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SECOND RESTATED  
DECLARATION  
OF CONDOMINIUM OF  
MILL CREEK ESTATES  
CONDOMINIUM

## Recording Area

## Name and Return Address

Ethan T. Miller

W.R. Stewart &amp; Associates, S.C.

110 E. Main St, Ste. 813

Madison, WI 53703

251-0608-031-1402-8 (see also Exhibit A)

Parcel Identification Number (PIN)

There are no objections to this condominium or condominium instrument with respect to Chapter 703, Wis. Stats., and it is hereby approved for recording.

Dated this 10<sup>th</sup> day of January, 2023

Lisa Comabala, for  
Director of Planning, Community & Economic Development of the City of Madison

The undersigned Board President and Secretary of Mill Creek Estates Condominium Unit Owners Association, Inc. (the "Association"), the association of Unit Owners of Mill Creek Estates Condominium (the "Condominium"), have executed this instrument as the Second Restated Declaration of Condominium of Mill Creek Estates Condominium (the "Second Restatement"). This Second Restatement restates the Declaration of Condominium originally recorded May 30, 2008, in the office of the Register of Deeds of Dane County, Wisconsin, as Document No. 4435929, as amended by the Restated Declaration recorded June 16, 2014, as Document No. 5076778, and the First Amended Restated Declaration recorded July 21, 2015, as Document No. 5169844. This Second Restatement shall be referred to herein as the "Declaration."

This document drafted by:  
Attorney Ethan T. Miller  
W.R. Stewart & Associates, S.C.  
110 E. Main Street – Suite 813  
Madison, WI 53703

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**SECOND RESTATED  
DECLARATION  
OF CONDOMINIUM OF  
MILL CREEK ESTATES  
CONDOMINIUM**

**ARTICLE I  
NAME, ADDRESS**

- 1.01 The name of the Condominium is Mill Creek Estates Condominium.
- 1.02 The address of the Condominium is 8201-8237 Mill Creek Drive, 8201-8207 Saddle Stone Lane, and 2502-2516 Millers Way, City of Madison, Dane County, Wisconsin 53719.

**ARTICLE II  
SUBMISSION, LEGAL DESCRIPTION, DEFINITIONS**

- 2.01 The Property was submitted to the provisions of Chapter 703, Wisconsin Statutes, the Condominium Ownership Act (the "Act") by the filing of the original Declaration recorded May 30, 2008 as Document 4435929 as amended by the Restated Declaration of Condominium recorded June 16, 2014 as Document 5076778, and a First Amended Restated Declaration of Condominium recorded July 21, 2015 as Document 5169844. The original Condominium Plat was recorded May 30, 2008 as Document 4435930 and amended by Addendum No. 1 recorded June 16, 2014 as Document 5076779 and Addendum No. 2 recorded July 21, 2015 as Document 5169845 (collectively the "Plat").
- 2.02 The legal description of the real estate which was submitted to the provisions of the Act is Lot 77, Second Addition to Hawk's Creek, in the City of Madison, Dane County, Wisconsin, which Property is subject to municipal and zoning ordinances and agreements entered under them, recorded easements for access and the distribution of utility and municipal services, the Act, recorded building and use restrictions and covenants, including the Declaration and Plat for Mill Creek Estates Condominium and a Shared Driveway Access Easement and Maintenance Agreement recorded March 12, 2007, as Document 4288199 as amended by a Second Shared Driveway Access Easement and Maintenance Agreement recorded April 4, 2007 as Document 4295458, a Revised Second Shared Driveway Access and Maintenance Agreement recorded May 18, 2007 as Document 4310896 and an Amendment to Shared Driveway Access Easement and Maintenance Agreement recorded October 1, 2008 as Document 4471263, all as amended from time to time.
- 2.03 Terms used herein shall be as defined in the Act unless otherwise defined in this Declaration.

**ARTICLE III**  
**BUILDINGS, UNITS**

- 3.01 The Condominium consists of a total of twenty-six (26) Units in fifteen (15) buildings with one, two or four Units in each building. Buildings have one level of living space with twenty-four (24) Units having lower levels, some with outside exposure. Each Unit includes the garage for the Unit and the screen porch or sunroom, if any. Units range in approximate size from 1690 square feet of living space and 600 square feet of garage and storage to 2025 square feet of living space, 1857 square feet of lower level and 484 square feet of garage, as shown on the Plat.
- 3.02 A Unit is that part of the Condominium designed and intended for the exclusive independent use of its owner and those persons authorized or invited to use it by its Owner. A Unit includes one or more contiguous or non-contiguous cubicles of air:
- (a) For Units with one level, the exterior boundaries of each cubicle of air are:
    - 1. the vertical planes coinciding with the interior surface of the studs supporting the drywall of the perimeter walls surrounding the cubicle,
    - 2. the horizontal plane coinciding with the lower surface of the joists supporting the drywall of the ceiling extended to its intersection with the perimeter walls, and
    - 3. the horizontal plane coinciding with the upper surface of the concrete floor extended to its intersection with the perimeter walls.
  - (b) For Units with two levels, the exterior boundaries of each cubicle of air are:
    - 1. the vertical planes coinciding with the interior surface of the studs supporting the drywall of the perimeter walls surrounding the cubicle of the upper level,
    - 2. the vertical planes coinciding with the interior surface of the studs supporting the drywall of the perimeter walls surrounding the cubicle of the finished lower level and/or the vertical planes coinciding with the interior surface of the concrete walls surrounding the cubical of the unfinished area of the lower level,
    - 3. the horizontal planes coinciding with the lower surface of the joists supporting the drywall of the ceiling of the upper level extended to their intersection with the perimeter walls, and
    - 4. the horizontal plane coinciding with the upper surface of the concrete floor of the lower level extended to its intersection with the perimeter walls.
- 3.023 In addition, a Unit includes the following which serve it exclusively, although the items may be wholly or partly outside of the defined cubicle or cubicles of air:
- (a) All doors (including those giving access to garages, patios, attics, stoops, screen porches and decks;
  - (b) All windows (including glass, screens or other enclosures, and their interior and exterior casements and the opening, closing and locking mechanisms related to them), and screen porch screens and their frames;
  - (c) Interior stairways and railings, including screen porch railings;
  - (d) All wall, floor, ceiling, baseboard, or other electrical outlets and switches; smoke, carbon monoxide and natural gas detectors; ceiling fans; or any fixtures, including light fixtures; inside and outside the cubicle or cubicles of air controlled exclusively by the Unit, and the junction boxes and wiring serving them; any security system or devices; all telephone, cable television or other communication connections within the Unit and any junction boxes and wiring serving any of these;

- (e) All plumbing fixtures, water heaters, water softeners, valves, sill cocks, vents, piping and other connecting and controlling materials and devices connected to the Unit side of the water meter serving the Unit;
- (f) Drains and the sewer lateral to the point where it crosses the vertical plane coinciding with the interior surface of the foundation;
- (g) All heating, ventilating and air conditioning fixtures or systems, including thermostats, all wires, gas or fuel lines, pipes, valves, filters, ducts, appliances, transmitting, connecting, controlling and venting materials and devices;
- (h) Any fireplace serving the Unit, including any air intake ducts, flues or chimneys (excluding the external masonry structure) and any control system and fuel line connected to the fireplace;
- (i) All floor covering, including vinyl, ceramic or natural tile, wood or laminate, and installed pad and carpet;
- (j) All drywall, wallpaper and paint;
- (k) All interior woodwork and trim;
- (l) All siding within the screen porch;
- (m) Any skylights or light tubes;
- (n) All installed cabinets, counters, countertops, and backsplashes;
- (o) All towel bars and rings, hooks and installed mirrors;
- (p) Any clothes dryer vent or stove vent;
- (q) Any central vacuum system;
- (r) Any solar panels or collectors and electrical storage unit, auxiliary generator, and their wiring and control systems;
- (s) Any radon abatement system;
- (t) All closet shelves, racks and installed storage systems; and
- (u) The electrical and natural gas entry service lines connecting the electrical meter to the distribution panel and supplying natural gas from the gas meter to the appliances of a Unit, including any portion of these lines that pass through an adjacent Unit.

3.025 A Unit shall be deemed to include the cubicle of air enclosed within any sunroom or screen porch appurtenant to the Unit and within the Unit's footprint as set forth on the Plat. Decks and patios shall be deemed to be Limited Common Elements, appurtenant to the Unit to which they abut.

3.027 Specifically excluded from the definition of Unit are those structural components of the building, including any part of the mechanical and electrical systems not specifically included in the definition of Unit in 3.023 above, which lie within or adjacent to the cubicle or cubicles of air comprising the Unit, including:

- (a) The composite boards that are the structural flooring of the screen porches, which are Common Elements;
- (b) The irrigation system water supply line passing through a Unit, which is a Common Element;
- (c) The pipe passing through a Unit for the purpose of supplying the water meter of an adjacent Unit, which is a Common Element;
- (d) Any gas, electrical, telephone, cable television, or data line intended to serve an adjacent Unit, which is part of the adjacent Unit or utility company property; and
- (e) The post light adjacent to each unit and its below ground wiring from the point where it leaves the building, which are Common Elements.

- 3.03 Units may be located and identified by their Unit number on the Plat. A Unit may be described for all purposes by the identification shown on the Plat, together with a reference to the Condominium Declaration and Plat and such description shall include all rights and appurtenances and all obligations associated with the Unit.
- 3.04 A Unit Owner shall mean any person or persons who individually or collectively hold legal title to a Unit or, if applicable, equitable title as a land contract vendee.

#### **ARTICLE IV**

##### **COMMON ELEMENTS, LIMITED COMMON ELEMENTS**

- 4.01 All portions of the Condominium which are not Units as shown on the Plat and defined above are Common Elements. The streets serving the Units are private roads and are part of the Common Elements.
- 4.02 The Common Elements are owned by the owners of Units of the Condominium as tenants in common in undivided percentage interests as stated in section 5.01.
- 4.03 Certain of the Common Elements are Limited Common Elements the use of which is reserved to one or more, but not all, Units of the Condominium. Limited Common Elements and the Units to which their use is appurtenant are shown on the Plat and include patios, decks, stoops, driveways, and walkways from the Unit's stoop to its driveway or the sidewalk.
- 4.04 Limited Common Elements may not be transferred to nor may their use be allowed to anyone, including other Unit Owners, except as an incident to the occupancy of a Unit.
- 4.05 The Association may enter into an Agreement with one or more Unit Owners for a modification, addition or improvement to a Common Element provided the modification, addition or improvement does not disadvantage any other Unit Owner; is paid for by the requesting Unit Owner or Owners; and the requesting Unit Owner or Owners assume responsibility for all future costs and maintenance of the modification, addition or improvement. Any such Agreement shall be binding on a future Owner of a Unit owned by a Unit Owner who enters into an Agreement. The Association may adopt Bylaws and rules concerning such Agreements including the restoration of the Common Elements. Any modification, addition or improvement to a Common Element shall not:
- (a) Materially alter the exterior appearance or esthetics of a Condominium building;
  - (b) Impair the structural integrity of a Condominium building;
  - (c) Interfere with any easement, sidewalk, roadway, drainage channel or property boundary;
  - (d) Interfere with any utility or the operation of Condominium mechanical, electrical, water or sewer systems;
  - (e) Unduly complicate the routine maintenance of grounds or buildings; or
  - (f) Unreasonably interfere with the use and enjoyment of the Condominium by anyone authorized to use it.

**ARTICLE V**  
**PERCENTAGE INTERESTS, OBLIGATIONS**

- 5.01 Each Unit shall have the undivided percentage interest in the Common Elements as shown on Exhibit B to this Declaration.
- 5.02 Each Unit shall have the obligations for Common Expenses and rights to common surpluses as shown on Exhibit B to this Declaration.

**ARTICLE VI**  
**VOTING**

- 6.01 Except as provided below, each Unit shall be entitled to one (1) vote in the Association, that vote to be cast as the person or persons constituting the Unit Owner shall decide, however each Unit shall cast a single, unitary vote and there shall be no proportional or fractional voting of a Unit vote.
- 6.02 A person serving as an executor for an estate that includes a Unit or a person appointed as a durable power of attorney with authority to act for a Unit Owner on such matters as may require a vote in the Association shall be allowed to participate in determining the Unit vote.
- 6.03 The voting right of any Unit against which a Condominium lien has been filed shall be suspended until the lien has been satisfied.

**ARTICLE VII**  
**USES**

- 7.01 The Condominium shall be used exclusively for single family residences. For this purpose, "single family" shall mean persons related by blood, marriage or adoption and shall include foster children. Also included in this definition are two unrelated adults and natural, adopted or foster children of each. Residential purposes shall include the conduct of home occupations as permitted under applicable zoning ordinances, so long as such occupations do not create additional pedestrian or vehicular traffic at the Condominium, nuisance or congestion.
- 7.02 The Common Elements of the Condominium shall be used for the operation of the Condominium and the Association and for the general benefit of the Units and their owners, subject to the limitations and allocation of interests in this Declaration and other Condominium documents and Association rules. The Common Elements may only be used for purposes for which they were intended by their nature, location and apparent purpose.
- 7.03 All uses shall comply with applicable laws, ordinances and regulations, including but not limited to those regulating the use of charcoal grills and other open flame cooking devices, and any requirements of the insurer or insurers of the Condominium. No use may create a

nuisance or unreasonably interfere with the use and enjoyment of other Units or the Common Elements by other Unit Owners and those entitled to use them. Unit Owners may not conduct any activity or store any materials on the Condominium which would violate any laws, ordinances or rules or would increase the insurance rates for the Condominium. All uses shall comply with the rules adopted by the Association.

- 7.04 It is intended that the Units of the Condominium are for occupancy by their owners and not for investment purposes. No Unit Owner may lease all or any part of a Unit without complying with rules adopted by the Association. Leases must be in writing with a copy filed with the Association. The Unit Owner shall provide its current address, phone number, and email address and the address, phone number (if different from the Unit) and email address of the lessee. All individuals who will occupy the Unit under the lease must be identified in it. A lease shall include the right to use any Limited Common Elements appurtenant to the leased Unit. Any such lease must include a provision by which the lessee agrees to abide by the Condominium Act, the Declaration and Association Bylaws and rules and the Unit Owner shall be responsible to assure lessee compliance.
- 7.05 Unit Owners may keep pets at the Condominium subject to rules adopted by the Association which may include limitations and prohibitions on the number, size, type and breed of animals that may be kept as pets and the procedures and actions available to the Association for violation of these rules. All pets shall be the responsibility of the Unit Owner in whose Unit they reside. When out of the Unit they must be leashed or otherwise physically restrained to prevent them from being a nuisance. Pet owners are responsible for cleaning up after their pets.
- 7.06 Unit Owners may install and maintain plantings within three (3) feet of the exterior wall of the building in which their Unit is located and immediately outside of the Unit itself subject to any rules adopted by the Association which may have retrospective as well as prospective application. Such plantings may not exceed three (3) feet in height. Otherwise, all exterior landscaping and plantings shall be the responsibility of the Association.
- 7.07 Unit Owners may decorate the doors to their Units with their names, small decorations and holiday items, subject to any rules adopted by the Association which may have retrospective as well as prospective application.
- 7.08 Unit Owners may penetrate the Common Elements for the purpose of attaching pictures, hanging plants, shelving or decorations within their Units. Such penetration may not affect the structural integrity of the building, interfere with the mechanical systems of the building or the use and enjoyment of their Units and the Common Elements by other Unit Owners or persons authorized to use them. The Association may adopt rules regarding the penetration of the Common Elements.
- 7.09 Except as specifically permitted by the Act, no Unit Owner may display any sign visible outside of that Owner's Unit.

**ARTICLE VIII**  
**REPAIRS; MAINTENANCE**

- 8.01 Each Unit Owner shall be responsible for the decoration, furnishing, maintenance, repairs and replacements in the Owner's Unit. Except as provided herein, in meeting its responsibilities hereunder, the Unit Owner may not alter the exterior appearance of the Condominium, impair the structural integrity of the Condominium, any easement, or the operation of its mechanical systems, or unreasonably interfere with the use and enjoyment of the Condominium by anyone authorized to use it. Unit Owners shall use materials and standards of workmanship equivalent to or better than those used in the original construction of the Condominium.
- 8.02 Except as otherwise provided herein, the Association shall be responsible for the decoration, furnishing, maintenance, repair and replacement of the Common Elements and for landscaping, except Unit Owner plantings as permitted herein. The Association shall be responsible for snow removal from the driveways, stoops, walkways from the stoop of a Unit to its driveway or its sidewalk, and the Common Element sidewalks adjacent to streets serving the Condominium. The Association is not responsible for removing snow from Limited Common Element patios and decks.
- 8.03 Each Unit Owner shall be responsible for the furnishing, appearance, housekeeping and cleanliness of any Limited Common Element appurtenant exclusively to that Owner's Unit. In maintaining and making repairs to those portions of the Limited Common Elements, the Unit Owner may not alter the exterior appearance of the Limited Common Element in any way without the prior written approval of the Association.
- 8.04 Each Unit Owner shall be responsible for pest control within the Owner's Unit and for promptly dealing with an infestation that extends into the adjacent Common Elements. The Association shall be responsible for pest control situations in the Common Elements not centered in a Unit that pose a health, safety or structural danger. The Association may adopt Bylaws, rules and procedures concerning pest control.
- 8.05 Although doors, windows and screen porches are part of the Units, the Association shall be responsible for the painting or staining of the trim surrounding doors, windows and porch screens that is outside the cubical or cubicles of air, and for the painting or staining of the exterior surface of the primary entry door and the garage door of each Unit.
- 8.06 Notwithstanding anything to the contrary in this Declaration, a Unit Owner is responsible for the cost of any cleaning, maintenance, repair, replacement, restoration or removal of all or any part of any Common Element or of any Unit as a result of:
- (a) The neglectful, negligent, reckless, or intentional act or omission by the Unit Owner, tenant, occupant, guest, contractor, agent or invitee of the Unit that damages the Unit, another Unit or a Common Element, or jeopardizes the health, safety or peaceful enjoyment of anyone authorized to use the Condominium; or
  - (b) An alteration to a Common Element or Unit by the Unit Owner, tenant, or occupant of the Unit which was not approved by the Association or is not in compliance with any federal, state or local law, ordinance or regulation; or

- (c) The failure of the Unit Owner to maintain its Unit in a manner likely to prevent damage to another Unit or a Common Element.

## **ARTICLE IX** **RECONSTRUCTION**

- 9.01 In the event the Common Elements suffer uninsured damage or destruction in an amount in excess of \$500,000 in the aggregate for any single event, the Association shall notify the Unit Owners and first mortgage holders of Units of the loss and the inadequacy of insurance within ten (10) days of this determination. At that time the Association shall give the opportunity to the Unit Owners and mortgage holders to determine whether to repair the damage or destruction or terminate the condominium regime and partition the Condominium in accordance with the Unit Owners' undivided percentage interests in the Common Elements. Unit Owners and mortgage holders shall have thirty (30) days from the time notice is given to inform the Association of their preference. If seventy-five percent (75%) of Units and fifty-one percent (51%) of the mortgage holders agree to terminate the condominium regime and partition the Condominium property, the property shall be sold and the proceeds, together with any insurance proceeds payable to the Association resulting from the casualty loss, distributed in accordance with the relative undivided percentage interests of the Unit Owners, subject to the claims of the mortgage holders and other lienholders. In the event the decision is not to terminate and partition the Condominium property, the Association shall collect the insurance proceeds and proceed to repair the Condominium. The cost of the repair or reconstruction in excess of available insurance proceeds shall be a Common Expense.
- 9.02 In making repairs or restorations under this Article the Association shall, to the extent possible, seek to achieve a building quality equivalent to or better than the Condominium in its original construction condition and with the same or better amenities.

## **ARTICLE X** **IMPROVEMENTS**

- 10.01 Unit Owners may make improvements and alterations within their Units, provided such improvements may not alter the exterior appearance of the Unit or the Condominium, impair the structural integrity of the Condominium, any easement, or the operation of its mechanical systems, or unreasonably interfere with the use and enjoyment of the Condominium by anyone authorized to use it. Unit Owners shall use materials and standards of workmanship equivalent to or better than those used in the original construction of the Condominium.
- 10.02 If any improvement or alteration changes the location of any interior wall, doorway or the shape or dimension of any interior space, it shall be evidenced by the filing of a modification of the Unit's floor plan with the Association.
- 10.03 There may be no division, consolidation or merger of Units or transfer of portions of Units from one to another.

- 10.04 Any improvement or alteration in a Unit must be accomplished in accordance with applicable laws, regulations and ordinances. All expenses involved in such improvement or alteration, including expenses incurred by the Association, which it may charge as a special assessment against the affected Unit, shall be borne by the Unit Owner involved in the changes. The Unit Owner making the improvement or alteration shall hold the Association and all other Unit Owners harmless from any claims or liabilities arising from it and shall protect the Association and other Unit Owners from the imposition of construction liens against any portion of the Condominium other than the Owner's Unit.
- 10.05 If any change creates or affects a partition wall between the Unit and another Unit or requires entry to another Unit, the Unit Owner making the change shall make arrangements, approved by the Association, with the Owner of the other Unit for access to the Unit and the repair and maintenance of the partition wall.
- 10.06 Any Unit Owner making an improvement to that Owner's Unit shall report the nature of the improvement and its value to the Association to assure coverage under the Association's insurance policies.

## **ARTICLE XI**

### **ASSOCIATION**

- 11.01 The Mill Creek Estates Condominium Unit Owners Association, Inc. (the "Association") shall be the association for the Condominium as this term is used in the Act. The Association shall be a Wisconsin non-stock corporation.
- 11.02 All Unit Owners, by the fact of owning a Unit of the Condominium, shall automatically be members of the Association. All actions by the Association shall be binding upon all its members.
- 11.03 The Association shall maintain a roster of all its members and upon conveyance of a Unit, the former Unit Owner shall cease being a member of the Association for the transferred Unit and the new Unit Owner shall become the member for that Unit. It is the obligation of each new Unit Owner to report the names, address, email address and telephone number of each person who has an interest in the Unit to the Association promptly after the transfer. The new Unit Owner shall also report the name and address of the holder of any mortgage or land contract on its Unit to the Association and promptly report any subsequent change in the holder of any mortgage or land contract on its Unit.
- 11.04 The Association shall have all the powers, express or implied, in the Act and under the Wisconsin Non-Stock Corporation Act, except as limited in this Declaration or the Association Articles of Incorporation and Bylaws; it may adopt rules and procedures for the enforcement of this Declaration, the Association Bylaws and rules, including levying assessments against those who violate them; and it may borrow money.
- 11.05 Except for matters reserved to the Association members or Unit Owners by the Act, the Declaration, or the Bylaws, all policy and operational decisions of the Association, including interpretation of the Condominium instruments, Bylaws, rules, and other documents relating

to the Condominium or the Association, shall be made by the Board of Directors (the "Board").

- 11.06 Neither the Association nor the other Unit Owners shall have any right of first refusal on the conveyance of a Unit.
- 11.07 The Association may retain a professional management company and adopt standards for the maintenance of the Condominium.

## **ARTICLE XII**

### **COMMON EXPENSES**

- 12.01 Each Unit Owner shall be individually responsible for costs directly attributed to that Owner's Unit, including without limitation real estate and personal property taxes, all costs and payments related to the financing or refinancing of the Unit, insurance carried in excess of that provided by the Association, maintenance, repairs, replacements, improvements and alterations to the Unit, utilities metered to the Unit, telecommunications services to the Unit, and other services contracted for directly by the Unit Owner. Costs incurred in the operation of the Association shall be assessed and levied as provided below.
- 12.02 The Association shall prepare an annual budget and determine the amount to be assessed to each Unit. Common Expenses, except for insurance premiums and reserves, shall be divided equally among the Units. Reserves and insurance premiums shall be allocated among the Units on the basis of their respective undivided percentage interests in the Common Elements, subject to surcharge for increases in insurance premiums due to Unit improvements. Assessments shall be levied against the Units in accordance with the budget and payable in monthly installments in accordance with the Association Bylaws. To the extent improvements to a Unit increase the premiums for Association insurance, the amount of increase attributable to that Unit, as determined by the Association's insurance company, shall be adjusted and added annually as a surcharge to the Unit's assessment.
- 12.03 In addition to operating Common Expenses, the Association shall levy and collect (a) reserves, in amounts determined as adequate by the Association to defray in whole or part future capital expenses, major repairs and replacements; and (b) special assessments for unbudgeted expenses or budgetary shortfalls. Special assessments for unbudgeted operating expenses or budgetary shortfalls, except for insurance premiums, are Common Expenses and shall be divided equally among the Units. Special assessments for capital expenses, reserves and insurance premiums shall be allocated among the Units on the basis of their respective undivided percentage interests in the Common Elements, subject to surcharge for increases in insurance premiums due to Unit improvements.
- 12.04 Assessments shall commence against each Unit upon its conveyance to the Unit Owner.
- 12.05 Each Unit Owner shall be responsible for the share of Common Expenses, including reserves and special assessments, assessed against its Unit.
- 12.06 Amounts assessed against individual Units or Unit Owners for violations of this Declaration or the Association Bylaws or rules, or otherwise as provided herein, shall also be assessments

and subject to the same procedures for enforcement and collection as all other assessments. Special assessments and amounts assessed against individual Units for violations or otherwise shall be payable in accordance with the action or a resolution or rule authorizing collections.

- 12.07 The Association shall have all procedures and priorities in the Act for the enforcement of the payment of amounts assessed against Units or Unit Owners, as well as any other legal or equitable rights available for the collection of money owed. Interest may be charged on any amount that is delinquent at a rate determined from time to time by resolution of the Association. In addition, the Association may set an administrative fee recognizing the expense and inconvenience caused by a delinquency and charge that as a part of its collection costs against the delinquent Unit Owner. Interest and collection costs, including the administrative fee, shall be enforceable as provided in the Act.
- 12.08 Upon request by a Unit Owner, the Association will provide a written report on the status of assessments against the Owner's Unit including the amount of each monthly installment, the status of payment of installments, any delinquency in the payment of any assessments and any lien filed against the Unit, any special assessments levied for which the Unit will be responsible and any enforcement assessments and interest outstanding against the Unit.
- 12.09 On transfer of a Unit, both seller and buyer are responsible for any assessment due on the Unit.

### **ARTICLE XIII** **INSURANCE**

- 13.01 The Association shall maintain multi-peril property insurance at full insurable value based on replacement cost on the entire Condominium with such deductibles as it deems appropriate. This is to include fire and extended coverage and all other types of coverage commonly maintained on such projects. Insurance maintained by the Association shall cover portions of the Condominium included in the definition of Unit hereunder. The Association shall hold insurance under this section in its name for the use and benefit of the Unit Owners and their mortgage holders, or their successors and assigns, as their interests may appear.
- 13.02 The Association shall maintain comprehensive public liability insurance with limits not less than one million dollars (\$1,000,000) per occurrence for personal injury or property damage or such higher limit as the Association determines. This insurance shall contain a severability of interest clause precluding the insurer from denying claims because of any wrongful act or omission of a Unit Owner.
- 13.03 The Association may maintain fidelity coverage against dishonest acts by any person, paid or volunteer, responsible for handling the funds belonging to or administered by the Association. The Association is to be the named insured and protection is to be not less than one and one-half times the Association's annual operating expenses and reserves.
- 13.04 The Association shall act as trustee for the acquisition of the insurance coverage required hereunder or by decision of the Association and the negotiation, collection and settlement of

insurance claims, and the receipt, application and disbursement of insurance proceeds. Insurance maintained by the Association shall be a Common Expense. The Association shall surcharge a Unit Owner if Unit improvements, alterations or additions to the Unit covered by the Association's insurance cause an increase in its premiums.

- 13.05 Unit Owners shall carry personal property and liability insurance coverage and shall provide a certificate of insurance to the Association annually at the time of renewal or promptly following any material change in coverage. Unit Owners may be responsible, at the discretion of the Board, for any deductibles under the Association insurance that are determined to be the Unit Owner's responsibility and Unit Owners shall include coverage in the insurance carried by them for any such deductible. The maintenance of insurance by the Association does not relieve nor prohibit Unit Owners from maintaining insurance with limits in excess of those maintained by the Association, on risks not insured by it, or to provide other protection.
- 13.06 All policies of insurance shall be written by companies qualified to do business in the State of Wisconsin with general policyholder and financial ratings acceptable to the Association.

#### **ARTICLE XIV** **EMINENT DOMAIN**

- 14.01 The provisions of section 703.19 of the Act shall control in the event part or all of the Condominium is taken under the power of eminent domain.
- 14.02 The Association shall act as negotiating agent for the Unit Owners in the event of a taking, but the individual rights of Unit Owners to awards and appeal under the Act are preserved.

#### **ARTICLE XV** **EASEMENTS, ENCROACHMENTS**

- 15.01 Each Unit Owner shall have a right of ingress and egress over the Common Elements and under the Shared Driveway Access Easement and Maintenance Agreement for purposes of access to the Owner's Unit and its appurtenant Limited Common Elements, subject to the limitations and allocations of rights herein. This right is appurtenant to the Unit and passes with title to it. This right includes allowing access to those permitted to enjoy it by the Unit Owner.
- 15.02 The Association or its designee shall have an easement for access to each Unit to fulfill its purposes and obligations hereunder. Access, except for emergency situations, shall be made only with the Unit Owner's approval or upon reasonable written notice. Any person other than an officer of the Association or a manager hired by the Association who has access to a Unit under this section, except for emergency personnel, shall be accompanied by an officer of the Association or its manager. Each Unit Owner may provide to the Association the name and contact information of a third party who has a key and/or access code to allow entry to

the Unit in an emergency or to allow the Association or its designee to fulfill its purposes and obligations hereunder.

- 15.03 Easements have been granted over and in favor of the Condominium for various purposes including easements for utility and other services to the Units and Common Elements. Further easements may be granted by the Association.
- 15.04 Under the Act, easements are automatically granted to accommodate the minor variations between the physical boundaries as described in this Declaration and shown on the Plat and the actual physical boundaries of the Units and Common Elements as constructed.

**ARTICLE XVI**  
(This chapter left intentionally blank.)

**ARTICLE XVII**  
**REMEDIES**

- 17.01 The Association shall have the right to enforce compliance with the obligations under this Declaration and the Association Bylaws and rules by assessing fines for such violations which shall be special assessments hereunder. The Association shall establish by rule procedures for the reporting, investigation and determination of the existence of violations and for the imposition of fines if a violation is found.
- 17.02 In addition to remedies available to the Association created in this Declaration, the Association shall have all remedies available to it by law for the enforcement of the duties and obligations of Unit Owners and others using the Condominium, which may be exercised separately or in conjunction with one another. To the extent no damages can be accurately determined for the violation of these duties and obligations, liquidated damages of one hundred fifty dollars (\$150) per day for each day such violation continues may be assessed against the Unit Owner.

**ARTICLE XVIII**  
**SERVICE OF PROCESS**

- 18.01 The name and address of the Resident Agent shall be those of the current Registered Agent for the Association as listed with the Wisconsin Department of Financial Institutions.

**ARTICLE XIX**  
**AMENDMENT**

- 19.01 This Declaration may be amended only with the written consent of two-thirds (2/3) of the total Unit votes. No Unit vote for an amendment is effective unless the first mortgage holder of the Unit, if any, has approved the consent in writing.
- 19.02 Before an amendment to this Declaration is effective, an instrument signed by one or more officers of the Association stating the text of the amendment and certifying that the proper

consents and approvals for the amendment were received shall be recorded in the office of the Register of Deeds for Dane County, Wisconsin.

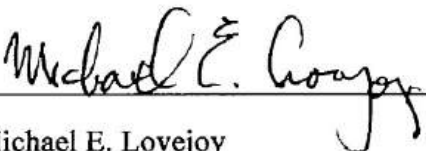
**ARTICLE XX**  
**GENERAL PROVISIONS**

- 20.01 Notices; Rights of Mortgage Holders: Notices to Unit Owners may be addressed to the address shown on the roster of Unit Owners maintained by the Association. Notices to Unit Owners may be provided electronically. Upon request by the mortgage holder, any holder of a mortgage on a Unit shall receive notice of any default of any Condominium obligation by the Unit Owner of the mortgaged Unit.
- 20.02 Interpretation; Severability: The Act is incorporated herein by reference. In the event of a conflict between the Act and this Declaration, unless the Act allows provisions of a declaration to control, the Act shall control. In the event of a conflict between this Declaration and the Association Bylaws and rules, this Declaration shall control. If any provision of this Declaration or the Association articles of incorporation, Bylaws or rules are held invalid by a court of competent jurisdiction, that provision shall be deleted and the remaining provisions shall remain in effect.

Dated: NOVEMBER 8, 2022

**MILL CREEK ESTATES CONDOMINIUM UNIT OWNERS ASSOCIATION,  
INC.**

The undersigned Board officers, on behalf of the Mill Creek Estates Condominium Unit Owners Association, Inc., hereby attest that the requisite Unit Owners have provided written consent, which consent has been joined in by the first mortgage holder, if any, and therefore adopt the foregoing Second Restated Declaration. The written consents are on file with the Association.



Michael E. Lovejoy  
its President



Barbara Jill Thomas  
its Secretary

STATE OF WISCONSIN     )  
                                      ) ss.  
COUNTY OF DANE        )

Personally came before me the 8<sup>th</sup> day of November, 2022, the above named Michael E. Lovejoy and Barbara Jill Thomas, as Board President and Board Secretary of the Mill Creek Estates Condominium Unit Owners Association, Inc., to me proven to be the persons who executed the above instrument and acknowledged the same.



*Steven D. Phillips*

STEVEN D. PHILLIPS

Notary Public, State of Wisconsin

My commission: is permanent

**EXHIBIT A TO SECOND RESTATED DECLARATION  
OF CONDOMINIUM OF MILL CREEK ESTATES CONDOMINIUM**

**TAX PARCEL IDENTIFICATION NUMBERS**

| <b>Unit #</b> | <b>PIN</b>          | <b>Street Address</b>  |
|---------------|---------------------|------------------------|
| 1             | 251/0608-031-1901-0 | 8204 Mill Creek Drive  |
| 2             | 251/0608-031-1902-8 | 8202 Mill Creek Drive  |
| 3             | 251/0608-031-1903-6 | 8201 Saddle Stone Lane |
| 4             | 251/0608-031-1904-4 | 8203 Saddle Stone Lane |
| 21            | 251/0608-031-1921-8 | 8237 Mill Creek Drive  |
| 22            | 251/0608-031-1922-6 | 8235 Mill Creek Drive  |
| 23            | 251/0608-031-1923-4 | 8227 Mill Creek Drive  |
| 24            | 251/0608-031-1924-2 | 8225 Mill Creek Drive  |
| 25            | 251/0608-031-1925-0 | 8221 Mill Creek Drive  |
| 26            | 251/0608-031-1926-8 | 8219 Mill Creek Drive  |
| 27            | 251/0608-031-1927-6 | 8215 Mill Creek Drive  |
| 28            | 251/0608-031-1928-4 | 8213 Mill Creek Drive  |
| 29            | 251/0608-031-1929-2 | 8203 Mill Creek Drive  |
| 30            | 251/0608-031-1930-9 | 8201 Mill Creek Drive  |
| 31            | 251/0608-031-1931-7 | 8207 Saddle Stone Lane |
| 32            | 251/0608-031-1932-5 | 8220 Mill Creek Drive  |
| 33            | 251/0608-031-1933-3 | 8226 Mill Creek Drive  |
| 34            | 251/0608-031-1934-1 | 2516 Millers Way       |
| 35            | 251/0608-031-1935-9 | 2514 Millers Way       |
| 36            | 251/0608-031-1936-7 | 2510 Millers Way       |
| 37            | 251/0608-031-1937-5 | 2508 Millers Way       |
| 38            | 251/0608-031-1938-3 | 2511 Millers Way       |
| 39            | 251/0608-031-1939-1 | 2507 Millers Way       |
| 40            | 251/0608-031-1940-8 | 2503 Millers Way       |
| 41            | 251/0608-031-1941-6 | 2504 Millers Way       |
| 42            | 251/0608-031-1942-4 | 2502 Millers Way       |

**EXHIBIT B TO SECOND RESTATED DECLARATION  
OF CONDOMINIUM OF MILL CREEK ESTATES CONDOMINIUM**

**PERCENTAGE INTERESTS**

There are different styles of Units at Mill Creek Estates Condominium which vary in total square footage, lower level access and finish. The undivided percentage interests in the Common Elements of the Condominium are designed to reflect the approximate comparative values of the Units. The undivided percentage interests of the Units are:

| <b><u>Initial Units</u></b> |       | <b><u>Replatted Units</u></b> |       |
|-----------------------------|-------|-------------------------------|-------|
| 1                           | 3.57% | 31                            | 4.69% |
| 2                           | 3.57% | 32                            | 4.69% |
| 3                           | 2.03% | 33                            | 4.70% |
| 4                           | 2.03% | 34                            | 3.79% |
| 21                          | 3.79% | 35                            | 3.79% |
| 22                          | 3.79% | 36                            | 3.79% |
| 23                          | 3.79% | 37                            | 3.79% |
| 24                          | 3.79% | 38                            | 4.69% |
| 25                          | 3.79% | 39                            | 4.70% |
| 26                          | 3.79% | 40                            | 4.69% |
| 27                          | 3.79% | 41                            | 3.79% |
| 28                          | 3.79% | 42                            | 3.79% |
| 29                          | 3.79% |                               |       |
| 30                          | 3.79% |                               |       |

**EXPENSES**

Common Expenses, except for insurance premiums and reserves, shall be divided equally among the Units. Reserves and insurance premiums shall be allocated among the Units on the basis of their respective undivided percentage interests in the Common Elements, subject to surcharge for increases in insurance premiums due to Unit improvements.