

**AMENDED AND RESTATED DECLARATION OF
COVENANTS AND RESTRICTIONS
FOR POLO POINT SUBDIVISION
(ZERO LOT LINE DEVELOPMENT)**

2250373

CATHY WILLIQUETTE
BROWN COUNTY RECORDER
GREEN BAY, WI

RECORDED ON
04/13/2006 11:45:10AM

REC FEE: 41.00
TRANS FEE:
EXEMPT #
PAGES: 16

DOCUMENT NO.

AMENDED AND RESTATED DECLARATION OF
COVENANTS AND RESTRICTIONS FOR
POLO POINT SUBDIVISION (ZERO LOT LINE
DEVELOPMENT)

AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS (the "Declaration") is hereby made and established as of the 30 day of March, 2006, by Polo Point Development, LLC, a Wisconsin limited liability company as successor in interest to Polo Point, LLC (hereinafter the "Developer"). The Declarations, Covenants and Restrictions contained herein shall replace and supersede those previously recorded on February 1, 2001 and recorded in the Office of the Register of Deeds of Brown County, Wisconsin as Document Number 1792620, the First Amended Declaration of Covenants and Restrictions for Polo Point Subdivision recorded in the Office of the Register of Deeds of Brown County, Wisconsin on July 17, 2002 as Document No. 1913471 and the Second Amended Declaration of Covenants and Restrictions for Polo Point Subdivision recorded in the Office of the Register of Deeds of Brown County, Wisconsin on June 5, 2003 as Document No. 2021074.

THIS SPACE RESERVED FOR RECORDING DATA 16

NAME AND RETURN ADDRESS
Davis & Kuelthau, s.c.
318 S. Washington Street, Suite 300
Green Bay, WI 54301

RECITALS:

WHEREAS, Developer owns at least fifty-one percent (51%) of the Lots located in the Polo Point Subdivision, which is situated on the real estate described on the attached Exhibit "A" to the original Declaration of Covenants and Restrictions for Polo Point Subdivision; and

WHEREAS, Developer intends to contribute certain portions of the real estate described on Exhibit "A" to the original Declaration of Covenants and Restrictions for Polo Point Subdivision to a condominium known as Polo Point Condominium; and

WHEREAS, the eastern part of the Development contains the Zero Lot Line Development, made up of existing zero lot line lots with improvements thereon, which is the subject of these covenants and restrictions and is described on the attached hereto Exhibit "A."

WHEREAS, the Developer plans to develop the western portion of the Development under the name of Polo Point Estates, and which will be subject to a separate set of Restated Covenants and Restrictions, which will be filed contemporaneously with these Restated Covenants and Restrictions.

WHEREAS, Developer desires to limit the application of the covenants and restrictions to the real property that remains outside of the Polo Point Condominium, with these particular Restated Covenants and Restrictions applying to the Zero Lot Line Development real estate described on the attached Exhibit "A."

DECLARATION

NOW, THEREFORE, DEVELOPER hereby declares that the real estate described on the attached Exhibit "A" (except for dedicated streets and utilities), shall be used, held, leased, transferred, sold and conveyed subject to the conditions, restrictions, covenants, reservations and easements hereinafter set forth, which shall inure to the benefit of and shall pass with each Lot as covenants running with the land and shall apply to and bind all successors in interest, users and owners. All real estate described in the Declaration of Covenants and Restrictions, as previously amended, that is not described in Exhibit "A" attached hereto is no longer subject to the Declaration of Covenants and Restrictions, as previously amended.

DEFINITIONS, PURPOSE AND USE RESTRICTIONS

1.01 DEFINITIONS

- (a) Association. The POLO POINT HOMEOWNERS ASSOCIATION, INC., an association created under this Declaration.
- (b) Clubhouse. The Clubhouse, that is part of the Common Elements of the Condominium, and which is subject to certain use rights by the Homeowners.
- (c) Clubhouse Common Elements. The Clubhouse, the pond area generally located to the west of the Clubhouse, and the area designated as Town Square Park, all designated as Clubhouse Common Elements on the Condominium Plat.
- (d) Clubhouse Percentage Interest. The percentage that the number of Units owned by a Unit Owner bears to all Units within the Condominium, and further provided, that commencing January 1, 2011, the calculation to determine the Percentage Interest for determining the obligations to pay for the use and maintenance of the Clubhouse Common Elements shall include any Homeowner who has provided written notification to the Condominium Association of such Homeowner's desire to use, enjoy and pay maintenance charges for, the Clubhouse Common Elements, and such Homeowner's Lot shall be treated as a Unit in the Condominium for such purposes only.
- (e) Condominium. Polo Point Condominium.
- (f) Condominium Association. Polo Point Condominium Association, Inc., a Wisconsin not for profit corporation.
- (g) Developer. POLO POINT DEVELOPMENT, LLC, as successor in interest to Polo Point, LLC.
- (h) Estates. The Polo Point Estates development located in the western part of the Subdivision and consisting of 35 single family residence Lots and 8 Lots that may be either single family residences or duplexes.
- (i) Family. One or more persons related by bond, marriage or adoption who are living, sleeping, cooking and eating on the premises as a single housekeeping unit and shall exclude any person or groups of persons where three or more are not so related or engaged as household employees.
- (j) Home. A residential building designed and used as a dwelling for one family (which shall not include any attached garage).

(k) Homeowners. The owners of zero lot line Lots and any improvements thereon and located within the Zero Lot Line Development, also known as Lot Owners.

(l) Limited Common Areas. Includes property accessible by members of the Homeowner's Association, whether title is retained by the Developer or conveyed to the Association, for general use by all residents of the subdivision.

(m) Lot. A platted lot within the legal description set forth on the attached Exhibit "A," but not including any lots which have been designed for limited common areas.

(n) Lot Owner, Lot Owners or Co-Owners. The holder(s) of a legal or equitable ownership interest in fee simple record title to a lot, regardless of the type of tenancy or estate and shall include land contract vendees and vendors, but shall not include the holder of any leasehold interest or any mortgage or consensual lien prior to acquisition of legal or equitable title.

(o) Maintenance Agreement. The agreement among the Developer, the Condominium Association and the Homeowners Association, by which the Developer shall perform or arrange to have performed maintenance work as requested by the Homeowners Association through December 31, 2010.

(p) Polo Point Development. All of the land within the Condominium, the Zero Lot Line Development and the Estates.

(q) Polo Point Subdivision. The Polo Point Development.

(r) Property. A Lot and all improvements thereon.

(s) Section. All those provisions within a numbered heading of this Declaration.

(t) Structure. An "improvement," synonymous with structure and including any and all of the following, regardless of whether temporary or permanent in character or intended use: building, outbuilding, shed, booth, garage, carport or aboveground storage facility; tent; exterior lighting or electric fixture, antennae, tower, pole or bug control device; antenna, tower, dish or other device, free-standing or attached, for transmission or reception of electronic signals; fence, retaining or other wall, fountain or aboveground or in-ground swimming or wading pool; plantings; driveway, sidewalk or walkway; pet kennels or run line; screened or other type of porch, patio or gazebo, tree house or other exterior play equipment; berms and swales; and any other type of equipment or facility for any decorative, recreational or functional purpose of any kind (including, without limitation, additions or alterations to or deletions from any of the foregoing) not located entirely within the exterior perimeter walls of the single family building constructed on the lot. Use of the phrase "structure or improvement" or any other use of such words shall not imply different meanings for such terms.

(u) Subdivision. The Polo Point Subdivision.

(v) Successor-Developer. Any person, corporation, partnership or other entity to which Developer expressly assigns or otherwise transfers its rights and obligations hereunder, or any successor to the Developer by operation of law.

(w) Town. The Town of Hobart, a municipal subdivision of Brown County, Wisconsin.

(x) Zero Lot Line Development. That portion of the Polo Point Development that is outside of the Condominium and the Estates, as more fully described on the attached Exhibit "A."

(y) Zero Lot Line Owner. A Homeowner.

1.02 GENERAL PURPOSE

The general purpose of this Declaration is to help assure that the Zero Lot Line Development will remain an attractive residential area and in furtherance of such purpose: to preserve and maintain high aesthetic standards for all improvements, as well as the natural beauty of open spaces; to protect owners of Lots against use of surrounding Lots which may detract from the residential value or enjoyment of their Property; to guard against the erection or maintenance of garish or poorly designed or proportioned Structures; to obtain a harmonious and aesthetically pleasing blend of materials, Structures and color schemes; to insure a residential development of the Polo Point Subdivision consistent with high aesthetic standards; and to otherwise secure mutual enjoyment of benefits for owners and occupants of residential property within the Polo Point Subdivision.

1.03 SINGLE FAMILY USE: GENERAL RESTRICTIONS

(a) Except for Structures which are part of the limited common areas, each Lot shall be used solely for residential purposes by one Family. The term "residential purposes" shall include only those activities necessary for or normally associated with the use and enjoyment of a homesite as a place of residence and limited recreation.

(b) Only one Home may be constructed on each Lot and no garage, tent, or other improvement (except for the Home) shall be used for temporary or permanent living or sleeping for family or guests.

(c) No Lot shall be used in whole or in part for conducting any unlawful activity or for any unlawful purpose. No noxious odors or loud noises shall be permitted to escape from any Home or Lot nor shall any activity be permitted or engaged in which constitutes a public or private nuisance.

1.04 RESTRICTIONS ON USE OF RECREATIONAL VEHICLES

Recreational vehicles (which shall include snowmobiles, boats and other watercraft, trail bikes, travel trailers and vans, motor homes and dune buggies and other off-street motorized vehicles of any kind) shall not be parked, kept or stored on any Lot outside an enclosed garage, except for temporary storage of loading and unloading purposes for a period of not more than 48 hours. Such recreational vehicles shall also not be used or operated on any Lot or otherwise within the Subdivision, except on dedicated streets in accordance with applicable traffic laws.

1.05 ANIMALS AND PETS

No livestock, poultry, reptile or other animal of any kind shall be raised, bred or kept on any Lot except that dogs, cats and other normal household pets (as may be approved by the Developer from time to time) may be kept so long as not kept, bred or maintained for any commercial purpose or in an unreasonable number (no more than two (2) dogs and three (3) cats are permitted per Lot) or manner, or which may be contrary to applicable law. The right of any Lot Owner to keep such a pet on any Lot is subject to the condition that the pet is not allowed to unreasonably annoy any other Lot Owner and is not allowed to run at large. No exterior pet kennels or related structures shall be permitted at any time. Dogs shall be restrained from unnecessary or excessive barking.

1.06 GARBAGE AND REFUSE

No Lot shall be used or maintained for dumping or storage of trash, garbage or debris of any kind, except for temporary storage in sanitary covered containers suitably screened from view from streets and adjoining Lot. There shall be no burning or burial of any garbage, trash, or debris at any time.

1.07 USE OF CONDOMINIUM CLUBHOUSE COMMON ELEMENTS.

Polo Point Condominium includes the Clubhouse Common Elements. Provided common area charges are paid according to the Maintenance Agreement, each Homeowner shall have the right to use and enjoy the Clubhouse Common Elements through December 31, 2010. As of January 1, 2011, each Homeowner shall be required to have made an election to continue to use, enjoy and pay for maintenance of the Clubhouse Common Elements or not to do so. Any Homeowner who elects to use, enjoy and pay for the maintenance of the Clubhouse Common Elements shall be assessed a fee by the Condominium Association as if such Homeowner were a unit owner within the Condominium, but only to the extent of the fees payable by Condominium Unit Owners that are attributable solely to the maintenance of the Clubhouse Common Elements, which expenses shall be separately accounted for by the Condominium Association. Homeowners who elect to have access to the Clubhouse Common Elements after January 1, 2011 shall have the right to vote their percentage interest as if they were Unit Owners in the Condominium as to matters pertaining to the use and maintenance of the Clubhouse Common Elements. Upon the request of a Homeowner made after June 1, 2010, the Condominium Association shall provide such Homeowner with documentation sufficient to inform the Homeowner of the expenses for Clubhouse Common Elements for the years 2008 and 2009 and the condominium budget for the year 2010. The election as to the use, enjoyment and maintenance of the Clubhouse Common Elements shall be irrevocable as long as the Homeowner owns their Lot. Subsequent Lot Owners shall have a period of sixty (60) days from the date of closing the purchase of their Lot to make an election as to the Clubhouse Common Elements, and that election shall be irrevocable as long as that Lot Owner owns their Lot.

In addition, any lot owner in the Estates who pays the fees established by the Developer shall have right to use and enjoy the Clubhouse Common Elements. All Estate Lot Owners shall be obligated to pay a monthly maintenance fee for the maintenance of the Clubhouse Common Elements, which fee shall not be less than the fee allocated by the Condominium Association to Unit Owners for the maintenance of the Clubhouse Common Elements only. All owners of lots in the Estates which have been developed as duplexes shall pay two times the monthly fee a Homeowner would pay and shall have two votes on all matters pertaining solely to the Clubhouse Common Elements.

CONSTRUCTION OF IMPROVEMENTS

2.01 ARCHITECTURAL CONTROL

(a) The Association, consistent with these covenants and restrictions, shall have the sole and exclusive right to grant approvals, enforce and determine compliance with the standards and restrictions established herein, to amend the architectural standards, and to grant variances therefrom, as set forth in this Declaration.

(b) No Home, garage or other Structure or improvement of any kind shall be installed, erected, constructed or placed on any Lot (or altered or changed with respect to layout, location or exterior design, appearance, elevation, color or material composition) without prior written approval by the Association with respect thereto. The Association may deny or withhold approval of any proposed improvement in the Association's sole

judgment. ANY LOT OWNER WHO CAUSES OR ALLOWS ANY IMPROVEMENTS TO BE CONSTRUCTED, INSTALLED, PLACED OR ALTERED ON THE LOT WITHOUT PRIOR WRITTEN APPROVAL OF THE DEVELOPER SHALL BE REQUIRED TO REMOVE SUCH IMPROVEMENT (OR RESTORE SUCH ALTERATION) IN ITS ENTIRETY AT THE LOT OWNER'S EXPENSE. Without intending to limit the generality of the foregoing, it is intended that the exterior color or appearance of any portion of a Home, garage or other improvement may not be changed in any significant respect without the prior written approval of the Association.

(c) Except to the extent necessary for the construction of exposed basements or split level homes, no portion of any Home located above grade level shall be covered with ground, soil or similar materials.

2.02 ZERO LOT LINE DECLARATIONS

Lots within the Zero Lot Line Development provide for the construction of a "patio style" building straddling the Lot line. The following shall set forth the rights and duties with respect to any portion of a building that shares a common wall with another Lot Owner's Home:

(a) The foundation and attached wall and wall elements above it are located partially on the property of the Owner of each Lot, the boundary line between the parcels being the common boundary line of said foundation, wall and wall elements and any such foundation wall and/or wall elements which is located over and one-half on each side of the common boundary line is and shall remain a party foundation, party wall and/or party wall element of the Owner of each Lot, their respective heirs, successors and assigns, all in accordance with the provisions set forth in this paragraph 2.04. The description as "party" is not intended to cover separate adjacent wall structures or elements located entirely on a particular Lot and not crossing over the common boundary line between the two Lots.

(b) Certain of the roof elements are located directly above the common boundary line between two Lots. Any roof element for a distance of 24 inches on either side of said common boundary line is and shall remain a party roof element with respect to the Owners of said Lots, their respective heirs, successors and assigns.

(c) Certain portions of the driveways of the adjoining Lots are located directly above the common boundary lines between the two Lots. Any driveway element for a distance of 24 inches on either side of said common boundary line is and shall remain a party driveway element with respect to the Owners of said Lots, their respective heirs, successors and assigns.

(d) Each Owner and/or new Owner shall have the right to continue the present use being made of such party foundation, party wall, party wall elements, party roof elements and party driveway elements and shall contribute one-half to the upkeep and maintenance of each of said items in their present condition except for injury or damage by reason of negligence or fault of either of the Lot Owners, which shall be the sole obligation of the Owner who is negligent or at fault. Each Owner and/or new Owner shall perform his or her own painting or maintenance, if any, on the outside surface of any party element facing that Owner's respective parcel.

(e) If and when maintenance or repairs to any party foundation, party wall, party wall element, party roof element or party driveway element is required, either Owner may notify the other of such fact and the repair or maintenance shall be accomplished by the joint efforts and expenditures of said parties. Should either party fail, after the other requests a required repair or maintenance, to join in such repair or maintenance within a reasonable time (measured with attention to the nature of repair or maintenance and the potential additional damage to one or both Homes if not completed) then the notifying Owner may proceed to effect the required repair or maintenance and charge the other Owner one-half of the cost of the same. Should the Owner who does not join in the

maintenance or repair fail to make payment for the same, the matter can be addressed to the Association for inclusion in assessments per the terms of this Agreement.

(f) Each Owner sharing common elements with another Owner grants to the common Owner limited easement of access to all common elements for the purposes of repairs and maintenance.

(g) No rooftop, tower-mounted or other external antenna or satellite dish for television or radio reception or transmission, or for other electric transmission or reception or solar heating panels shall be erected or used.

2.03 LANDSCAPING, GRADING AND DRAINAGE

(a) Landscaping plans, including mature shrubbery, must be submitted for approval to the Association.

(b) All landscaping shall be performed in accordance with the plan approved by the Association and shall be completed within twelve (12) months following the issuance of the occupancy permit for the Home.

(c) No fence, wall, hedge, or screen planting shall be installed unless in accordance with landscaping or other plans approved in advance by the Association. In general, fencing will not be allowed, other than for protection of swimming pools. No swimming pools shall be installed above the surface grade.

(d) Front yards, including side yards on common lot lines, shall be maintained as clipped lawns and only back and side yards of wooded lots may be left natural, subject to approval by the Association.

2.04 CONSTRUCTION MATERIALS – STORAGE

No building or construction material shall be stored on any Lot outside of the Home or garage, other than during periods of actual construction or remodeling and then only for so long as may be necessary. Excess excavated material shall not be stored on any Lot during or after construction without the prior approval of the Association, unless required for back filling, finish grading or landscaping. Firewood must be stored in the garage and not on any portion of the Lot.

2.05 SIGNS

No sign or banner of any kind shall be placed or displayed to public view on any Lot, except: (i) one standard sign (showing the Lot Owner's name) as may be approved by the Association for uniform use in terms of size, design, appearance and location for each Lot in the Zero Lot Line Development..

2.06 OUTBUILDINGS

No outbuildings or storage buildings/sheds are allowed. Ornamental buildings such as gazebos shall be allowed at the sole discretion of the Association with prior written approval.

2.07 ORNAMENTAL LIGHTING

(a) The Developer shall have the right at any time, at its expense, to install ornamental lighting fixtures and related facilities within the public street right of ways within the Zero Lot Line Development. The Developer shall retain ownership of such lighting facilities and be responsible for the cost of the maintenance and illumination thereof.

(b) The Developer shall have the right at any time to transfer ownership and maintenance of the ornamental lighting facilities to (i) any municipality, (ii) any public or private utility, or (iii) without charge, to the Association any time after formation thereof. If the ornamental lighting facilities are transferred to the Association, the Association shall accept such ownership and be responsible for all costs associated with the repairs, maintenance, replacement and illumination of such lighting facilities.

THE ASSOCIATION

3.01 CREATION

(a) The Developer has formed the Association, a non-profit entity known as Polo Point Homeowners' Association for the purpose of assuming all of the rights, power, privileges and obligations set forth under the Bylaws of the Association, copies of which, along with copies of any amendment thereto, shall be maintained by the secretary of the Association and shall be available for inspection by all Lot Owners and potential Lot Owners.

(b) The affairs of the Association shall be governed by the Board of Directors of the Association. The Developer may elect to cause the Association to be an unincorporated association or a non-stock not for profit corporation formed under Chapter 181 of the Wisconsin Statutes.

3.02 MEMBERSHIP

(a) Each Lot Owner shall automatically be a member of the Association and shall be entitled to one membership and one vote for each Lot owned, with ownership of a Lot being the sole qualification for membership. The membership in the Association appurtenant to a Lot shall be owned jointly and severally by all co-Owners of the Lot, regardless of the form of tenancy, estate or interesting the Lot.

(b) Association membership and voting rights shall be appurtenant to each Lot and shall not be assigned, conveyed or transferred in any way except upon transfer of an ownership interest in the Lot and then only to the transferee, nor shall membership or voting rights be retained except upon retention of an ownership interest in the Lot. Any attempt to make a prohibited transfer or retention of such rights shall be null and void.

(c) Notwithstanding any provision in this Declaration to the contrary, the Developer shall be entitled to one membership and one vote for each Lot owned by the Developer.

3.03 BYLAWS

The Association shall have the powers and shall be operated strictly in accordance with the bylaws that shall be adopted by the Lot Owners (which included the Developer), all of which are hereinafter referred to as the "Bylaws."

3.04 LACK OF POWER TO BIND THE ASSOCIATION

No Lot Owner (other than members of the Board acting in their official capacity and in accordance with the Bylaws of the Association) shall have any authority to act for the Association or the other Lot Owners, as agent or otherwise, nor to bind the Association or the other Lot Owners to contracts, negotiate instruments or other obligations or undertakings of any kind.

3.05 MAINTENANCE AGREEMENT.

The Association shall enter into the Maintenance Agreement with the Condominium Association and the Developer, which shall remain in full force and effect until December 31, 2010. The Association shall have the responsibility to perform its obligations under the Maintenance Agreement and to enforce the terms of the Maintenance Agreement against all Homeowners.

3.06 POWERS AND RESPONSIBILITIES OF THE ASSOCIATION

The Association shall have the powers set forth in the Bylaws. Nothing herein shall serve to limit those powers. Without limitation, the Association shall have the following powers in addition to any others which may be necessary or incidental to performance of any duties or powers of the Association specified in this Declaration:

- a. to levy and enforce payment of General and Special Assessments on the Lots and against Lot Owners;
- b. to enforce this Declaration;
- c. to purchase, sell and convey Lots (including the improvements thereon) incident to foreclosure of a lien for any assessment;
- d. to enter and execute contracts, deeds, mortgages, and documents on behalf of the Association which relate to management of the limited common elements or improvements for the same;
- e. to incur indebtedness on behalf of the Association (but only for the purposes of and as may be reasonably necessary for, carrying out its duties and obligations hereunder) and to execute drafts and other negotiable instruments;
- f. to the extent not addressed in or being performed according to the Maintenance Agreement, to employ the services of any person, firm or corporation to maintain the limited common areas or to construct, install, repair, replace or rebuild any improvements thereof;
- g. to acquire, sell, transfer or exchange goods, equipment and other personal property or fixtures in the name of the Association for the operation of the Association;
- h. to commence, prosecute, defend or be a part to any suit, hearing or proceeding (whether administrative, legislative or judicial) involving the enforcement of this Declaration or otherwise involving the exercise of any powers, duties or obligations of the Association; and
- i. to adopt Rules and Regulations for the management, operation, use and enjoyment of the limited common areas, including fines or penalties which may be enforceable by Special Assessment against any Lot Owner or his/her family or guests violating such Rules and Regulations.

3.07 COMMON EXPENSES AND ASSESSMENTS AGAINST LOTS AND LOT OWNERS

(a) As provided in the Bylaws, the Board shall pay or arrange for payment for all costs, expenses and liabilities incurred by the Association out of the proceeds of assessments which shall be made against the Lot Owners and their Lots.

(b) "Special Assessments" may be made and levied by the Board against a particular Lot Owner and his/her or their Lot (without levy against other Lots) for:

1. costs and expenses (anticipated or incurred) for repair of damage to the limited common areas caused by or at the direction of the Lot Owner, the family or guests of the Lot Owner, or any other party for whom a Lot Owner is responsible;
2. costs, expenses and actual attorneys' fees incurred in, or in anticipation of, any suit, action or other proceeding to enforce this Declaration against the Lot Owner;
3. interest due on General and Special Assessments; and
4. all other costs and expenses anticipated or incurred by the Association which are subject to Special Assessments as provided under this Declaration.

(c) "General Assessments" may be made and levied by the Board equally against each Lot Owner and his/her or their Lot for the following "common expenses" which may be anticipated, incurred or paid by the Association for:

1. maintenance, repairs, upkeep or operation of the limited common areas and any improvements or equipment related thereto as may be acquired by the Association;
2. fees payable by the Association under the Maintenance Agreement;
3. any insurance maintained by the Association;
4. taxes, assessments and charges of any kind made or levied by any governmental authority against the Association or any other property of the Association;
5. all costs and expenses for the operation and administration of the Association, including legal, accounting and management fees and other costs incident to the exercise of any of its powers or obligations;
6. costs and expenses for additional improvements to the limited common areas beyond those installed by Developer;
7. all items subject to Special Assessment which have not been collected from a Lot Owner at the time payment of such item is due, provided that upon collection of the Special Assessment from that Lot Owner, all other Lot Owners shall receive an appropriate adjustment, reimbursement or credit on future General Assessments, as the Board may determine, for payments made under this paragraph;
8. all damages, costs, expenses and attorney fees incurred in, or in anticipation of, any suit or proceeding (whether administrative, legislative or judicial) which are not otherwise collected by Special Assessment;
9. all costs and expenses associated with the ownership of ornamental street lighting as described in Section 2.09 hereof;

10. costs and expenses of services, if any, made available to all Lots and/or for the limited common areas; and

11. all other costs and expenses declared to be common expenses under this Declaration. The General Assessments for any of the foregoing expenses shall be levied equally against each Lot.

3.08 PAYMENT OF ASSESSMENTS

(a) Each Lot Owner shall promptly pay, when due, all General and Special Assessments levied by the Board against such Owner and his or their Lot, together with all costs, expenses and reasonable attorney fees incurred by the Association in collection of any delinquent assessment(s). All assessments shall become due at such times and in such manner as the Board may determine in its sole and absolute discretion (in a lump sum or in installments with or without interest). Time is of the essence with respect to all payments.

(b) All co-Owners of a Lot shall be jointly and severally liable for all General and Special Assessments levied against the Lot, regardless of the type of tenancy, estate or interest in the Lot (whether as joint tenants, tenants-in-common, land contract purchaser(s) or seller(s), or otherwise).

3.09 DELINQUENT ASSESSMENTS: INTEREST, LIEN AND COLLECTION

(a) All General and Special Assessments which are not paid when due shall bear interest at the lesser of twelve percent (12%) per annum, or the maximum rate as may then be permitted by law, from the date due until the assessment is paid in full; shall constitute a lien on the Lot; and shall be collectible and enforceable by the Board (in its own name or the name of the Association) by suit against the Lot Owner, by foreclosure of the lien, and/or in any other manner or method provided under this Declaration or laws of the State of Wisconsin. The lien granted hereunder shall also cover and include all interest accruing on delinquent assessments, plus costs, expenses and attorney's fees for collection.

(b) The Association (through the Board) shall have the exclusive right and power to collect or enforce collection of all General and Special Assessments levied by the Board and shall further have the exclusive right to bring any and all actions and proceedings for the collection and enforcement of liens arising from assessments. The Board shall have the right to record a document with the Register of Deeds for Brown County giving notice of a lien for any unpaid assessment. Failure to file any such notice shall not impair the validity of the lien. The Association may bring an action at law against any Lot Owner personally to collect such assessments and/or to foreclose the lien for such assessments against the Lot (in the same manner and method as an action to foreclose a real estate mortgage). The Board shall have the right at any time to notify all Lot Owners within the Subdivision of the delinquency of any Lot Owner.

3.10 RULES AND REGULATIONS

(a) The Board may from time to time adopt or change rules or regulations (hereafter "Rules or Regulations") governing the operation, maintenance and use of the limited common areas by the Lot Owners and their respective families and guests. Such Rules or Regulations shall be designed to facilitate the use and function of the limited common areas for their intended purposes. All Lot Owners, lessees, licensees, invitees, or other occupants, and guests of any Lot in the Subdivision shall abide by all such Rules and Regulations.

(b) A violation of any Rule or Regulation shall be a violation of this Declaration and may be enforced by the Board in the same manner as any other term or provision of the Declaration or as otherwise may be

designated in the Rule or Regulation, including without limitation the imposition of forfeitures, penalties, or other charges against the Lot Owner, which shall be collectible by Special Assessment against the Lot and Lot Owner.

3.11 CONFLICT WITH BYLAWS. If the provisions of the Bylaws conflicts with any of these Covenants and Restrictions, these Covenants and Restrictions will govern.

MISCELLANEOUS

4.01 AMENDMENTS TO DECLARATION

This Declaration may be amended by recording in the Office of the Register of Deeds for Brown County, Wisconsin, a document to that effect executed by the Owners of at least sixty-seven percent (67%) of all Lots in the real estate described in the original Declaration of Covenants and Restrictions for Polo Point Subdivision, and their mortgagees, with all signatures duly notarized. Such amendment shall become effective only upon recording.

4.02 RESERVATION BY DEVELOPER OF RIGHT TO GRANT EASEMENTS

Developer hereby reserves the right to grant, convey or establish easements to the Town and/or to any public or private utility company upon, over, through or across those portions of any Lot in the Zero Lot Line Development within a reasonable distance from any Lot line for purposes of allowing the provision of gas, electric, water, sewer, cable television or other service to any Lot(s) or through any portions of the Zero Lot Line Development or for purposes of facilitating drainage of storm or surface water within or through the Polo Point Subdivision. Such easements may be granted by Developer, in its own name and without the consent or approval of any Lot Owner, until such time as Developer has conveyed legal title to all Lots platted or to be platted in the Zero Lot Line Development to persons other than a Successor/Developer.

4.03 SEVERABILITY

The invalidity or unenforceability of any term, condition, or provision of this Declaration shall in no way affect the validity or enforceability of any other term, condition or provision of this Declaration, all of which shall remain in full force and effect.

4.04 COVENANTS RUN WITH THE LAND

All terms, conditions and provisions of this Declaration (and as may be amended) shall constitute covenants running with the land.

4.05 TERM OF DECLARATION

This Declaration (and any amendments) shall be binding for a period of twenty (20) years (from the date the Declaration is recorded) upon all Lot Owners and other persons claiming under or through the Developer. Upon the expiration date of such initial twenty (20) year period, this Declaration shall be automatically renewed for a successive period of ten (10) years and thereafter for successive periods of ten (10) years upon the expiration date of the prior renewal period, unless there is recorded an instrument, (executed by the Owners of at least 75% of all Lots in the Zero Lot Line Development and their mortgagees) terminating this Declaration, in which event this Declaration shall terminate upon the recording of such instrument of termination or expiration of the initial twenty (20) year term, whichever occurs later.

4.06 ENFORCEMENT

(a) The Association and the Town of Hobart shall have the right to enforce, by proceedings at law or in equity, all the terms, conditions, and provisions of this Declaration and any Rules or Regulations adopted by the Association. Notwithstanding the foregoing, any Lot Owner may proceed, at such Owner's expense and subject to the limitations contained herein, to enforce any such terms, conditions or provisions (other than for collection of assessments against Owners of other Lots) if the Association fails to take such appropriate action within sixty (60) days following a written request by such Lot Owner to do so. Any Lot Owner violating any of the terms, conditions or provisions of this Declaration or any Rules or Regulations shall pay all costs, expenses and actual attorneys' fees incurred by the Association or by a prosecuting Owner in the successful enforcement thereof. The Association shall not be subject to any suit or claim by any Lot Owner for failure of the Association to take any action requested by such Lot Owner against any other Lot Owner.

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

(c) Under no circumstances shall any violation of this Declaration or of any Rule or Regulation result in any reverter or reversion of title to any Lot.

4.06 WAIVER OF IMMUNITY

In furtherance and not in limitation of any of the terms of this Declaration, the Developer intends that this Declaration shall be and remain at all times until expiration hereof, fully enforceable against all Lots and any person, entity, trust, organization, governmental unit or sovereign nation which may become a Lot Owner. Accordingly, such person, entity, trust, organization, governmental unit or sovereign nation which becomes a Lot Owner, whether by virtue of conveyance, operation of the law otherwise, shall be conclusively deemed to have waived any and all defenses to and immunity from enforcement of this Declaration based upon the legal or ethnic status of such Lot Owner, including without limitation sovereign immunity, this Declaration serving as full and adequate public notice of said waiver. Said waiver shall apply to the terms, conditions and encumbrances established in this Declaration, together with any future liens, claims, easements or encumbrances expressly permitted hereunder.

4.07 INTERPRETATION

These Declarations shall be construed and interpreted in favor of restricting the use of each Lot consistent with the purposes hereof and any ambiguity shall be resolved against any Lot Owner who installs any structure or engages in any activity not clearly authorized under these Declarations. This Declaration shall be interpreted and construed in accordance with the laws of the State of Wisconsin.

[Separate signature page follows.]

STATE OF WISCONSIN :
 : SS.
COUNTY OF BROWN :

Personally came before me this 10th day of April, 2006, the above-named Thomas J. Juza, as president of Polo Point Management, Inc., a Wisconsin corporation and the managing member of Polo Point Development, LLC, to me known to be the president of that corporation and a member of Polo Point, LLC, a Wisconsin limited liability company, and the person who executed the foregoing instrument and acknowledge the same as the act of that corporation and that limited liability company by their authority.



[Signature]
*

Notary Public, State of Wisconsin
My Commission: 4-13-08

**THIS INSTRUMENT DRAFTED BY
AND AFTER RECORDING RETURNED TO:**
Attorney Thomas V. Rohan
Davis & Kuelthau, s.c.
318 South Washington Street, Suite 300
Green Bay, WI 54301

LEGAL DESCRIPTION

All of Lots 25, 26, 81, 82, 100, 101, 114, 115, 125 and 126, Polo Point;
All of Lots 1, 2 and 3, Volume 44 of Certified Survey Maps, Page 322, Map Number 6680;
All of Lots 2, 3 and 4, Volume 46 of Certified Survey Maps, Page 32, Map Number 6829;
All of Lots 1, 2 and 3, Volume 46 of Certified Survey Maps, Page 34, Map Number 6830;
All of Lots 1, 2 and 3, Volume 46 of Certified Survey Maps, Page 111, Map Number 6856;
All of Lots 1 and 2, Volume 46 of Certified Survey Maps, Page 113, Map Number 6857;
All of Lots 1, 2, 3 and 4, Volume 47 of Certified Survey Maps, Page 199, Map Number 7011;
All of Lots 1, 2 and 3, Volume 47 of Certified Survey Maps, Page 213, Map Number 7016;
All of Lots 2, 3 and 4, Volume 47 of Certified Survey Maps, Page 215, Map Number 7017;
All of Lots 1, 2 and 3, Volume 47 of Certified Survey Maps, Page 319, Map Number 7054;
All of Lots 1 and 2, Volume 47 of Certified Survey Maps, Page 361, Map Number 7069;
All of Lots 1 and 2, Volume 48 of Certified Survey Maps, Page 96, Map Number 7107;
All of Lots 1, 2 and 3, Volume 49 of Certified Survey Maps, Page 110, Map Number 7238;

All Lots being a part of Polo Point, located in part of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ and part of Lot 15, Section 24, T24N, R19E, Village of Hobart, Brown County, Wisconsin.

