasonable notice, remove their vehicles therefrom to permit the parking areas to be repaired, resurfaced,

repainted or to permit cleaning thereof or the removal of snow therefrom or for similar purposes. No more than two (2) vehicles shall be parked on a driveway, except multiple vehicles may be parked on a driveway on a temporary, short-term basis when several guests may be visiting a Unit at one time. In no case may a vehicle be parked outside of a garage and not moved for more than three (3) consecutive days.

(e) Pets are permitted, subject to conditions, restrictions and prohibitions as may be set forth in the By-laws and/or the Rules and Regulations.

(f) A Unit Owner's may not plant any flowers, vegetables, trees, shrubbery or other plants in any Common Element unless specific written approval is provided by the Association. Such approval may be granted or denied at the sole discretion of the Association. If planting approval is granted, the Association shall have the right to remove, dispose of, relocate, trim and/or prune any such planting as it may thereafter determine, in its sole discretion, at unit owner expense. Approval, if granted, may include restrictions.

## **12. REPAIRS AND MAINTENANCE.**

**12.1 Individual Units.** Each Unit Owner, at his sole expense, shall be responsible for keeping his Unit. The only exception is that the cost associated with maintenance and snow removal on the sidewalks that are near the private road will be maintained by the Association and charged to the Unit Owners as a Common Expense. If a Unit Owner fails to discharge his obligations pursuant to this Section 12.1, then the Association shall have the right, but not the obligation, to discharge such obligations on behalf of the Unit Owner and any if the costs so incurred by the Association are not promptly repaid to the Association, then the Board of Directors shall assess a Special Assessment against the Unit for such expense.

**12.2 Common Elements and Facilities.** Except as otherwise set forth herein, the Association shall be responsible for the management and control of the Common Elements. All expenses of the Association, except as otherwise set forth in this Declaration and/or the By-Laws, and/or the Rules and Regulations shall be charged to the Unit Owners as a Common Expense.

**12.3 Prohibition Against Structural Changes by Owner.** A Unit Owner shall not, without first obtaining the written consent of the Board of Directors of the Association, make or permit to be made any structural alterations, or major changes or improvements to his Unit, or in or to the exterior of the Building in which his Unit is located or any Common Element, including, but not limited to any Limited Common Elements and facilities or make or install any improvements or equipment which may affect other Unit(s) or the Owner(s) of other Unit(s). A Unit Owner shall not perform, or allow to be performed, any act which will impair the structural soundness or integrity of any Building, or the safety of property, or impair any easement or hereditament, without the prior written consent of the Association.

**12.4 Decorating.** Each Unit Owner shall have the exclusive right to paint, repaint, tile, panel, paper or otherwise refurbish and decorate the interior surfaces of the walls, ceilings, floors and doors forming the boundaries of their Unit and all walls, ceilings, floors and doors within such boundaries, and to erect partition walls of a non-structural nature within their Unit.

### **13. DESTRUCTION AND RECONSTRUCTION.**

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

**13.2 Assessments and Partition.** In the event that the proceeds of any insurance collected are insufficient to pay the estimated or actual costs of repair or reconstruction, the excess cost shall be a Common Expense; provided, however, that in the event of damage to an extent more than the available insurance, this Condominium shall be subject to an action for partition, upon obtaining the written consent of the Unit Owners having no less than seventy-five percent (75%) of the votes. In the event of partition, the net proceeds of sale, together with any net proceeds of insurance shall be considered as one fund and shall be divided among all Unit Owners in proportion to their Percentage Interest, and shall be distributed in accordance with the priority interests in each Unit.

### **14. INSURANCE.**

The Association shall obtain and maintain fire and broad form extended coverage insurance on the Buildings, General Common Elements, Units, and Limited Common Elements ("Covered Elements") in an amount not less than the full replacement value of the Covered Elements, including endorsements for automatic changes in insurance coverage as fluctuating values may warrant, contingency endorsements covering nonconforming use and a Special Condominium Endorsement. Each Unit Owner shall obtain and maintain fire, casualty, and special form insurance coverage all personal property located therein for not less than the full replacement value thereof. Association Insurance coverage shall be written in the name of the Association as trustee for each of the Unit Owners and their respective Mortgagees in accordance with their Percentage Interest. Premiums shall be a Common Expense. To the extent the Board determines it is reasonably possible at a reasonable price, the insurance shall provide that the insurer waives its rights of subrogation as to any claim against Unit Owners, the Association, and their respective servants, agents and guests, and that the insurance cannot be canceled, invalidated nor suspended on account of conduct of any one or more Unit Owners, or the Association, or their servants, agents and guests, without thirty (30) days prior written notice to the Association giving it opportunity to cure the defect within that time. The amount of protection and the types of hazards to be covered shall be reviewed by the Board of Directors of the Association at least annually and the amount of coverage may be increased or decreased at any time as deemed necessary as determined by the Board of Directors to conform to the requirements of full insurable value. The amount of protection and the types of hazards to be



covered shall be reviewed by the Board annually and the amount of coverage may be increased or decreased at any time it is deemed necessary by the Board to conform to the requirements of replacement value insurance. Any Mortgagee may receive an insurance certificate upon ten (10) days prior written notice.

In the event of partial or total destruction of the all or part of the Condominium insured hereunder, and the repair or reconstruction of the same in accordance with the Section 13 hereof, the proceeds of such insurance shall be paid to the Association as trustee to be applied to the cost thereof. If it is determined not to reconstruct or repair, then the insurance proceeds together with the net proceeds of sale of the property shall be distributed to the Unit owners and their mortgagees, if any, as their respective interests may appear, in the manner provided in Section 13.2.

If insurance coverage is available to combine protection for the Association and some or all of the Unit Owners' personal property, located on or about the individual Units, the Board of Directors is hereby given discretionary power to negotiate and obtain such combination of protection on an equitable cost-sharing basis under which the Unit Owner would be assessed individually for the amount of insurance the Association includes in such policies for the Unit owner's additional protection. Copies of all such policies shall be provided to each Mortgagee. Individual Unit Owners may or may not be given the option to refuse participation in such combined insurance. Nothing contained in this paragraph shall be deemed to prohibit any Unit Owner, at the unit owner's expense, from obtaining any additional insurance coverage on the Unit.

The Association shall provide public liability insurance covering the Common Elements in such amounts as may be determined at the discretion of the Board of Directors from time to time; provided, however, the amount of coverage shall not be less than One Million Dollars (\$1,000,000.00) per single occurrence. All premiums for such insurance shall be Common Expenses. Each Unit Owner shall have the right to insure its own Unit for personal benefit. The Association shall also provide workman's compensation insurance when appropriate, and may provide directors' and officers' liability insurance and fidelity bonds on such officers and employees in such amounts and with such coverage, as is determined by the Board of Directors to be necessary or advisable from time to time.

All required insurance shall be issued by an insurance company with a minimum of an A general policyholder's rating and of a class III financial size category in the Best's Key Rating Guide.

## **15. COVENANT FOR ASSESSMENTS.**

**15.1 Agreement to Pay Assessment.** The Declarant for each Unit owned by it hereby covenants, and each Owner of any Unit by the acceptance of a deed therefore, whether or not it be so expressed in the deed shall be deemed to covenant and agree with each other and with the Association to pay to the Association for the purpose provided in this Declaration, the share of the Common Expenses of Association assessed against such Owner, as well the Unit itself. Except as otherwise provided herein, "Common Expenses" shall be any and all expenses incurred by the Association in connection with the management of the Condominium, the maintenance and repair of the Common Elements and administration of the Association, which shall include, by way of illustration and not limitation, utilities, water usage, insurance, management services, landscaping, the clubhouse (if any), snow removal on private drives and sidewalks, and other amenity maintenance and servicing, reserves, capital improvements, office supplies and such

other reasonable and necessary expenses as determined by the Association's Board of Directors from time to time. Such Assessments shall be fixed, established and collected from time to time in the manner provided in the By-laws. No Unit Owner may exempt them self from any Assessment by waiver of use and enjoyment of any of the Common Elements or by abandonment of their Unit.

**15.2 Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Members and for the improvement and maintenance of the Common Elements, and such emergency repairs as the Association may deem necessary and such other purposes as are permitted by the terms of the Board of Directors of the Association. Notwithstanding the foregoing, the Association shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Unit Owner, occupant or user of any portion of the Property including, invitees, agents, servants, contractors or subcontractors or for any property of any such persons. Without limiting the generality of the foregoing, each Unit Owner and each other person having an interest in or lien upon, or making a use of, any portion of the Property shall be bound by this Section and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed in this Article.

**15.3 General Assessments.** The Board of Directors of the Association shall from time to time, and at least annually, prepare a budget and fix the General Assessment, which shall include reserves for replacement of Common Elements.

**15.4 Water and Sewer Billing.** Water and Sewer service to individual Units in Paradise Trails Condominium is provided by private shared infrastructure. Quarterly billing for use and service fees is sent directly to the Association and paid by the Association. At the time of this Declaration those expenses are anticipated to be included in the General Assessment. The Association maintains the right, but not the obligation, to require individual metering of Units and provide individual Utility billing to Units at any time in the future. Expenses associated with converting Units to individual unit metering are to be paid by the Unit owner.

**15.5 Special Assessments.** In addition to the General Assessments authorized above, the Association may levy Special Assessments for the purposes of: (a) defraying, in whole or in part, the costs of any acquisition, construction, reconstruction, repair or replacement of a capital improvement and/or personal property for common use; (b) offsetting shortages resulting from non-collection of annual or special assessments or underestimation of same; and (c) unusual or unpredicted costs including but not limited to the cost of collecting annual or special assessments or enforcement of the provisions of the Declaration, By-laws and/or Rules & Regulations.

**15.6 Special Assessments Against a Particular Unit.** Special assessments may be made by the Board of Directors of the Association against a particular Unit Owner and his Unit for:

- (a) Costs and expenses (anticipated or incurred) for damage to the Common Elements caused by or at the direction of that Unit Owner or guests or tenants of the Unit Owner or other occupants of the Unit;

(b) Costs, expenses and actual attorneys' fees incurred in, or in anticipation of, any suit, action or other proceeding to enforce the Act, the Declaration, the By-Laws, or the Rules and Regulations where there is found to be a violation thereof;

(c) Costs and expenses (anticipated or incurred) for emergency repairs to a Unit;

(d) Liabilities, costs and expenses incurred by the Association as a result of any temporary or permanent condition or defect in the Unit or any Limited Common Elements;

(e) Interest due on General Assessments and Special Assessments;

(f) Forfeitures and other penalties as provided for in the By-Laws and/or Rules and Regulations levied by the Board for violations of the Act, the Declaration, the By-Laws, or the Rules and Regulations by a Unit Owner of the tenants or guests of the Unit Owner or occupants of a Unit.

(g) Costs and expenses incurred by the Association for the maintenance, repair and/or replacement of Common Elements and facilities resulting from the failure of a Unit Owner to perform delegated maintenance.

(h) Sums due the Association under the Declaration, the By-Laws, or the Rules and Regulations, including, among others, those pursuant to Sec. 8.2 and/or Sec. 19.1 of this Declaration.

(i) All other costs and expenses anticipated or incurred by the Association which are subject to special assessments as provided under this Declaration or the By-Laws.

**15.7 Working Capital.** Each purchaser of a Unit from Declarant shall pay to the Association, at time of conveyance of the Unit by Declarant, for working capital purposes, a sum equal to five hundred dollars (\$500.00), to be allocated for such purposes as the Association may determine in its discretion. As long as Declarant is in control of the Association, Declarant shall not use any of said working capital funds to defray Declarant's expenses or construction costs.

**15.8 Uniform Rate of Assessment.** Both Annual Assessments and Special Assessments must be fixed at a uniform rate for all Units subject to Assessment; provided, however, the Association shall assess an individual Unit for all sums due solely from that Unit as provided in Section 15.5 above.

**15.9 Date of Commencement of Assessments.** The General Assessments provided for herein shall be payable in monthly installments and the monthly installments shall commence as to each Unit on the date of the conveyance of said Unit by the Declarant. The first

annual assessment for each Unit shall be adjusted and prorated according to the number of months then remaining in the calendar year. Partial months shall be prorated on a daily basis. Written notice of the General Assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall have the authority to modify Assessments during any fiscal year. 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 Unit have been paid.

**15.10 Declarant's Obligation for Common Expenses During Period of Declarant Control.** Notwithstanding anything to the contrary herein, as set forth during the period of Declarant control of the Association as described in Section 10.3 above and under Sec. 703.15 (2)(c), Wis. Stats., no General Assessments shall be assessed against any Unit owned by Declarant for any time period prior to the first day of the first month following the commencement of actual occupancy of the Unit for residential purposes. During the period of Declarant Control, however, if any unit owned by the Declarant is exempt from assessments for common expenses until the unit is sold, the total amount assessed against units that are not exempt from assessments may not exceed the amount that equals nonexempt units' budgeted share of common expenses, based on the anticipated common expenses set forth in the annual budget. The Declarant is liable for the balance of the actual common expenses.

**15.11 Lien for Assessments.** All Assessments, when due, together with interest thereon and actual costs of collection, as provided herein, shall become a personal liability of the Unit Owner and also a lien, until paid, on such Unit in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Unit, except only for:

- (a) Liens of general and special taxes; and
- (b) A Lien for all sums unpaid on a first Mortgage, or on any Mortgage to the Declarant, duly recorded in the Washington County, Wisconsin, Register of Deeds Office, prior to the making of such Assessment, including all unpaid obligatory advances to be made pursuant to such Mortgage and all amounts advanced pursuant to such mortgage and secured by the lien thereof in accordance with the terms of such instrument; and
- (c) Mechanics liens filed prior to the making of the Assessment;
- (d) All sums unpaid on any Mortgage loan made pursuant to Section 45.80 Wis. Stats.; and
- (e) A lien under Section 292.31 (8) (i) or 292.81, Wis. Stats.

All other lienors acquiring liens on any Unit after this Declaration has been recorded shall be deemed to consent that such liens shall be inferior to future liens for Assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

To evidence a lien for sums assessed pursuant to this Declaration, the Association may prepare and file a written notice of lien in any manner allowed by law at the time of filing of the

lien. No notice of lien shall be filed until there is a delinquency in payment of the Assessment. Such lien may be foreclosed or otherwise enforced in any manner permitted by law at the time of enforcement. Except to the extent limited or prohibited by applicable law in effect at that time, the Association shall be entitled to recover all costs and expenses of filing the notice of lien, and all costs and expenses incurred by the Association in and/or relating to such action, including but not limited to reasonable attorney's fees. All such costs and expenses shall be secured by the lien. The Owner shall also be required to pay to the Association any Assessments against the Unit 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 Unit as the Owner thereof.

Any encumbrancer holding a mortgage or other lien on a Unit may pay, but shall not be required to pay, any amounts secured by the lien created by this Section, and upon such payment such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including priority.

The Association shall, upon written request, report to any encumbrancer of a Unit any unpaid assessments remaining unpaid for longer than sixty (60) days after the same shall have become due and any default in the performance by the individual Unit of any obligation under the this Declaration, the By-Laws or the Rules and Regulations, which is not cured within sixty (60) days; provided, however, that such encumbrancer first shall have furnished to the Association written notice of such encumbrance.

**15.12 Effect of Non-payment; Remedies.** Any Assessments not paid when due shall be delinquent. Any Assessment or installment thereof not paid within ten (10) days after the due date shall bear interest from the due date at a rate of interest which is two percent (2%) higher than the rate prescribed by the Wisconsin Statutes to be collected upon execution upon judgment. (In lieu of charging such interest, the Board may, from time to time, fix a reasonable late fee for each month or fraction thereof that such assessment is not paid.) All payments on account shall be first applied to the interest or late charge, if any, and then to the assessment payment first due. The Association may bring an action at law against any or all past or present Unit Owners, occupants and tenants personally obligated to pay the same, or foreclose the lien against the property. A suit to recover a money judgment for unpaid assessments hereunder may be maintainable without waiving the lien securing the same. Except to the extent limited or prohibited by applicable law in effect at that time, the Association shall be entitled to recover all costs and expenses incurred by the Association in and/or relating to such action, including but not limited to reasonable attorney's fees. If any installment of any assessment becomes delinquent, the privilege of paying such assessment in installments may, at the option of the Association, be terminated and, if such delinquent installment be of an annual assessment, the entire annual assessment for the remainder of the fiscal year, or if the delinquent installment be of a special assessment, the entire special assessment, may, at the option of the Association, be declared, without further notice, due and payable and, in such event, same shall be considered delinquent. The Association shall be entitled to recover from the applicable Unit Owners responsible for payment (past or present), jointly and severally, all costs and expenses of collection, including but not limited to reasonable attorney's fees.

**15.13 Sale or conveyance.** The Sale or transfer of any Unit shall not affect the assessment lien. The sale or transfer of any Unit pursuant to the foreclosure of a mortgage or other lien having priority as set forth in Section 15.10 shall extinguish the lien of such assessments

(to the extent of the priority of such mortgage or other lien) as to payments which became due prior to such sale or transfer. No sale or transfer pursuant to foreclosure shall relieve such Unit from liability for any Assessments which thereafter become due or from the lien thereof.

**15.14 Prohibited Voting.** A Unit Owner shall be prohibited from voting at a meeting of the Association if the Association has recorded a statement of condominium lien on the Owner's Unit and the amount necessary to release the lien has not been paid at the time of the meeting.

**15.15 Statutory Reserve Account.** The Declarant elects not to establish a Statutory Reserve Account at the time of creation of this condominium. Pursuant to the provisions of sec. 703.163 (4), Wis. Stats., the issue of a Statutory Reserve Account shall be addressed at the first annual meeting of the Association held after, or at a special meeting of the Association held within one year after, the expiration of the period of Declarant control.

**15.16 Association Dues on Unbuilt Units.** In the event units are created but no construction has occurred on these pads, association dues are not payable for the first twelve months after the creation of the vacant unit. In the event construction has not completed within twelve months, and to acknowledge the reduced cost burden associated with unbuilt units, special provision is made to assess the owners of these vacant pads thirty-five percent of the dues assessed on the remaining units. This special provision shall not apply to the Declarant if the Declarant instead opts to fund association shortfalls.

## **16. PARTITION OF COMMON ELEMENTS PROHIBITED.**

There shall be no partition of the Common Elements through judicial proceedings or otherwise, except as otherwise provided in the Act or this Declaration, until this Declaration is terminated and the property is withdrawn from its terms or from the terms of the applicable statutes regarding Unit ownership or condominium ownership; provided, however, that if any Unit shall be owned by two or more co-owners as tenants in common or as joint tenants, nothing contained herein shall be deemed to prohibit a voluntary or judicial partition (by sale, but not in kind) of said single Unit as between such co-owners. No Unit may be subdivided or separated.

## **17. CONVEYANCE TO INCLUDE INTEREST IN COMMON ELEMENTS AND FACILITIES AND LIMITED COMMON ELEMENTS.**

The percentage of the undivided interest in the Common and Limited Common Elements and facilities shall not be separated from the Unit to which it appertains. No Unit owner shall execute any deed, mortgage, lease or other instrument affecting title to such Unit ownership without including therein both the Unit owner's interest in the Unit and the corresponding percentage of ownership in the Common and Limited Common Elements and facilities, it being the intention thereof to prevent any severance of such combined ownership. 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.

## **18. EASEMENTS, RESERVATIONS AND ENCROACHMENTS.**

**18.1 Utilities.** Easements may hereafter be declared and granted through or over the Common Elements by the Association, provided, however, that as long as Declarant owns any unsold Unit, no easement shall be granted by the Association without Declarant's prior written consent. Easements for the benefit of Unit Owners are hereby declared and granted, for utility purposes, for all utility service lines now existing or hereafter installed by or with the consent of Declarant over, under, along and on any part of the Units, Common Elements and Limited Common Elements and facilities.

**18.2 Construction Easement.** Notwithstanding anything to the contrary in this Declaration, the Condominium Plat, By-laws, or Rules and Regulations, until Declarant shall have constructed and sold all Buildings and Units, completed all improvements to the Common Elements and satisfied all of its rights and obligations under any or all of the foregoing, Declarant reserves an easement for itself and its duly authorized agents, representatives, and employees, over portions of the Common Elements and any Units owned by Declarant for construction or renovation on the Property or the Expansion Real Estate or related purposes including: storing tools, machinery, equipment, building materials, appliances, supplies and fixtures; maintaining and correcting drainage of surface, roof or storm water; cutting any trees, bushes, or shrubbery; grading the soil or taking any other action reasonably necessary. In the event the Declarant exercises its rights under this Section, the Declarant shall upon, completion of the construction, promptly restore the affected property as closely as possible to the condition it was in prior to the construction. Each Unit Owner hereby acknowledges that the activities of the Declarant may temporarily impair the view and cause inconveniences to the Unit Owners.

**18.3 Easement to Facilitate Sales.** The Declarant reserves the right to use the Clubhouse Building or any Units owned or leased by the Declarant as models, management offices, sales offices (for this and other projects) or customer service offices. The Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the Property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. The Declarant shall have the right to restrict the use of certain Common Element parking spaces for sales purposes and to use such spaces for sales purposes. Further, the Declarant shall have the right to erect, maintain, relocate and remove temporary offices on the Property. The reservation of this easement to facilitate sales also applies to the Expansion Property. This easement shall continue until the Declarant has sold all the Units it owns. The declarant may assign this right to its agents, representatives, and/or its employees.

**18.4 Encroachments.** In the event that by reason of the construction, reconstruction, settlement, or shifting of any of the buildings or the design or construction of any Unit, any part of the Common Elements and facilities, or Limited Common Elements, encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements and facilities, or Limited Common Elements, or any portion of any Unit encroaches upon any part of any other Unit, valid easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of such Unit so long as all or any part of the building shall remain standing, and Unit and Common Element boundaries shall be as provided in the Act. 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 owner or owners of the Common Elements or facilities, or Limited Common Elements, if such

encroachment occurred due to the willful and knowing conduct or acquiescence of said owner or owners.

**18.5 Access Utility and Storm Water Easements.** The Condominium Plat for Paradise Trails Condominium sets forth various easements, including, but not necessarily limited to, Utility, Access, Sanitary Sewer, Water Main, Storm Water Management Access, and Drainage Easement areas. All of said easement areas are for the use and benefit of the lands within Paradise Trails Condominium, as described on the attached **Exhibit A**, as well as all of the Expansion Lands, as described on the attached **Exhibit B**. To the extent said easement areas are within lands now or (after expansion of the Condominium) hereafter included within Paradise Trails Condominium, Declarant retains a permanent, perpetual, and non-exclusive easement in each of said easement areas, for the purposes intended, for the use and benefit of the lands described on the attached **Exhibit C**. To the extent that said easement areas are within the Expansion Lands, as described on the attached **Exhibit B**, or so much thereof as are not hereafter added to Paradise Trails Condominium by expansion of the Condominium, Declarant hereby grants to Paradise Trails Condominium, a permanent, perpetual and non-exclusive easement in each of said areas, for the purposes intended, for the use and benefit of the lands now or hereafter included within Paradise Trails Condominium. A separate document titled "Paradise Trails Easement Agreement" may be executed and recorded for the purpose of further documenting and defining said easements, including but not limited to maintenance and repair responsibilities, and for the purpose of preventing the termination of the easements in the event of the amendment of this Declaration and/or termination of the condominium status.

**18.6. Binding Effect.** All easements and rights described in this Section 18 are easements appurtenant, running with the land. All easements and rights described herein are granted and reserved to, and shall inure to the benefit of and be binding on, the Declarant, its successors and assigns, and on all Unit Owners, purchasers and mortgagees and their heirs, personal representatives, successors and assigns. The Association or the Declarant shall have the authority to execute and record all documents necessary to carry out the intent of this Section 18.

## **19. ARCHITECTURAL CONTROL.**

**19.1 Architectural Control Authority.** No exterior additions or alterations (including painting or decorating) of any Unit, Buildings, porches, patios, decks, awnings, additional fences, or changes in existing fences, hedges, shrubs, trees, landscaping, walls, walkways and other structures or plantings, or improvement to or enclosure of any Limited Common Element, shall be constructed, erected, planted or maintained (except such as are installed or approved by the Declarant in connection with the Construction) of the building until the plans and specifications showing the nature, kind, shape, height, materials, location, color, approximate cost, proposed impact on the appearance of the Condominium, and a statement identifying the project contractor shall have been submitted to and approved in writing by the Board of Directors of the Association. Approval may be granted or denied at the discretion of the Board. Approval is further subject to compliance with the provisions of Sec. 703.13 (5m) of the Wisconsin Statutes. The approval of any work shall not in any way be construed so as to impair the right of the Association to undertake any decoration of or alteration to any Common Element, including any such work as may alter or eliminate the Owner's work approved, and no such decoration or alteration work by the Association shall create any liability by the Association to such Owner. Neither the members of the Board of Directors nor its designee(s) representative(s)



or committee members shall be entitled to compensation to themselves for services performed pursuant to this paragraph, but compensation may be allowed to independent professional advisors retained by the Board or their designee(s). Any costs and expenses incurred by the Association relative to any application for approval (whether or not approval is granted) and/or enforcement of the provisions of this section, including but not limited to reasonable actual fees of attorneys, architects, engineers, surveyors, designers and/or construction experts, may be charged by the Association as a special assessment against the applicable Unit. In addition to the Association approval required above, the Unit Owner instituting any additions, modifications or changes is responsible, at the sole cost and expense of the Owner(s) of such Unit, for obtaining any required governmental approvals. The Owner(s) of such Unit (jointly and severally) shall further indemnify and hold harmless the Association and all other Unit Owners, upon demand, from all loss, costs, expenses, damages and costs of enforcement, including but not limited to fines, reasonable attorney's fees, and costs of modification and/or removal, resulting from the failure of the owner(s) of such Unit to properly obtain Association and/or governmental approval.

**19.2 Declarant Control.** During the period of Declarant Control, Declarant shall have the exclusive right to act as the representative of the Board for Architectural Control purposes.

**19.3 Building and Use Restrictions.**

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

(b) All buildings, structures and improvements constructed or installed within a Unit, other than a driveway extending to the private road located within the common elements, shall be located within the Building Site for such Unit as shown on the Condominium Plat. The owner of the Unit shall have the right to modify and/or relocate the Building Site within any Unit, as shown on the Condominium Plat, provided the Building Site maintains a minimum setback from any abutting street curb or right-of-way of 27 feet, a building to building setback of 15 feet, and a rear yard or INRA/UCO setback of 10 feet.

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

(i) Only one single-family home building not to exceed two stories in height may be constructed within each Unit. The following types of buildings within Units shall have the following minimum sizes:

<b>HOME TYPE:</b>	<b>MINIMUM SIZE:</b>
One story	1,600 square feet
More than one story	1,800 square feet

For purposes hereof, "more than one story" includes homes referred to as one and a half story, two-story, split level or bi-level. The type of home and the number of

square feet shall be determined on a uniform basis by the ACC and shall not include basement, attic, garage, porch or patio areas in the computation.

(ii) All residences shall be sided with vinyl, cedar, cement board siding, stone, brick or stucco. Fascia and soffit may be aluminum. Window and door wraps shall be at least four inch (4") nominal in width and used on all locations except on windows with shutters. All corners shall be six inch (6") trim boards. Front Elevation should contain at least one prominent architectural feature such as a front porch or a minimum of 100 square feet of stone or brick accent material. Stone or brick must terminate at an inside corner or have an acceptable termination point, as determined by the ACC. Side elevations of homes shall require a minimum of two (2) architectural elements for each ranch elevation and three (3) architectural elements for each two-story elevation. Architectural elements shall include any window, door, closed shutter (false window), fypon, horizontal trim, or break in elevation or foundation.

The ACC shall be acting reasonably if it disapproves the Drawings, or any portion thereof, for a home because such home would be similar in appearance, or color, to other homes in close proximity, as determined by the ACC.

(iii) Garages. Each residence shall have a garage for not less than two cars attached to the residence containing a minimum of 440 square feet. All garage doors facing the street shall be decorative garage doors (raised panels shall not be considered decorative) with either glass inserts or have architectural design such as carriage style or similar. The Garage front shall not protrude more than four feet forward of the main building, and if the garage front protrudes it shall be matched in depth with some architectural detail of the main building.

(iv) Driveways. All drives shall be asphalt or concrete or some other hard surface as approved by the ACC and shall be installed no later than twelve (12) months from occupancy. No permanent gravel drive will be permitted.

(v) Curbing & Roadways. Unit Owner shall be responsible for repairing and/or replacing any curbing damaged during construction of the home. Damaged curbing shall be removed and replaced per municipal requirements as part of the driveway installation if allowed by the Municipality. The Declarant is responsible for placing the surface course of asphalt on the public roadways; the Lot Owner is hereby notified that it may occur after the structure is built on the Lot. Prior to installing the surface course of paving, the Municipality will inspect the roadways and curbing, if the Declarant is notified by the Municipality that curbing needs replacement, the owner of the Lot shall be responsible for costs associated with the replacement of the damaged curbing.

(vi) A residence shall have a roof made of dimensional shingles, or better, with a minimum pitch ratio of 6:12, 8:12 for front facing gables, or such other pitch as is specifically approved by the ACC. "3-tab" shingles shall not be allowed.

(vii) At the time of construction of a single family residence, the owner shall install, at the owner's expense, one (1) outdoor electric lamppost (the design and quality of which shall be specified by the Association), with an unswitched photo-

electric cell, at a location on the Unit deemed appropriate by the Association, in the Association's discretion. The lamppost shall be maintained by the owner, at the owner's expense;

(viii) Cluster Box Units ("CBU"). The United States Postal Service requires the use of Cluster Box Units ("CBUs") within the condominium. At each unit closing, Buyer will pay a \$450.00 fee to cover the costs of installation of the CBUs for the condominium. The Association shall be responsible for all costs associated with the CBUs, including contracting and payment for the materials and installation. The Association will be responsible for coordinating maintenance and repairs of the CBUs along with initial distribution of the mailbox keys to the initial Unit owners. The Association will be responsible for providing a clear path free of snow or debris to the CBUs for the mail delivery carrier and residents. Upon the initial request from an Owner, the Association shall turn over all of the mailbox keys for that respective unit to the initial Owner in exchange for a signed agreement from the Owner. In the event keys are damaged, lost or not transferred to subsequent Owners; the current Owner shall have sole responsibility for coordinating obtaining keys to their box in the CBU and payment of all costs incurred.

(ix) No soil shall be removed from any Unit without the prior consent of the Association or its duly appointed agent. Any excess soil resulting from excavations shall be transported, at the Unit owner's expense, away from the Land or to such other areas of the Land or such other property as may be designated by the Association. The grading of any Unit shall substantially conform to the intent of the approved Master Grading Plan on file at the Town of Waukesha; and

(x) Within six (6) months from the substantial completion of the development of a single family residence on the Unit, the owner of the Unit shall plant the street tree or trees within their Unit boundary as specified by the approved landscape planting along the street right-of-way of such Units in such locations as are specified by the Association. Additionally, each Unit must plant and maintain a minimum of one (1) – 2" caliper ornamental tree located in the front yard and a minimum of twelve (12) foundation plantings and mulched bed along the front foundation wall.

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

(xii) Alternative Energy. No solar collectors, wind turbines, or other exterior energy producing devices shall be erected or installed unless approved by the ACC.

(xiii) Dog Kennels. Dog kennels shall not be allowed on any Unit even one would otherwise be permitted by Municipal ordinance or code.

(xiv) Play Equipment. If an Owner chooses to install a play set of any size, whether temporary or permanent, said playground equipment must be approved in advance by the ACC and conform to Municipal codes and ordinances. Play equipment shall be located a minimum of ten feet (10') away from any Unit boundary.

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

**20. MORTGAGEE RIGHTS.** Mortgagees of Units shall have the rights set forth below. In the event any provision of this Article conflict with any other provision of this Declaration, The Articles of Incorporation of the Association, or the By-Laws of the Association (collectively, the “project documents”), the provision more favorable to a Mortgagee shall control. If any provision of this Article conflicts with any required minimum provision of the Act, the more restrictive provision shall control. Mortgagee Rights are as follows:

**20.1 Right of 1<sup>st</sup> Refusal.** No right of first refusal in the condominium project documents shall adversely impact the rights of a mortgagee or its assignee to:

**20.1.1** Foreclose or take title to a condominium Unit pursuant to the remedies in the mortgage;

**20.1.2** Accept a deed or assignment in lieu of foreclosure in the event of default by a mortgagor; or

**20.1.3** Sell or lease a Unit acquired by the mortgagee or its assignee.

**20.2 Amendments to Project Documents.** Amendments to the project documents of a material adverse nature to mortgagees must be agreed to by mortgagees that represent at least 51% of the votes of the Units that are subject to mortgages. Amendments to annex property and/or Units to the Condominium pursuant to Section 6 of this Declaration shall not be deemed or construed as amendments of a material adverse nature to mortgages.

**20.3 Termination of Condominium.** Any action to terminate the legal status of the condominium after substantial destruction or condemnation occurs, or for other reasons, must be agreed to by mortgagees that represent at least 51% of the votes of the Units that are subject to mortgages.

**20.4 Implied Approval Presumed.** If otherwise allowed by law, implied approval by a mortgagee shall be assumed when a mortgagee fails to submit a response to any written proposal for an amendment within 60 days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a “return receipt” requested.

**20.5 Right to Notice.** Any mortgagee of a Unit, and any guarantor of the mortgage, upon the submission of a request to the Association in writing delivered to the Registered Agent of the Association, shall be entitled to receive timely written notice from the Association of the following matters:

**20.5.1** Any condemnation or casualty loss that affects either a material portion of the project or the Unit securing its mortgage;

- 20.5.2** Any 60-day delinquency in the payment of assessments or charges owned by the Owner of any Unit on which it holds the mortgage;
- 20.5.3** Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and
- 20.5.4** Any proposed action that requires the consent of a specified percentage of mortgagees.

**20.6 Priority of Insurance Proceeds.** Neither a Unit Owner nor any other party shall have priority over any rights of the first mortgagee of the Unit pursuant to its mortgage in the case of payment to the Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of condominium Units(s) and/or Common Elements.

## **21. REALLOCATION OF BOUNDARIES AND MERGER AND SEPARATION OF UNITS.**

Unit Owners may, subject to the approval of the Board of Directors of the Association, reallocate Unit boundaries between adjoining Units, merge two adjoining Units into one Unit and/or separate a previously merged Unit into the number of Units which originally existed, upon compliance with the applicable provisions of the Act. The Board of Directors may approve or deny such request in its sole discretion, and may condition any approval upon compliance with such conditions as it may determine to be reasonable and appropriate. All work in connection with reallocation, merger, or separation shall be completed in a good, workmanlike manner and free from all liens. The Unit Owner(s) who initiate or whose actual boundaries are relocated, merged or separated shall indemnify and hold harmless the other Unit Owners, the Board, the Declarant and the Association from and against all claims of third parties for personal injury or property damage from work performed in connection with any relocation, merger or separation. The Board of Directors shall have the authority to assess a Special Assessment against any Unit for any cost incurred by the Association as a result of nonpayment of relocation cost by the Unit Owner.

A reallocation of boundaries between adjoining Units shall not result in any change in the number of votes, the Percentage Interests, or responsibility for Association expenses and assessments for either Unit. In the event two adjoining Units are merged into one Unit, the resulting Unit shall have the same number of votes at meetings of the Association as the total number of votes assigned to the two previous Units (a total of 2 votes, 1 for each of the original Units), and shall have the same undivided Percentage Interest in the Common Elements as the total undivided Percentage Interest applicable to the two previous Units. To avoid any increased burden for Association expenses on other Units and the owners thereof, the resulting merged Unit shall be responsible for the same share of Association expenses and assessments (both Annual and Special) as the total which would have been applicable to the two Units if they had not been merged. If a merged Unit is later separated into 2 units, each of the 2 separated Units shall then have the originally allocated vote, Percentage Interest, and assessment responsibility.

## **22. CONDEMNATION**

In the event of a “taking under the power of eminent domain” as defined in the Act, the Association shall proceed with rebuilding, relocation or restoration and/or an allocation of any award as provided in the By-laws or, if not provided for in the By-laws, in the Act. In any event, if the taking under the power of eminent domain is to the extent where the remaining

Condominium portion has been diminished to such an extent that reconstruction or restoration is not practical, the Condominium shall be subject to an action for partition upon obtaining the written consent of the Unit Owners having 75% or more of the vote. In the case of partition, the net proceeds of sale, together with any net proceeds of the award for taking, shall be considered as one fund and shall be divided among all Unit Owners in proportion to their Percentage Interest and shall be distributed in accordance with the priority of interests in each Unit. A taking of all or part of a Unit may not include any of the Percentage Interests or vote appurtenant to the Unit. The Owner of each Unit taken shall have the individual right of appeal of the necessity of taking and of the condemnation award made for the taking. The Association shall have the right of appeal of the necessity of taking of the Common Elements and the right of appeal of the condemnation award made for the taking of the Common Elements. An appeal by the Association shall be binding upon the Unit Owners for the necessity of taking or the condemnation award made for the taking of the Common Elements. Unit Owners having an interest in the ownership of Limited Common Elements may individually or as a group appeal the necessity of taking or the condemnation award made for the taking of the Limited Common Elements. The Association shall act as the designated agent and/or attorney-in-fact for each Unit Owner and their Mortgagees for the purpose of representing, negotiating and settling any proceeds or awards to be made to the Association or any Unit Owner on account of any casualty damage to the Condominium or eminent domain proceedings which involve the Condominium.

### **23. Construction Obligation and Repurchase Rights**

#### **Construction Obligation:**

Each Owner shall promptly begin, diligently pursue and ultimately complete construction with Harbor Homes, LLC of the Building and other improvements on its Building Pad pursuant to approved plans by the Association. **Harbor Homes, LLC is the exclusive builder of all Buildings and improvements within the Condominium. Owner acknowledges that the purchase of the Building Pad is separate from any construction contract to build the improvements on the Building Pad and the limited common elements appurtenant to the Building Pad. It is Owner's obligation to secure a construction contract for the Building Pad from Harbor Homes, LLC which is a separate entity from the Declarant.**

In the event that construction of improvements has not been commenced with Harbor Homes, LLC within one (1) year after the date of closing of the initial sale of a Building Pad by Declarant, then, until such construction is commenced, the Declarant shall have the option of repurchasing the Building Pad from the Owner (the "Commencement Option"). Commencement of construction is defined to mean that footings and foundation have been poured. To exercise the Commence Option, the Declarant shall provide written notice of exercise of the Commencement Option (the "Notice") to Owner at Owner's last known address, including the date of repurchase closing. Notice shall be deemed to be received two days after deposit of the notice, postage prepaid, in the U.S. mail. The repurchase shall occur within sixty (60) days after delivery of the Notice on the date specified in the Notice.

If after commencing construction work on any Building Pad, construction ceases for a period of one hundred eight (180) consecutive days at any time before the substantial completion of construction as provided in Owner's approved plans ("Cessation of Construction"), the Declarant shall each have the option to repurchase the Building Pad from the Owner at any time prior to obtaining an occupancy permit (the "Construction Option"). To exercise the Construction Option, the Declarant shall provide written Notice as described above. Repurchase shall occur within sixty

(60) days after delivery of the Notice on the date specified in the Notice. "Substantial completion of construction" means that construction has been completed to a point that a certificate of occupancy could be obtained.

If Owner does not complete construction of the improvements as described in the approved plans and obtain an occupancy permit for the improvements within two (2) years after the date of closing of Owner's purchase of the Building Pad from Declarant the Declarant shall have an option to repurchase the Building Pad from the Owner (the "Completion Option") at any time thereafter but prior to obtaining an occupancy permit. To exercise the Completion Option, the Declarant shall provide written Notice as described above. Repurchase shall occur within sixty (60) days after deliver of the Notice on the date specified in the Notice.

#### **Terms of Repurchase:**

If the Declarant exercises any of the options described above, at repurchase closing the Owner shall tender a warranty deed free and clear of all liens and encumbrances except municipal and zoning ordinances, recorded easements for public utilities and these Declaration in exchange for a sum equal to Owner's original purchase price for the Building Pad from Declarant less any unpaid real estate taxes, the proration for the then current year's real estate taxes, and the title insurance premium. Owner shall provide the party exercising the option with a title insurance policy for the full amount of Owner's purchase price.

In the event of repurchase as provided in this section, Owner shall also be liable to the Declarant for all reasonable costs and expenses incurred in retaking and restoring the Building Pad to marketable condition, and such costs and expenses shall be deducted from the amount of the purchase price paid to the Owner. Owner shall be deemed to consent to enforcement of the options described on the above terms by specific performance.

#### **24. GENERAL PROVISIONS.**

**24.1 Enforcement & Restriction Precedence.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations, now or hereafter imposed by the provisions of this Declaration, the By-laws and Rules and Regulations. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Declarant, its successors and assigns, and all parties hereafter having an interest in the Property, are subject to all applicable rules, codes, regulations, and ordinances of the Village of Germantown, Washington County, the State of Wisconsin and the federal government, and the same may be more restrictive than these the restrictions, conditions, and reservations, now or hereafter imposed by the provisions of this Declaration, the By-laws and Rules and Regulations. In the event there is a conflict between the requirements of Declaration, the By-laws and Rules and Regulations and any provision of the City, County, State or federal law or regulation, the more restrictive provisions shall apply.

**24.2 Severability.** If any provision, or any part hereof, of this Declaration or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Declaration, or the application of such provision, or any part thereof, to persons or circumstances other than those to which it is held invalid or unenforceable,

shall not be affected thereby, and each provision or any part thereof, of this Declaration shall be valid, and be enforced to the fullest extent.

**24.3 Termination.** This Declaration may be terminated in the manner allowed by the Act as of the time of termination.

**24.4 Notices.** All notices and other documents required or permitted to be given by this Declaration or the By-Laws of the Association to a Unit Owner shall be sufficient if given to one (1) Owner of a Unit regardless of the number of Owners who have an interest therein. All Owners shall provide the Association with an address for the mailing and emailing or service of any notice or other documents and the Association shall be deemed to have discharged its duty with respect to the giving of notice by mailing it, emailing it or having it delivered personally to such address as is on file with the Association.

**24.5 Non-waiver.** The failure of the Association to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to term, covenant, condition or restriction, shall not be deemed a waiver of same, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Association of payment of any Assessment from a Unit Owner, with knowledge of the breach of any covenant hereof, shall not be deemed as a waiver of such breach, and no waiver by the Association of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Association.

**24.6 Amendments.** This Declaration may be amended in the manner allowed by the Act at the time of amendment (to the extent not subject to further restrictions as set forth in this Declaration); provided, however, that, as long as Declarant owns any unsold Unit and so long as the Condominium is subject to expansion as set forth in Section 6 above, no Amendment to this Declaration shall be effective unless consented to in writing by Declarant.

**24.7 Registered Agent.** Steve DeCleene is hereby appointed by Declarant as the registered agent for the condominium. The address of said registered agent is: N27 W24025 Paul Court, Pewaukee, WI 53072. The registered agent may be changed in accordance with any provision allowed by law in effect at the time of such change. As of the date of filing of this Declaration, the provisions regarding the qualification, designation and filing of the name and address of the registered agent are set forth in Sec. 703.23, Wis. Stats. As set forth in said statutory section, if the Association is incorporated, the registered agent for the association shall be the registered agent for the condominium.

**24.8 Assignment.** The rights and obligations of Declarant may be assigned in any manner allowed by law at the time of assignment. Upon the recording of any such amendment, such assignee shall become "Declarant" under this Declaration and shall succeed to all such rights, powers and obligations. Such amendment need be signed only by the assignor and assignee named therein

**24.9 Number and Gender.** Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.



**24.10 Captions.** The captions and Article headings herein are intended only as matters of convenience and for reference and in no way define or limit the scope or intent of the various provisions hereof.

**IN WITNESS WHEREOF,** the said PARADISE TRAILS, LLC, Declarant, has caused this document to be executed this \_\_\_\_ day of \_\_\_\_\_, 2020.

DECLARANT:  
PARADISE TRAILS, LLC,  
a Limited Liability Company

By: \_\_\_\_\_  
Steve DeCleene, Manager

ACKNOWLEDGMENT

STATE OF WISCONSIN )  
   ) SS  
WAUKESHA COUNTY  )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2020, the above named Steve DeCleene, Manager of PARADISE TRAILS LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission expires: \_\_\_\_\_

**CONSENT OF MORTGAGE HOLDER**

Johnson Bank, being the holder of the first Mortgage on the property subject to this Declaration, hereby consents to the establishment of this Condominium and the recording of this Declaration and the Condominium Plat for this Condominium.

Date: \_\_\_\_\_, 2020

Johnson Bank

By: \_\_\_\_\_

Print Name & Title: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF WISCONSIN )  
  ) SS  
WAUKESHA COUNTY    )

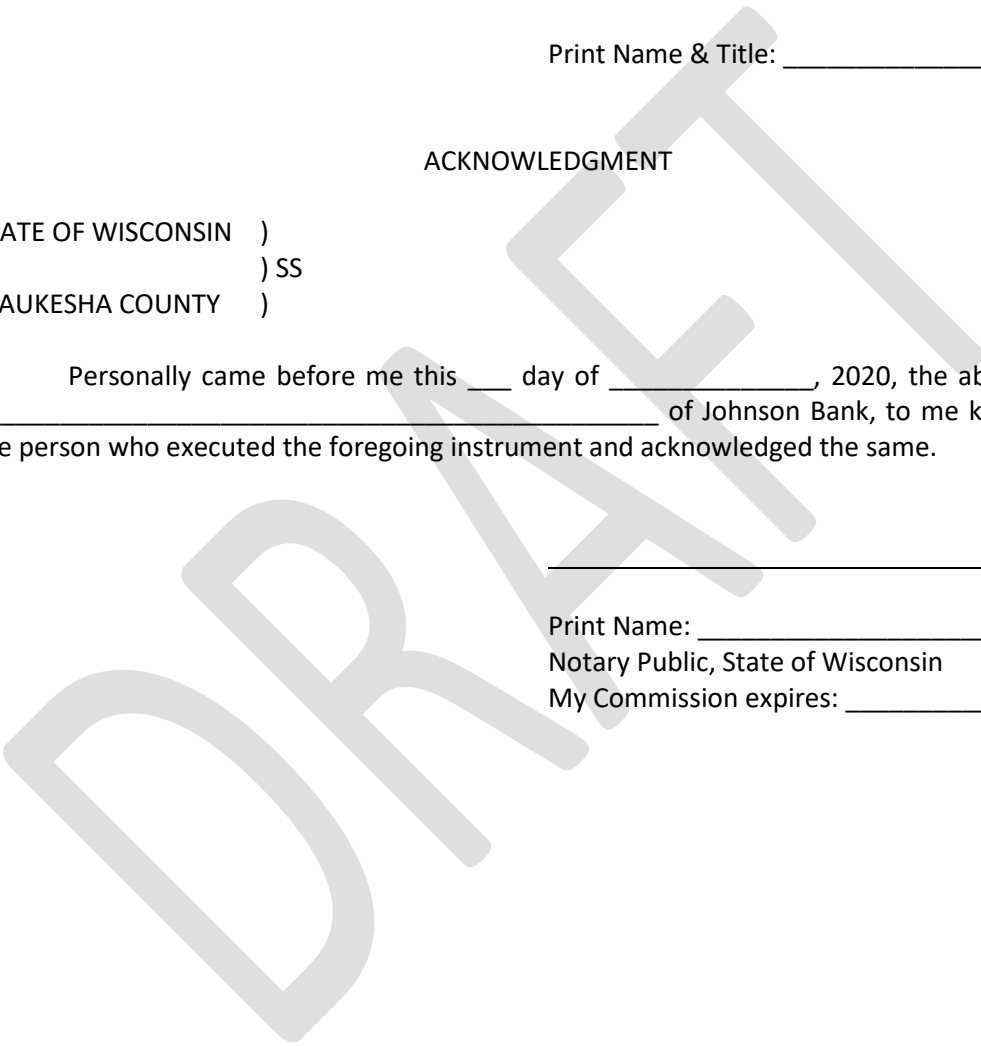
Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2020, the above named \_\_\_\_\_ of Johnson Bank, to me known to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_

Print Name: \_\_\_\_\_

Notary Public, State of Wisconsin

My Commission expires: \_\_\_\_\_



**EXHIBIT A**  
**LEGAL DESCRIPTION OF PARADISE TRAILS CONDOMINIUM**

DRAFT

**EXHIBIT B**

**LEGAL DESCRIPTION OF EXPANSION AREA FOR PARADISE TRAILS CONDOMINIUM**

**EXHIBIT C**

**PARADISE TRAILS CONDOMINIUM PLAT**

**(See Attached)**

**Please note that the attached Condominium Plat may not be sufficiently legible due to size.**

**DRAFT**

EXHIBIT D

UNIT ADDRESSES FOR  
PARADISE TRAILS CONDOMINIUM

Unit #	Address

DRAFT