

## DECLARATION OF RESTRICTIONS

### CREEKWOOD CROSSING AT MENOMONEE FALLS

KNOW ALL PERSONS BY THESE PRESENTS; that Pilgrim Park Limited Partnership is a limited partnership duly organized and existing under and by virtue of the laws of the State of Wisconsin, located at 225 E. Mason Street, Milwaukee, Wisconsin (herein referred to as the "Declarant," which term shall also include any duly authorized agent of the Declarant, including, but not limited to, the Developer, as defined below). The Declarant is the owner of certain real estate located in the Village of Menomonee Falls, Waukesha County, State of Wisconsin, as more particularly described on Exhibit A attached hereto, and hereafter referred to as "Creekwood Crossing". The Declarant desires to develop Creekwood Crossing as a single family residential subdivision, and the Declarant has hired Fiduciary Real Estate Development, Inc. (hereafter the "Developer") as the developer of Creekwood Crossing for the purpose of developing Creekwood Crossing as a single family residential subdivision. As provided herein, the Declarant and the Developer desire and intend to establish a general plan for the use, occupancy and enjoyment of Creekwood Crossing, and therefore do hereby declare for the mutual benefit of present and future owners of lots or other lands in Creekwood Crossing, including, but not limited to, any future stages of development added to Creekwood Crossing as provided in Article C herein, that Creekwood Crossing shall be and hereby is subject to the following restrictions, declarations and covenants:

## ARTICLE A

### BUILDING AND USE RESTRICTIONS

1. All single-family residential lots in Creekwood Crossing (hereafter referred to as a "Lot" or "Lots") are hereby restricted to allow the erection of only one (1) single family residence (hereafter referred to as a "Residence"). Such Residences shall be limited to one story Residences, story and one-half Residences, two story Residences, tri-level Residences or split level Residences. Each Residence shall have an attached garage which shall be of sufficient size to accommodate a minimum of two cars. Creekwood Crossing is zoned R-3 by the Village of Menomonee Falls, and only single family residential dwellings are permitted pursuant to such zoning. No duplexes or multi-family dwellings shall be permitted in Creek-wood Crossing.

2. The following minimum sizes for a Residence in Creekwood Crossing shall be based solely on living area within the Residence. For the purpose of computing the square footage of living area within a Residence, the basement level or garage area of a Residence shall not be included in the square footage. All Residences in Creekwood shall have the following minimum living areas:

A. A single story Residence shall have a minimum of 1800 square feet of living area on the first floor of the Residence.

B. A story and one-half Residence shall have minimum of 2200 square feet of living area, with a minimum of 1500 square feet of living area on the first floor of the Residence.

C. A two story Residence shall have a combined minimum of 2200 square feet of living area on the first and second floors of the Residence.

D. A split level Residence shall have a combined minimum of 2200 square feet of living area on the first and second floors of the Residence.

E. A tri-level Residence shall have a combined minimum of 2200 square feet of living area on the three floors of the Residence.

3. All garages shall be attached to the Residence, directly or by breezeway, or built into the basement of the Residence, and all garages shall be constructed at the same time the Residence is constructed. Although Garage entrances shall be permitted toward the front of a Residence, Owner's are encouraged to construct garage entrances on the side of the Residence. All driveways shall be paved (either with asphalt, cement or brick).

4. During construction of a Residence or any other permitted improvement, all Owners, and all contractors and subcontractors, shall comply with the erosion control plan requirements set forth in the attached Exhibit B.

5. The exterior wall of a Residence and attached garage must be constructed of structural face brick, stucco, stone, wood, or other natural materials. The Declarant may, at its discretion, approve the use of manufactured siding materials such as pressed board, masonite, plywood, vinyl, aluminum or steel where deemed appropriate. Staccato board is acceptable if no seams are exposed and the materials are approved by the Declarant. All roof areas shall have an appropriate pitch of six feet in height for each twelve feet in length (6/12), except for rear dormers on a story and one half residences and other special circumstances if the same are approved in writing by the Declarant, and all roof areas shall be covered with wood shakes, fiberglass shingles, asphalt shingles, or other roofing material; provided, however, the Declarant shall have the right to approve other roofing materials if they are of comparable or superior quality and are better suited to the approved building design of the Residence.

6. Any Residence, attached garage, landscaping and/or paved driveway shall be completed within one (1) year from the start of construction, subject to delays caused by adverse weather and other adverse seasonable conditions.

7. The minimum setback for a Residence from any abutting street right-of-way shall be 40 feet, the minimum side yard setback shall be 15 feet, and the minimum rear yard setback shall be 30 feet.

See Article A, Sections 18C and 18D for additional setback and other restrictions. Driveways shall be permitted within the minimum 15 foot side yard setback.

8. In order to maintain the integrity and aesthetics of CreekWood Crossing, all building plans for any Residence or other permitted improvement, including, but not limited to, the exterior design and color of each building to be constructed, and all yard grades and stake out surveys showing erosion control measures shall be submitted to the Declarant and the Declarant shall have approved the same in writing prior to an Owner (or its agents or contractors) submitting an application for a building permit. In addition, landscape plans and basic site features such as fences, decks, inground swimming pools, additions and other temporary or permanent structures or elements contributing significantly to the total environmental and aesthetic effect of CreekWood Crossing are subject to the prior written approval of the Developer. The Declarant's approval of building design, square footage requirements, building location, and any other restriction influencing the integrity and aesthetics of CreekWood Crossing shall be based upon the building and use restrictions contained in this Article A and such guidelines as may be adopted from time-to-time by the Declarant, at Declarant's reasonable discretion. The Declarant shall have the right to withhold exterior design, exterior material, and square footage requirements approval if the design and square footage requirements are too similar in appearance or do not aesthetically conform with the other buildings in close proximity, it being the intent of the Declarant to maintain diversity in appearance and design in CreekWood Crossing.

9. At the time of construction of a Residence, the Owner of that Residence shall install, at the Owner's expense, one (1) outdoor electric lamppost (the design and quality of which shall be specified by the Declarant), with an unswitched photo-electric cell, at a location on the Lot deemed appropriate to the subdivision, in the Declarant's discretion. The lamppost shall be maintained by the Owner, at its cost, in a proper operating manner. If the Owner fails to maintain the lamppost in proper operating order, maintenance of the lamppost may, fifteen (15) days after written notice to the Owner, be performed by

the Declarant and the cost of such maintenance shall be a Special Assessment against the Owner, payable according to the terms and conditions contained in Article B hereof.

10. No soil shall be removed from any lot in the Subdivision without the prior consent of the Declarant or its duly appointed agent. Any excess soil resulting from excavations shall be transported, at the lot buyer's expense, to such other places in the Subdivision or on other property as may be designated by the Declarant. If the Declarant, after notification from the Lot Owner, fails or neglects within forty-eight (48) hours to notify the Lot Owner of the place to which fill is to be delivered, the Owner may dispose of said fill at his own discretion. Failure to comply with this paragraph shall render Lot Owners liable for damages equal to the cost of acquiring the same amount and quality of fill improperly disposed of, plus the cost of delivering the same from its source to the parcel designated.

11. The design (including materials) and location of each mailbox/newspaper box shall be subject to the approval of the Declarant, in Declarant's discretion.

12. There shall be no outside storage of cars, motorcycles, snowmobiles, jet skis, boats, trailers, buses, trucks or campers, or any other vehicles or items deemed to be unsightly by the Declarant. The outside storage or parking of commercial vehicles is expressly prohibited, and any commercial vehicle must be housed in a garage.

13. There shall be no out-buildings, above ground swimming pools, tennis courts or satellite dish antennas (having a diameter in excess of twenty-four (24) inches). No antenna or permitted satellite dish shall be visible from any roadway or neighboring Lot.

14. No Lot shall be used in whole or in part for the storage of rubbish or building materials (other than during the construction of a Residence or other permitted improvement) of any character whatsoever, nor shall any Lot be used for the storage of any property, item or material that shall cause such Lot to appear in an unclean or untidy condition or that will be obnoxious or offensive to the eye in

the opinion of the Declarant. Trash, garbage, refuse, debris or other waste kept on any Lot in preparation for removal from such Lot shall be kept in sanitary covered containers, which are stored out of sight of the street and adjacent property.

15. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be or may become a nuisance to the neighborhood.

16. No exterior detached dog kennel or house detached from the main structure shall be constructed or maintained on any Lot. No Lot Owner shall keep any pet or pets which create a nuisance. The maximum number of household pets shall be in accordance with the Village of Menomonee Falls ordinances covering such pets. All farm animals, poultry, horses, etc., and all animals kept for commercial purposes shall be prohibited under any circumstances.

17. The storm water retention ponds located on Outlot 1 of Block 1 and Outlot 1 of Block 2 (as shown on the Plat of CreekWood Crossing) have been created and were required by the Village of Menomonee Falls to assist in the removal and detention of storm water from CreekWood Crossing. The storm water retention ponds are not intended to be used for swimming or recreational facilities, and any use of the storm water retention ponds for such use is strictly prohibited. Any persons entering into or using the storm water retention ponds either intentionally or accidentally do so at their own risk. By purchase of a Lot in CreekWood Crossing, each Owner and its respective successors, assigns, heirs and personal representatives thereby waives, to the fullest extent permitted by law, any and all claims for liability against the Declarant, the Developer, the CreekWood Crossing of Menomonee Falls Homeowners Association, and their respective agents, contractors, employees, officers, directors and shareholders, for injury or damage to person or property sustained in or about or resulting from the use or existence of the. Storm water retention ponds. In addition, each Owner (and its successors, assigns, heirs and personal representatives) agrees to indemnify, defend and hold harmless the Declarant, the Developer, the CreekWood Crossing of Menomonee Falls Homeowners Association, and their respective

agents, contractors, employees, officers, directors and shareholders, from and against any and all liabilities, claims, demands, costs and expenses of every kind and nature (including attorneys' fees), including those arising from any injury or damage to any person (including death) or property sustained in or about or resulting from the use or existence of the storm water retention ponds.

18. The following constitute specific restrictions on individual Lots in CreekWood Crossing, and nothing contained in this Section 18 shall in any manner invalidate the effect of the more general restrictions contained in this Article A on said Lots:

A. No owner, possessor, user, nor licensee, nor other person shall have any right of direct vehicular ingress or egress onto or from Pilgrim Road (CTH YY) from Outlot 1, Block 1 and Outlot 1, Block 2 as shown on the Plat of CreekWood Crossing, it being expressly intended that such restriction constitutes a restriction for the benefit of the public according to Section 236.293, of the Wisconsin Statutes.

B. No structure of any kind shall be permitted within a "vision comer" (as shown on the Plat of CreekWood Crossing) which exceeds two (2) feet above the elevation of the intersection, except for necessary highway and traffic signs, public utility lines and open fences through which there is clear vision. No vegetation or other plant material shall be permitted which obscures safe vision of the approaches to any intersection in CreekWood Crossing.

C. All Lots in Block 4 shall have a minimum set back and natural buffer twenty feet (20') on both sides of the creek embankment running through Block 4. This set back area and natural buffer shall remain unmowed and in a natural state.

D. The portions of Lots 4, 5, 8, and 9, of block 6 which are indicated as preserved wetland areas on the Plat of CreekWood Crossing shall be preserved as wetlands and development on such Lots shall be strictly limited to those areas outside the preserved wetland boundaries. All of the area included in the preserved wetland boundary shall remain and be retained in its natural,

undisturbed state. No improvements shall be constructed on, under or through said boundary, including grading or filling, removal of peat or topsoil, or construction of ponds, fences, buildings or other improvements. No grazing by domesticated animals (horses, cows, etc.) shall be permitted. No disturbance of the following vegetation within the wetland boundary shall be allowed except for the removal of dead, diseased, noxious, or dangerous plant life: Wild Parsnip, White Sweet Clover, Yellow Sweet Clover, Garlic Mustard, Black Locust, Purple Loosestrife, Leafy Sprunge, Cypress Sprunge, Multiflora Rose, Tartarian Honeysuckle, Morrow's Honeysuckle, Hybrid Honeysuckle, Common Buckthorn, European Alder-buckthorn, Autumn Olive, Japanese Barberry, Reed Canary Grass and Smooth Brome Grass.

19. Plans showing exact locations and construction details of fences, walls, hedges or mass screening plantings shall be submitted to the Declarant and be approved before they may be constructed or planted. No fences erected on any Lot affected by these declarations shall be higher than six (6) feet from the graded surface of the ground on which said fence is erected. No perimeter lot fencing shall be permitted. In the event the fence restrictions and ordinances of the Village of Menomonee Falls are more restrictive from time to time than the restrictions contained herein, the Village of Menomonee Falls restrictions and ordinances shall control and supersede the terms and conditions contained herein.

20. All Lots shall be graded immediately upon completion of construction of a Residence, and the grade shall thereafter be maintained to comply with the comprehensive grading plan for CreekWood Crossing approved by the Village of Menomonee Falls. Strict compliance with such grading plan shall be enforced so as to prevent the discharge or redirection of storm water onto any adjacent Lots.

21. The Declarant shall have the right to enforce all of the terms, conditions and restrictions contained herein. Any Owner violating the terms, conditions or restrictions contained herein shall be personally liable for and shall reimburse the Declarant for all costs and expenses, including attorneys' fees, incurred by the Declarant in enforcing the terms, conditions and restrictions contained in this



Declaration. Any Owner who causes or allows any improvement or improvements to be constructed, installed, placed, or altered on that Owner's Lot without first obtaining the prior written approval of the Declarant shall, at the Declarant's discretion, be required to remove such improvement or improvements in their entirety at the Lot Owners' expense. The foregoing shall be in addition to any other rights or remedies which may be available to the Declarant.

22. The Owners, by the purchase of their Lots, agree that the Declarant shall not be held liable for any good faith decision or decisions made by the Declarant in enforcing the terms conditions and restriction contained herein and in preserving the integrity, and the natural beauty of the CreekWood Crossing.

23. At such time as the Declarant determines, in its discretion, the Declarant shall delegate or assign the authority and responsibilities of the Declarant contained herein to the CreekWood Crossing of Menomonee Falls Homeowners Association established according to Article B herein.

24. Within one (1) year after issuance of an occupancy permit, the lot owner shall plant at least one (1) tree, with a minimum trunk diameter of 1-1/2 inches at a point four (4) feet above the root system, in the front yard of the lot at a location specified by the Developer

## ARTICLE B

### **CREEKWOOD CROSSING OF MENOMONEE FALLS HOMEOWNERS ASSOCIATION.**

1. An unincorporated association (herein referred to as the "Association") of the Owners of land in CreekWood Crossing (and all future stages of development as provided in Section C herein), is hereby created for purposes of: (a) managing and controlling the common affairs of CreekWood Crossing, (b) managing, controlling and maintaining any Common Areas in CreekWood Crossing (as defined below), and, (c) performing other duties as set forth herein for the common benefit of the Owners. The Association shall be known as "CreekWood Crossing of Menomonee Falls Homeowners Association."

2. The term "Common Areas" shall include the following areas of CreekWood Crossing, and any areas designated as Common Areas in any future stages of development of CreekWood Crossing added to this Declaration in accordance with Section C (hereafter referred to as "Future Stages of Development").

A. All outlots, conservancy areas and common areas of CreekWood Crossing, as shown on the Plat of CreekWood Crossing, now or hereafter owned by the Declarant, any Lot Owner and or the Association.

B. Any area of easements granted to the Association by Declarant as indicated on the final Plat of CreekWood Crossing over portions of the lands subject to this Declaration.

C. The grass area and any fencing and landscaping contained within the public rights-of-way of any public roadway adjacent to or included with the lands subject to this Declaration.

All Common Areas and related facilities shall be used for the common benefit of the Owners of Lots in CreekWood Crossing. Such Common areas shall not be used for recreational or any other activities by any Lot Owner unless in accordance with the terms, conditions and restrictions contained herein or as are hereafter adopted or otherwise approved by the Association. The Declarant shall have the right to erect a sign in the outlots and common areas to promote the sale of lots in the subdivision. Any

signs, monuments, structures or other common facilities constructed by the Declarant or the Association on any Common Areas shall be operated and properly maintained and repaired by the Declarant or the Association (as the case may be) so as to be neat and attractive in appearance. The Association shall properly maintain the Common Areas so that they are neat and attractive in appearance (including, without limitation, proper care and cutting of grass and other vegetation). The association shall maintain all storm water drainage facilities (retention ponds) so as to ensure that they function properly. The obligation to maintain the storm water retention ponds includes, but is not limited to, the obligation to clean and dredge such facilities as necessary. Any plantings or signs placed in CreekWood Crossing by the Declarant or the Association at any of the entry locations to the subdivision shall also be considered Common Areas, and shall be cared for and maintained in the same manners as described above. Any portion of the Common Area within the public street right-of-way may only be improved or altered with the consent of the appropriate public authorities.

3. The Association shall be governed by a three member Committee, hereinafter referred to as the "Committee", which shall be solely responsible for the activities of the Association. The initial members of the Committee have been appointed by the Declarant and shall be Bradley J. Wilson, Rhonda K. Kenney, and Terri J. Hanson.

4. To qualify as a member of the Committee, a person must be either an Owner or a duly designated officer, agent or representative of an Owner.

5. The term of office of the initial members of the Committee shall commence upon the date of recording of this Declaration and shall continue until two calendar years after the year in which Declarant no longer owns seventy-five (75%) of the Lots then subject to this Declaration (provided, however, in the event the Declarant, during such two (2) year period, adds Future Stages of Development to this Declaration pursuant to Article C herein which results in Declarant again owning twenty-five percent (25%) or more of the Lots subject to the Declaration, then the initial term of the Committee shall

continue in full force and effect until two (2) years after such time as Declarant no longer owns seventy-five percent (75%) of the Lots then subject to this Declaration). During such initial term, Declarant shall have the right to appoint, remove or replace all three members of the Committee. Declarant may relinquish or reassert all or any part of the rights provided to the Committee or the Association at any time or times during such initial term.

6. Subject to the rights of Declarant as provided in Article B, Section 5 above, each Owner shall be entitled to vote in person or by proxy .in elections for selecting members of the Committee. The Owners of a Lot (weather the Lot is owned singularly or collectively) shall have one (1) vote in the affairs of the Association for each Lot owned.

7. After the initial term as provided in Article B, Section 5 above, the term of office of members of the Committee shall be for two (2) calendar years. If any member of the Committee shall die, resign, be unable to act or cease to be qualified to be a member, the unexpired term of such member shall be filled by special election of the Association.

8. All meetings of the Committee shall be open to all Owners, and shall be held upon not less than three (3) days prior written notice to all of the Owners. Two (2) members of the Committee shall constitute a quorum. Actions of the Committee shall be taken by majority vote. The Committee shall call a meeting of all of the Owners of the Association no less than one (1) time per calendar year.

9. The Committee shall have the following duties:

A. To provide for the maintenance of improvements in the Common Area;

B. To establish dates and procedures for the election members of the Committee;

C. To promulgate operating procedures for the conduct of the Association's and the Committee's affairs;

D. To enforce the terms, conditions and restrictions contained ill this Declaration according to the terms thereof; and

E. Establish an Architectural Review Board (as hereinafter defined) if so delegated by the Declarant pursuant to Article A, Section 23 herein. Such Architectural Review Board shall consist of three (3) persons appointed by the Committee. No Owner of a vacant Lot (except for the Declarant) shall have the right to serve on the Architectural Review Board. Upon the delegation of me Declarant's authority under this Declaration to the Architectural Review Board, the Architectural Review Board shall have all of the rights and obligations of the Declarant pursuant to Article A herein.

10. The Committee shall have the following powers:

A. To take such action as may be necessary to cause the Common Area to be maintained, repaired, landscaped (where appropriate) and kept in good, clean and attractive condition;

B. To enter into contracts and to employ agents, attorneys or others for purposes of discharging its duties and responsibilities hereunder;

C. To levy and collect assessments in accordance with the provisions of Article B, Section 11, below; and

D. To do anything or take any other action which is incidental to or necessary for the Committee to perform its duties and discharge its obligations under this Declaration.

11. The Committee shall levy and collect assessments in accordance with the following:

A. The Owner of each Lot shall be subject to a general annual charge or assessment ("General Assessment") equal to its pro rata share of the costs incurred or anticipated to be incurred by the Association in performing its duties and discharging its obligations hereunder. The pro rata share of an Owner of a Lot shall be a fraction, the numerator of which shall be one and the denominator of which shall be the total number of Lots subject to this Declaration (including Future Stages of Development) at the time of the assessment. Said costs shall include, but not be limited to taxes; insurance; repair, replacement and additions to the improvements

made to the Common Areas; equipment; materials; labor, management and supervision thereof; and, all costs for the Association reasonably incurred in conducting its affairs and enforcing the terms, conditions and restrictions contained in this Declaration. The Committee shall also have the power to levy a special assessment ("Special Assessment") against any individual Lot Owner for the failure of such Lot Owner to: maintain said Owner's Lot in accordance with the reasonable standard of the subdivision; maintain the lamppost required under Article A, Section 9 herein; and/or, failure of said Owner to comply with the terms, conditions and restrictions contained in this Declaration. Herein General Assessments and Special Assessment are sometimes collectively referred to as "Assessments."

B. Assessments shall be approved at a duly convened meeting of the Committee;

C. Written notice of an Assessment shall be personally delivered to each Owner subject to the assessment or delivered by regular mail addressed to the last known address of such Owner;

D. Assessments shall be due and payable on or before 30 days after the mailing or personal delivery of the notice, as the case may be.

E. Assessments not paid when due shall bear interest at the rate of twelve percent (12%) per annum from the date due until paid, and such unpaid Assessments and the interest thereon shall constitute a continuing lien on the real estate against which it was assessed until they have been paid in full. The assessments and interest thereon shall also be the personal obligation of any current or subsequent Owner of the Lot against which the Assessment was made.

F. The Committee may record a document with the Register of Deeds in Waukesha County, Wisconsin, giving notice of a lien for any such unpaid Assessment and upon payment or satisfaction of the amount due record a document canceling or releasing any such lien. The

failure to file any such notice shall not impair the validity of the lien. All recording and attorney fees relating to any such document or the collection of an Assessment shall be borne by the affected Owner.

G. Upon application by any Owner any member of the Committee may, without calling a meeting of the Committee, provide to such Owner a statement in recordable form certifying (1) that the signer is a duly elected or appointed member of the Committee, and (2) as to the existence of any unpaid assessments or other amounts due to the Association. Such statement shall be binding upon the Association and shall be conclusive evidence to any party relying thereon of the payment of any and all outstanding Assessments or other amounts due to the Association.

H. Any lien for Assessments may be foreclosed by a suit brought by the Committee, acting on behalf of the Association, in a like manner as the foreclosure of a mortgage on real property. The affected Owner shall be responsible for all of the Association's costs in collecting the Assessment, including, but not limited to, attorneys' fees.

12. During the initial term of the Committee, the Committee shall not have the power to make improvements to the Common Area in addition to those then in existence (herein referred to as "Additional Improvements") without the written approval of the Developer. After the initial term, the Committee shall not have the power to make Additional Improvements having a cost in excess of One Thousand Dollars (\$1,000.00) without the consent of ninety percent (90%) of the then current Owners.

13. Members of the Committee shall not be liable for any action taken by them in good faith in discharging their duties hereunder, even if such action involved a mistaken judgment or negligence by the member or agents or employees of the Committee. The Association shall indemnify and hold the members of the Committee harmless from and against any and all costs or expenses, including reasonable attorney's fees, in connection with any suit or other action relating to the performance of their duties

hereunder.

14. Failure of the Association or the Committee to enforce any terms, conditions or restrictions contained in this Declaration, upon the violation thereof, shall not be deemed to be a waiver of the rights to do so, or an acquiescence in any subsequent violation.



## **ARTICLE C**

### **FUTURE STAGES OF DEVELOPMENT OF CREEKWOOD CROSSING**

The Developer, its successors and assigns shall have the right, after the effective date hereof, to add Future Stages of the Development to the real estate subject to this Declaration, provided such Future Stages of Development are or become adjacent to the real estate which is or becomes subject to this Declaration or any supplemental declaration. The Future Stages of Development authorized under this Article C shall be added by recording a Supplemental Declaration of Restrictions with respect to such Future Stages of Development which shall extend the provisions of this Declaration to such Future Stages of Development, and shall indicate any provisions which differ from the provisions of this Declaration or any prior Supplemental Declaration. Except with respect to increasing the number of Lots and adding to the Common Areas, and all amendments and modifications incidental thereto, such Supplemental Declarations shall not otherwise revoke, modify, amend or add to the covenants established by this Declaration or any prior Supplemental Declaration.

## **ARTICLE D**

### **AMENDMENT PROVISIONS**

Any of the provisions of this Declaration may be annulled, waived, changed, modified or amended at any time by written document setting forth such annulment, waiver, change, modification or amendment, executed by the Owners of lands having at least sixty percent (75%) of the votes in the Association; provided, however, that any such action must also be approved in writing by (i) the Village, and (ii) the Declarant so long as it shall be a Lot Owner. This Declaration and all amendments shall be executed as required by law so as to entitle it to be recorded, and shall be effective upon recording in the office of the Register of Deeds for

Waukesha County, Wisconsin.

## **ARTICLE E**

### **ROADS**

Certain roads in CreekWood Crossing and Future Stages of Development terminate or may terminate at the then current boundaries of the subdivision. Owners are hereby put on notice that said roads (or any other roads which may be located over outlots owned by the Declarant) may be connected with or extended to other roads in Future Stages of Development or in lands owned by others if such extension or connection is approved by the Village, Waukesha County or other public entities having jurisdiction. No Owner shall have the right to object to any such road extension or connection, nor shall any Owner have the right to claim that it has incurred a loss or damage as a result thereof.

## **ARTICLE F**

### **TERM AND BINDING EFFECT**

This Declaration and any amendments shall be in force for a term of 30 years from the date the Declaration is recorded. Upon the expiration date of such initial 30 year term or any extended term as provided herein, this Declaration shall be automatically extended for a successive term of 10 years, unless prior to the end of the then-current term a Notice of Termination is executed by the Owners of at least seventy-five percent (75%) of all Lots and their mortgagees, is consented to by the Village of Menomonee Falls, and is thereafter recorded in the Office of the Register of Deeds of Waukesha County. This Declaration shall be binding upon all Owners and any other person claiming under or through the Declarant.

**IN WITNESS WHEREOF**, the undersigned has executed this Declaration of  
Restrictions this 20<sup>th</sup> day of October, 1994.

PILGRIM PARK LIMITED PARTNERSHIP, a Wisconsin limited  
partnership

By: FIDUCIARY REAL ESTATE DEVELOPMENT, INC.,  
General Partner

By: /s/William R. Arpe, President

Attest: /s/Donald S. Wilson, Secretary

STATE OF WISCONSIN

COUNTY OF WAUKESHA

Personally came before me this 20<sup>th</sup> day of October, 1994, the above-named William R. Arpe,  
President, and Donald S. Wilson, Secretary, of Fiduciary Real Estate Development, Inc., to me  
known to be the person(s) who executed the foregoing instrument and acknowledged the same  
in such capacity.

Linda K. Usky  
Notary Public, County of Milwaukee  
State of Wisconsin  
My Commission: 10/27/96

This instrument was drafted by: Bradley J. Wilson

RETURN TO:

Fiduciary Real Estate Dev., Inc.

225 East Mason Street

Milwaukee, WI 53202

## **EXHIBIT A**

### **Legal Description of Creek Wood Crossing**

Fiduciary Real Estate Development, Inc. is the "Developer" of CreekWood Crossing, being a subdivision of part of the SW 1/4 and the SE 1/4 of the NE 1/4 and the SE 1/4 of the NW 1/4 of Section 34, Town 8 North, Range 20 East, Village of Menomonee Falls, Waukesha County, Wisconsin.

## **EXHIBIT B**

### **Erosion Control Standards**

To protect the retention ponds and the storm sewer system in Creek Wood Crossing, the purchaser shall prevent soil erosion and sedimentation by:

1. Installing and maintaining a gravel entrance (6 inches of 2 to 3 inch aggregate, 7 feet wide and 50 feet long or the distance from the road to the construction area whichever is less); requiring all vehicles to use that entrance;
2. At the end of each work day, cleaning up any soil tracked onto the road;
3. Locating all soil piles at least 25 feet from any downslope road, ditch or drainageway; immediately placing silt fence on the downslope side of all soil piles;
4. As soon as gutters are installed, placing extenders on all downspouts to route roof water to a stabilized area; continuing use of the extenders until vegetation is established; and
5. Sodding, or seeding and mulching, the Lot within 60 days after the occupancy permit is issued; maintaining the sod or seed by watering and any necessary replanting. (For homes with occupancy permits issued between September 1 and April 30, the Lot shall be covered with mulch within 30 days after the occupancy permit is issued and the mulch shall be maintained until the Lot is sodded or seeded.

For these Lots, sodding or seeding shall be completed by June 1.)

All erosion control measures shall be installed and maintained according to the best standards and specifications set forth in the Wisconsin Construction Site Best Management Practice Handbook, the Wisconsin Soil Conservation Service Field Technical Guide, or adopted by the Waukesha County Land Conservation Department.

## **EXHIBIT C**

### **LEGAL DESCRIPTION OF SECOND ADDITION TO CREEKWOOD CROSSING**

Fiduciary Real Estate Development, Inc. is the "Developer" of CreekWood Crossing Addition No. 2, being a subdivision of part of the SW 1/4 and the NW 1/4 of Section 34, Town 8 North, Range 20 East, Village of Menomonee Falls, Waukesha County, Wisconsin.

## **EXHIBIT D**

### **LEGAL DESCRIPTION OF THIRD ADDITION TO CREEKWOOD CROSSING**

Fiduciary Real Estate Development, Inc. is the "Developer" of CreekWood Crossing Addition No. 3, being a subdivision of part of the SE 1/4 and the NW 1/4 of Section 34, Town 8 North, Range 20 East, Village of Menomonee Falls, Waukesha County, Wisconsin.

## **EXHIBIT E**

### **LEGAL DESCRIPTION OF FOURTH ADDITION TO CREEKWOOD CROSSING**

Fiduciary Real Estate Development, Inc. is the "Developer" of CreekWood Crossing Addition No. 4, being a subdivision of part of the SE 1/4 and the NW 1/4 of Section 34, Town 8 North, Range 20 East, Village of Menomonee Falls, Waukesha County, Wisconsin.



**FIRST SUPPLEMENT TO  
DECLARATION OF RESTRICTIONS  
FOR  
CREEKWOOD CROSSING AT MENOMONEE FALLS**

**THIS FIRST SUPPLEMENT**, made as of the 28th day of July, 1995, by **PILGRIM PARK LIMITED PARTNERSHIP**, a Wisconsin limited partnership (hereafter "Declarant").

**WITNESSETH:**

WHEREAS, on October 20, 1994, Declarant entered into that certain Declaration of Restrictions for Creekwood Crossing at Menomonee Falls ( the "Declaration") wherein the Declarant subjected that certain real property described on Exhibit A attached hereto and then owned by Declarant (referred to as "Creekwood Crossing" in the Declaration) to the terms and conditions contained in the Declaration; and

WHEREAS, the Declaration was recorded on October 21, 1994 in the Register's Office of Waukesha County at Reel 2000, Images 0658 to 0682, as Document No. 2002262;

WHEREAS, the Declaration specifically provides that the Declarant may subject additional real estate to the Declaration, provided such real estate is adjacent to Creekwood Crossing;

WHEREAS, the Declarant is the sole owner of certain real estate which is adjacent to Creekwood Crossing and is more particularly described on Exhibit B (hereafter referred to as the "First addition to Creekwood Crossing"; and

WHEREAS, the Declarant desires, as of the date hereof, to subject the First Addition to Creekwood Crossing to the Declaration.

IN WITNESS WHEREOF, the Declarant hereby supplements and amends the Declaration as follows:

1. All defined terms used herein, but not otherwise defined herein, shall have the same meaning ascribed to them in the Declaration.
2. The Declarant hereby submits the First Addition to Creekwood Crossing to all of the terms, conditions, restrictions, covenants, rights, and obligations of the Declaration, as if the declaration had been entirely restated herein. From and after the date hereof, the term "Creekwood Crossing" as used in the Declaration shall include all of the real property described in Exhibit A and Exhibit B attached hereto.
3. Notwithstanding anything contained in this First Supplement or the Declaration to the

contrary, the following shall be special restrictions pertaining to the hereafter identified individual lots in the First Addition to Creekwood Crossing:

(a) The minimum set back requirement from Whitetail Run Street's right of way boundary for Lots 1 through 9 in Block 12 of the First Addition to Creekwood Crossing shall be not less than fifty (50) feet.

(b) With respect to Lots 2 through 9 in Block 12 in the First Addition to Creekwood Crossing, the Owners of such lots shall, at the time such lots are landscaped pursuant to the requirements of the Declaration, plant two (2) trees (with a minimum two inch (2") trunk diameter at grade) along the front lot line of such lots and in such locations as are specified by the Declarant. With respect to such lots, the obligation I contained in this Paragraph 3( replaces the one (1) one and one-half inch (1 1/2") tree requirement contained in the Declaration.

(c) With respect to Lots 14 through 19 in Block 5 and Lots 10 through 22 in Block 6 of the First Addition to Creekwood Crossing, the Owners of such lots shall not remove or alter any trees located on such lots which have a trunk diameter greater than or equal to two inches (2") at four feet (4') above grade, unless such trees are located within five feet (5') of the building pad of the residence, provided the location of such residence was approved by the Architectural Control Committee pursuant to the Declaration. Notwithstanding the foregoing, all trees to be removed by an Owner (or its agents or contractors) shall be marked prior to their removal and such removal shall not take place until the removal is approved by the Declarant in writing. Any trees removed by an Owner that have not been first approved by the Declarant shall be replaced by the Owner, at the Owner's expense.

The Declarant hereby reserves the right to modify, waive, amend or grant variances to the restrictions contained in this Paragraph 3 from time to time, in Declarant's sole discretion.

IN WITNESS WHEREOF, the Declarant has caused this First Supplement to be executed as of the date and year first above written.

PILGRIM PARK LIMITED PARTNERSHIP, a Wisconsin limited partnership

By: Fiduciary Real Estate Development, Inc.,  
General Partner

By: /s/William R. Arpe, President

Attest: /s/Donald S. Wilson, Secretary

STATE OF WISCONSIN        )  
                                          )ss  
MILWAUKEE COUNTY        )

Personally came before me this 28 day of July, 1995, the above named William R. Arpe and Donald S. Wilson, as the President and the Secretary of Fiduciary Real Estate Development, Inc., a Wisconsin corporation, general partner of Pilgrim Park Limited Partnership, a Wisconsin limited partnership, and acknowledged to me that they executed the foregoing instrument as the act of such partnership for the purposes and consideration therein expressed, and in the capacity therein stated.

/s/Marilyn J. Klemann  
(type or print name here)  
Notary Public, Milwaukee County, Wisconsin  
My Commission expires 03/22/98

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF CREEKWOOD CROSSING**

Fiduciary Real Estate Development, Inc. is the "Developer" of Creekwood Crossing, being a subdivision of part of the SW 1/4 and the SE 1/4 of the NE 1/4 and the SE 1/4 of the NW 1/4 of Section 34. Town 8 North. Range 20 East. Village of Menomonee Falls, Waukesha County, Wisconsin.

THIS DOCUMENT SHOULD BE RETURNED TO:

Fiduciary Real Estate Development, Inc.  
225 East Mason Street  
Suite 900  
Milwaukee, WI 53202  
(414) 226-4535

THIS DOCUMENT WAS DRAFTED BY,

Brett K. Miller, Esq.  
Davis & Kuelthau, S.C.  
111 East Kilbourne Avenue  
Suite 1400  
Milwaukee, WI 53202  
(414) 276-0200