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REGISTER OF DEEDS  
BROWN COUNTY

MAY 18 1995

DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
THORNBERRY CREEK ESTATES

AT 2:01 O'CLOCK P.M.  
CATHY WILLIQUETTE  
REGISTER OF DEEDS  
BROWN COUNTY, WIS.

5400

THIS DECLARATION OF COVENANTS AND RESTRICTIONS (the "Declaration") is hereby made and established as of the 17th day of May, 1995, by Trout Creek, L.L.C., a Wisconsin limited liability company (hereinafter the "Developer").

RECITALS

WHEREAS, Developer owns all those lands located in the Town of Hobart, Brown County, Wisconsin, as legally described on Exhibit A attached hereto (the "Land");

WHEREAS, Developer intends to develop the Land as a residential subdivision containing approximately one hundred (100) lots known as "THORNBERRY CREEK ESTATES" (the "Subdivision"); and

WHEREAS, Developer desires to subject all of the Land (except dedicated streets and utilities), to the conditions, restrictions, covenants, reservations and easements hereinafter set forth, for the benefit of the Subdivision as a whole and for the benefit of each Lot Owner.

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.

DEFINITIONS, PURPOSE AND USE RESTRICTIONS

1.01 DEFINITIONS

(a) "Association" shall mean the THORNBERRY CREEK HOMEOWNERS ASSOCIATION, an unincorporated association which may be created under this Declaration.

(b) "Developer" shall mean TROUT CREEK, L.L.C., as well as any Successor-Developer.

(c) "Family" shall mean 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.

(d) "Golf Course" shall mean the 18-hole golf course being constructed by Developer on land near or adjacent to the Subdivision, together with all buildings and other improvements which are or may hereafter be constructed or located thereon.

(e) "Home" shall mean a residential building designed and used as a dwelling for one family (which shall not include any attached garage).

(f) "Lot" shall mean a platted lot within the Subdivision identifiable by reference to a name and lot number, and which has been expressly made subject to this Declaration. The term "Lot" does not include any portion of the Golf Course.

(g) "Lot Owner," "Lot Owners" or "Co-Owners" shall mean 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.

(h) "Property" shall include a Lot and all improvements thereon.

(i) "Section" shall mean all those provisions within a numbered heading of this Declaration.

(j) "Structure" and "improvement" shall be synonymous and shall both mean and include 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 the transmission or reception of electronic signals; fence, retaining or other wall, fountain or aboveground or inground 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 altera-

tions 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.

(k) "Subdivision" shall mean the lands described on the attached Exhibit "A," and such other portions of the Land as become subject to this Declaration pursuant to an amendment hereto, excluding lands now or hereafter dedicated to the Town.

(l) "Successor-Developer" shall mean any person, corporation, partnership or other entity to which Developer expressly assigns or otherwise transfers his rights and obligations hereunder, or any successor to the Developer by operation of law.

(m) "Town" shall mean the Town of Hobart, a municipal subdivision of Brown County, Wisconsin.

(n) "Water System" shall mean all improvements and facilities presently or hereafter erected or installed by Developer or its assigns, within or adjacent to the Subdivision for purpose of supplying fresh water to the Lots, including without limitation, all buildings, structures, towers, equipment, mains, laterals, hydrants and other facilities or improvements necessary or useful for the recovery, storage and distribution of fresh water to Lots in the Subdivision for consumption and fire protection services.

1.02 GENERAL PURPOSE

The general purpose of this Declaration is to help assure that the Subdivision will become and 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 help assure the best use and most appropriate development and improvement of each Lot; 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 Subdivision consistent with high aesthetic standards and the purposes for which each such Lot is platted; to encourage and secure the erection of attractive residential structures with appropriate locations on the Lots; to prevent installation of

improvements which may adversely affect the aesthetic appearance of a Lot or surrounding area; to ensure a proper and consistent set-back of structures and buildings for aesthetic appearance and to avoid blockage of views for other properties; to secure and maintain a proper spatial relationship of buildings, structures and other improvements; and to otherwise secure mutual enjoyment of benefits for owners and occupants of residential property within the Subdivision.

1.03 SINGLE FAMILY USE: GENERAL RESTRICTIONS:

(a) Except for structures which are a part of the Water System, each Lot shall be used solely for residential purposes by one Family, except that business activities may be conducted in or from any Home if confined solely to the transaction of business by telephone. 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. Notwithstanding the foregoing, (i) the Developer or any builders approved by the Developer shall have the right to construct model homes which may be used as temporary sales offices, and (ii) the Developer shall have the right to construct and operate improvements upon any Lot (owned by Developer) which are a part of the Water System.

(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 without the prior approval of the Developer.

(c) Each Lot and all front, side and rear yards shall be maintained by the Lot Owner so as to be neat in appearance when viewed from any street or other Lot and, if not properly maintained, the Developer may perform yard maintenance and charge the costs thereof to the Lot Owner and levy an assessment against the Lot with respect thereto.

(d) Specific lots are subject to floodplain, wetland, conservancy or environmental corridor restrictions.

(e) 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 USE OF GOLF COURSE.

(a) The Golf Course is private property owned by the Developer or its affiliates or assigns. No Lot Owner shall have access to or rights to use or enjoy the Golf Course or any part thereof by virtue of Lot ownership. Any and all use of the Golf Course shall be subject to the terms, requirements, fees and other conditions established from time to time by Developer in its sole and absolute discretion. No special privileges with respect to use of the Golf Course shall exist except as set forth in writing signed by the Developer or the owner of the Golf Course.

(b) Each Lot in the Subdivision which is located adjacent to any portion of the Golf Course shall be subject to a perpetual, non-exclusive easement hereby established by the Developer for the benefit of the Golf Course and its users, for purposes of permitting the flight, landing and retrieval (but not hitting) of errant golf balls. The Lot Owner hereby acknowledges that there shall be no recourse to and hereby waives any and all claims, actions, rights, damages or liabilities against the Developer, its members and affiliates, arising out of or related to any property damage or personal or bodily injuries, costs, expenses or other damages incurred or suffered within the Subdivision on account of use of the Golf Course.

1.05 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 without the prior approval of the Developer (which may be withheld in its sole and absolute discretion, including aesthetic appearances), except for temporary storage for 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.

1.06 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,