



8 9 3 5 6 0 9  
Tx:8717430

**KRISTI CHLEBOWSKI  
DANE COUNTY  
REGISTER OF DEEDS**

**DOCUMENT #  
5204222**

12/17/2015 1:54 PM

Trans. Fee:

Exempt #:

Rec. Fee: 30.00

Pages: 36

**DECLARATION OF COVENANTS,  
RESTRICTIONS, CONDITIONS AND  
EASEMENTS FOR LOTS 4-269 AND 271-368  
(THE DETACHED, SINGLE FAMILY LOTS)  
OF THE PLAT OF BEAR TREE FARMS,<sup>1</sup>  
TOWN OF WINDSOR,  
DANE COUNTY, WISCONSIN**

Bear Tree Farms, Inc., a Wisconsin corporation (the "Developer"), and Bear Tree Farms, Inc., PC Farms Holding II, LLC, and Statz Bros., Inc., as their ownership interests in the Property appear (collectively, "Owner") hereby enter this Declaration as owners of the real estate in the Town of Windsor, Dane County, Wisconsin, which has been platted as Lots 4-269 and 271-368 of the Plat of Bear Tree Farms, Town of Windsor Dane County, Wisconsin (the "Property"), and hereby declare that the Property is subject to the following restrictions, covenants, conditions and easements, and that all of such lots are and shall be held, sold, occupied, conveyed and transferred subject to the covenants, restrictions, conditions and easements set forth herein:

**Return to:**

Michael J. Lawton

P.O. Box 927

Madison, WI 53701-0927

See attached list: EXHIBIT D

**Parcel Identification Number**

**ARTICLE I.**

**Definitions**

For purposes of these Covenants, Restrictions, Conditions and Easements, the following terms shall be defined in the following manner:

"Committee" shall refer to the Architectural Control Committee as formed under section 3.02.

"Developer" shall refer to Bear Tree Farms, Inc., and its representatives, successors and assigns.

<sup>1</sup> NOTE: At the time of execution of this Declaration, PC Farms Holding II, LLC holds a land contract vendor's interest and Bear Tree Farms, Inc. holds a land contract purchaser's interest in the portion of the Plat of Bear Tree Farms described on **Exhibit B**, which is attached hereto and incorporated by reference (the "**BTF Property**"), and the Statz Bros., Inc. own approximately ten (10) acres of the Plat of Bear Tree Farms described on **Exhibit C**, which is attached hereto and incorporated by reference (the "**Statz Property**"). The BTF Property and the Statz Property, taken together, are the property now described as the Plat of Bear Tree Farms (the "**Plat**").

UK S.P.

"Owner" shall mean and refer to the record owner,<sup>2</sup> whether one or more persons or entities, of the fee simple title to a platted lot (exclusive of outlots) within the Property, except that as to any such lot which is the subject of a land contract wherein the purchaser is in possession, the term "Owner" shall refer to such person instead of the vendor.

"Property" shall mean and refer to the real estate described as Lots 4-269 and 271-368 in the Plat of Bear Tree Farms, Town of Windsor, Dane County, Wisconsin. Outlots within the Plat of Bear Tree Farms are not governed by this Declaration and are not part of the "Property" for purposes of this instrument. Lots 1, 2, 3 and 270 within the plat of Bear Tree Farms will be governed by separate instruments and are not part of the "Property" for purposes of this instrument. All of the Lots within the Property will also be subject to the following separately recorded instruments: REQUIREMENTS FOR PATH MAINTENANCE AND WAIVER OF RIGHT TO CONTEST SPECIAL ASSESSMENTS AND CHARGES IN THE PLAT OF BEAR TREE FARMS, and DECLARATION OF RESTRICTIONS AND MAINTENANCE REQUIREMENTS FOR STORMWATER MANAGEMENT MEASURES AND WAIVER OF RIGHT TO CONTEST SPECIAL ASSESSMENTS AND CHARGES.

## ARTICLE II.

### Property Subject to This Declaration

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the Town of Windsor, Dane County, Wisconsin, and shall be known as Lots 4-269 and 271-368 within the Plat of Bear Tree Farms, Town of Windsor, Dane County, Wisconsin.

At the time of execution of this Declaration, PC Farms Holding II, LLC holds a land contract vendor's interest and Bear Tree Farms, Inc. holds a land contract purchaser's interest in the portion of the Plat of Bear Tree Farms described on **Exhibit B**, which is attached hereto and incorporated by reference (the "**BTF Property**"), and the Statz Bros., Inc. own approximately ten (10) acres of the Plat of Bear Tree Farms described on **Exhibit C**, which is attached hereto and incorporated by reference (the "**Statz Property**"). The BTF Property and the Statz Property, taken together, are the property now described as the Plat of Bear Tree Farms (the "**Plat**").

---

<sup>2</sup> See footnote 1.



## ARTICLE III.

### Architectural Control and Protective Covenants and Restrictions

#### Section 3.01 ARCHITECTURAL REVIEW

- (a) **General Provisions.** For all buildings to be erected or placed on any lot subject to this Declaration, the plans, specifications, site, grading and landscaping plans for all such buildings must be submitted to the Developer, or to the Architectural Control Committee when formed under section 3.02 below, for written approval as to appearance, the quality of workmanship and materials, harmony of exterior design, including exterior colors and materials, size, location with respect to topography and finish grade elevation, site layout, roof pitch, location of improvements and amount, quality and nature of landscaping, prior to commencement of any construction on any lot. In no event will any roof pitch of less than 6/12's pitch be approved by the Developer or the Committee. The Developer or the Architectural Control Committee may charge a reasonable plan review fee to cover the cost of plan review by the Developer or Committee or any consultants utilized by either of them. The Developer or the Committee may adopt requirements and criteria for a complete submission for approval by any lot owner and provide such information to the lot owner at the time of application in writing, and neither the Developer nor the Committee shall be required to act on any submission which is not complete under such requirements and criteria. No time periods for the original approval or any resubmission shall commence running unless a complete application has been submitted or resubmitted. All material changes to such plans must be resubmitted to, and approved by, the Developer or the Committee, whichever is then applicable. No building permit for any new construction or alteration of the exterior of any building within the Property may be issued by the Town of Windsor without written approval of the plans for such work by the Developer or the Committee, whichever is then applicable.
- (b) **Specific Requirements.** The color and materials used for all exterior walls of any building shall be approved by the Developer or the Committee, including, but not limited to, the width, color and materials used for trim, soffits and fascia. The Developer or the Committee, whichever is then applicable, may require that brick, stone or other materials be added to the exterior of any exposed foundation on any building within the Property. All chimneys and all exterior flues shall be enclosed using brick, stone, stucco, cedar or the dominant material on the elevation most visible with the chimney. Brick chimneys shall be corbelled. Direct vent fireplaces shall be permitted, but must be enclosed and such enclosure must extend the entire length of the building. Fascia must be 10

CA

S.P.

inches minimum depth. Soffits may be wood or vinyl with appropriate detail. Roofing must be architectural-type textured fiberglass or asphalt shingles, wood shakes, tile, slate, standing beam or metal. Standard three-in-one shingles are not permitted. The color of the roofing material shall be approved by the Developer or the Committee. The desired color schemes and exterior materials must be submitted with the building plans for approval by the Developer or Architectural Control Committee. All porch and deck posts shall be a minimum of 6" in width or diameter. All decks and porches shall have railings on all exposed sides of the deck or porch. Any changes in the exterior materials or colors or other elements of any approved plans shall be pre-approved by the Developer or the Architectural Control Committee.

(c) **Submission Requirements.** In addition to such other information which the Developer or Architectural Control Committee may request, each Owner shall submit the following to the Developer or the Architectural Control Committee, whichever is then applicable, in connection with any requested approval:

- I. Drawings of the proposed structure showing, the floor plans, elevations or all views of the structure;
- II. Descriptions of architectural specifications including exterior finishes, materials, colors, roofing types and lighting materials, and upon request of the Developer or Architectural Control Committee, samples of such materials;
- III. Landscape plans for the lots identifying proposed grades, areas of woods, lawn and garden areas and types of plantings and species;
- IV. Address for mailing the determination of the Developer or the Architectural Control Committee; and
- V. Site plan showing all easements and setback requirements along with driveway location, structure locations, outdoor recreational equipment, and playground equipment, (including the location of basketball hoops).

### **Section 3.02 ARCHITECTURAL CONTROL COMMITTEE**

After the Developer and their representatives, successors and assigns, cease to have any title to any lot subject to this Declaration, the plans, specifications, site, grading and landscaping plans, and all other matters to be submitted to the Developer under these Covenants, Conditions, Restrictions and Easements, must be submitted to the Architectural Control Committee ("Committee") for approval in writing by a majority of the members of said Committee. The Committee shall consist of the members of the

Board of Directors of the Bear Tree Farms Homeowners Association, Inc., or in the alternative, if the Directors of the Association so elect, three persons elected by a majority of the members of the Board of Directors of the Bear Tree Farms Homeowners Association, Inc.

**Section 3.03 APPROVAL OF BUILDERS**

For each building erected or placed on any lot subject to this Declaration, the prime contractor or builder to be hired for construction of such building shall be approved in writing by the Developer or the Committee, whichever is then applicable, prior to commencement of construction. The approval of the Developer or the Committee shall not be unreasonably withheld. Such approval may be withheld for reasons such as the proposed contractor's or builder's financial status, business history and prospects, building reputation or any other reason which would be similarly relied upon by a reasonably prudent businessman then developing a neighborhood of quality single family residences.

**Section 3.04 FUTURE ALTERATIONS**

- (a) **General Provisions.** No alteration in the exterior appearance of existing buildings, including but not limited to, exterior remodeling and the construction of patios, decks, and swimming pools, shall be made without the prior written approval of the Developer or the Committee, whichever is then applicable.
  
- (b) **Fire or Casualty.** If all or any portion of a residence or other improvement within a lot is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner thereof to rebuild, repair, or reconstruct such residence or other improvement in a manner which will restore it to an appearance and condition which fully conforms with the requirements of this Declaration. Reconstruction shall be undertaken no later than six (6) months after the damage occurs, and shall be completed within twelve (12) months after the damage occurs. Plans and specifications for rebuilding must be submitted to the Developer or Committee and approved in writing prior to rebuilding as if initial construction. If a residence or other improvement is damaged to such an extent that it is impractical to rebuild, repair or reconstruct, the Owner may demolish the same provided that the lot is left in a neat and aesthetically pleasing condition which meets all other requirements of these covenants, restrictions and conditions. Said demolition, if elected, shall be completed no later than six (6) months after the damage occurs.



### Section 3.05 EXISTING VEGETATION

- (a) The existing vegetation of each lot subject to this Declaration, including trees of a diameter of three (3) inches or greater, shall not be destroyed or removed except as approved in writing by the Developer or the Committee, whichever is then applicable. In the event such vegetation is removed or destroyed without approval, the Developer or Committee may require the replanting or replacement of same, the cost thereof to be borne by the Owner.
- (b) The "conservation easement" noted on the rear of Lots 166-172 within the Property shall be governed by the following requirements in its entirety and these provisions shall be a complete statement of the rights and obligations within respect thereto:

The trees located within the "conservation easement" may not be cut, pruned, trimmed or removed at anytime by the Owner of any such Lot, except that the Owner of each such Lot may at any time (a) employ reasonable tree husbandry measures to trim or prune such trees in such a manner as to maintain them in reasonably good and attractive condition, (b) cut, prune, trim and/or remove all or any part of any tree that is dead, diseased, damaged or dying, or any tree which is likely to be the source of disease to other healthy trees if not removed, or (c) cut, prune, trim or remove any tree which is required to be cut, pruned, trimmed or removed by any lawful order or directive of any governmental authority having jurisdiction. This paragraph B. shall not protect (i) any vegetation other than commonly recognized trees located within the "conservation easement" having a trunk diameter of at least three (3) inches at a point five (5) feet above ground level, (ii) any silver maple, cottonwood or box elder tree, nor (iii) any trees that are planted or which start to grow within the "conservation easement" after the date of recording of the plat of Bear Tree Farms. The Owners of Lots within the "conservation easement," and affected public utilities and their agents, may remove, prune, trim or alter any trees which are in the way of or otherwise obstruct or impair required underground utility installations in recorded utility easements. Notwithstanding any other provisions of this instrument to the contrary, this paragraph B. may be enforced only by the Developer or its successors or assigns, or the Town of Windsor, but not by individual lots owners within the plat of Bear Tree Farms or the Bear Tree Farms Homeowners Association, Inc. The Town of Windsor shall not be required to take any enforcement action. In addition, notwithstanding any other provisions of this instrument to the contrary, this paragraph B. may be amended, modified or waived only by joint action of the Developer or its successors or assigns, the Owner of any Lot directly affected by the amendment, modification or waiver, and the Town of Windsor, or if the Developer and its successors and assigns have no interest in the lands within the plat of Bear Tree Farms or have assigned their

CA

S.P.

rights to the Bear Tree Farms Homeowners Association, Inc., then only by the joint action of the Owner of any Lot directly affected by the amendment, modification or waiver, and the Town of Windsor. The consent or approval of the Bear Tree Farms Homeowners Association, Inc. and individual lots owners (other than the Owner(s) of Lot(s) directly affected by the amendment, modification or waiver) shall not be required.

**Section 3.06 MINIMUM ELEVATIONS [THIS SECTION MAY NOT BE AMENDED, MODIFIED OR WAIVED WITHOUT THE CONSENT OF THE TOWN OF WINDSOR, AS PROVIDED IN SECTION 3.26 HEREOF.]**

- (a) **Minimum Basement Opening Elevations.** The minimum basement opening elevation for each residence located on a lot shall be established in accordance with (i) the table attached hereto as Exhibit A for the Lots specified thereon, which Exhibit A is incorporated herein by reference, and (ii) for all other lots by verifying the location of ground water and elevation of the adjacent street or drainage ways, and the finish grade elevations of the Lot, prior to site plan approval. All plans submitted to the Developer or Committee for approval of plans for a residence on any lot shall show clearly the lowest basement opening elevation thereon, and the Developer or Committee may reject any plans not clearly establishing the lowest basement opening elevation on such plans or otherwise failing to conform to these restrictions.
- (b) **Minimum Finished Grade Elevations.** The finished grade elevation of each lot shall be shown on all plans submitted to the Developer or Committee for approval. The Developer or Committee may reject any plans which do not clearly establish the finished grade elevation of the lot on such plans, or which establish an elevation which is not appropriate given the groundwater levels in or near the lot or other circumstances which indicate that such elevations are not prudent. The lot shall conform to such approved plans when the residence is constructed thereon. The finished grade elevation of any lot approved by the Developer or Committee may not thereafter be changed without the approval of the Developer or Committee.
- (c) **Certification.** At such time as the construction of the residence on any lot is completed, the Owner of such lot shall obtain from a registered land surveyor a certification that the minimum basement opening elevation of such residence conforms to the approved plans under (a) above, and that the finished grade elevations on such lot conform to the approved elevations under (b) above.
- (d) **Grading.** The elevation of a lot shall not be changed so as to materially affect the surface elevation or grade of the surrounding lots. Violations of the approved site, grading or landscaping plans shall give either the Developer or Committee,

CA

S.P.

whichever is then applicable, or any adjacent lot owner within the Property, a cause of action against the person violating such site, grading or landscaping plan for injunctive relief or damages as appropriate. No earth, rock, gravel, or clay shall be excavated or removed from any lot within the Property without the approval of the Developer or the Committee, whichever is then applicable.

**Section 3.07 BUILDING LIMITATIONS AND REQUIREMENTS [THIS SECTION MAY NOT BE AMENDED, MODIFIED OR WAIVED WITHOUT THE CONSENT OF THE TOWN OF WINDSOR, AS PROVIDED IN SECTION 3.26 HEREOF.]**

(a) **Use and Minimum Size Requirements.** There shall be only one single-family residence constructed within each lot, which shall at all times be used for single-family residential purposes. Nothing herein shall prohibit the Developer from continuing existing agricultural activities and uses within the Property until a lot is actually developed. The following minimum floor area requirements shall apply to all residences erected within a lot subject to this Declaration:

- I. Single Story. No single story residence shall have less than 1,600 square feet of floor area on the main level.
- II. Single Story with Exposed Lower Level Basement. No single story residence with an exposed lower level basement shall have less than 1,400 square feet of floor area on the main level.
- III. One and One-Half Story. No one and one-half story residence shall have less than 1,800 square feet of floor area, with a minimum of 1,350 square feet of floor area on the main (first floor) level.
- IV. Two or Two and One-Half Story. No two or two and one-half story residence shall have less than 2,000 square feet of floor area, with a minimum of 1,350 square feet of floor area on the main (first floor) level, *except that* if the residence is 2,200 square feet or more in floor area, the minimum floor area on the main (first floor) level shall be one-half (1/2) of the floor area of the residence.
- V. Height Limit. The height of a residence shall not exceed the maximum vertical dimension allowed by Dane County Zoning Ordinance, or such other zoning ordinance which may be applicable in the future.
- VI. Waiver of Minimum Square Footage Requirement. The Developer may waive the minimum square footage requirements under I. through IV. above on a lot-by-lot basis, if the overall architectural design and quality of the house is such that it presents an appearance comparable or superior

to other homes in the Plat and satisfies all other standards of section 3 hereof. The waiver shall not be effective unless it is approved by the Town of Windsor in writing, which approval shall not be unreasonably withheld by the Town. If the Town does not approve or reject any such approval request within 10 days after a request is received by the Town in writing from Developer, to include the proposed site plan for the lot drawn to scale and the elevations of all sides of the proposed residence, then the request for approval by the Town shall be deemed granted by the Town.

For the purposes of determining floor area, stair openings shall be included but basements, regardless of whether finished in whole or part, open porches, screened porches, and attached garages shall be excluded. A main level is defined as a level that is totally above the finished grade of the lot.

**(b) Architectural Standards.**

- I. Setbacks. The lots within the Property shall comply with the setback requirements under the Dane County Zoning Ordinance, or such other zoning ordinance as is applicable in the future. All plans submitted to the Developer or the Committee for approval shall show the location of all principal and accessory buildings on any lot and such plans shall conform to the setback restrictions in the Dane County Zoning Ordinance or such other zoning ordinance as is applicable in the future. The Developer or the Committee may reject any plans which are submitted which show the location of any principal or accessory building on any lots subject to this paragraph which are located within the prohibited area under such zoning ordinance.
  
- II. Driveways. All residences must have driveways and all driveways must be paved with concrete, except that concrete shall not be installed within 4 feet of the public street pavement edge at the end of the driveway if there is no ribbon curb installed along the public street. The location, composition and dimension of the driveway must be included as part of the plans and specifications submitted to the Developer or Committee, and must be approved in writing by the Developer or Committee. Driveways shall be located and constructed to minimize loss of desirable trees. The driveway shall be completed within eight (8) months of the issuance of the building permit. The driveway culvert shall be installed before the commencement of any construction of a residence or other improvement on the lot. Vehicles are prohibited from driving through the right-of-way ditches in order to access any lot. After initial installation, the Owner shall maintain the driveway culvert.

- III. Garages. All residences must have garage space for at least two (2), but not more than four (4) (tandem stalls are encouraged), automobiles or other vehicles, be a minimum of five hundred twenty-eight (528) square feet in floor area, and be enclosed. Garages shall be directly attached or connected to the residence. Carports, which are defined as garages not enclosed on all four (4) sides, are prohibited. Side load garages are allowable and encouraged throughout the Property. All garage doors facing a street shall have doors with windows and a wood grain or other features to enhance the look of the door. Except for side loading garages which shall not be limited by this sentence, the width of the garage facing a public street shall be limited to no more than 50% of the overall width of the front façade, unless one or more garage stalls is recessed behind the front façade by at least 5 feet.
- IV. Façade Requirements. Vinyl and aluminum siding is restricted to the rear and side elevations and up to 70% of the front elevation of the residence. Materials that may be used on the front elevation of the residence in the portion of such elevation that is not vinyl or aluminum siding shall include, but not be limited to, the following: brick, stone, stucco, EFIS, glass, natural wood, wood siding, or any other materials that have the same effect or appearance. Front or forward facing projections (such as a garage or gable) shall be properly transitioned from natural materials to vinyl to avoid a veneer appearance of the front of the house. Brick, stucco, stone or other materials shall be required to terminate at an interior corner of the front façade, or other significant architectural transition where a change in materials is logical and aesthetically appropriate.

### **Section 3.08 BUILDINGS CONSTRUCTED ELSEWHERE**

No building previously erected elsewhere may be moved onto any lot subject to this Declaration, except new prefabricated construction which has been approved by the Developer or the Committee, whichever is then applicable, in their discretion.

### **Section 3.09 PETS**

No more than three (3) domestic animals may be kept on any lot subject to this Declaration. All animals must be housed within the principal structure and no external kennels shall be allowed. Commercial animal boarding, kenneling or treatment is expressly prohibited, whether for free or not, within the Property. No person may keep a dog within the Property whose barking creates a nuisance to neighbors. No animal having vicious propensities shall be kept or maintained either inside or outside the principal dwelling.

### **Section 3.10      ACCESSORY BUILDINGS AND STRUCTURES; UTILITIES**

Accessory buildings or structures, including, but not limited to, storage sheds and detached garages, are expressly prohibited within the Property, except for storage buildings associated with outdoor, in-ground swimming pools, which must be expressly approved by the Developer or the Committee, whichever is then applicable. All swimming pools, whether above or in ground, are prohibited, except for in-ground pools that are expressly approved by the Developer or the Committee. This prohibition shall not apply to temporary toddler pools with sidewalls not exceeding two (2) feet in height. All permanent utilities, including without limitation, natural gas, electric, cable and telephone, shall be underground, except for customary ground-mounted pedestals and transformer boxes for local service. Poles, wires, or other above ground utility service distribution facilities may be temporarily installed during the construction or repair of the underground utility cables and facilities. Where reasonably possible, all utility meters and boxes located on the exterior of a residence shall be concealed from view from the public street.

### **Section 3.11      MAILBOXES**

To provide continuity throughout the Property, each Owner shall purchase from Developer at Developer's cost, a mailbox, newspaper tube, and post to be installed and maintained on the Owner's lot in accordance with U. S. Postal Service regulations by the Owner, to the extent allowed by the Postal Service.

### **Section 3.12      TEMPORARY BUILDINGS**

No trailer, basement, tent, shack, garage, barn, or any part thereof, shall ever be used as a residence, temporary or permanent, nor shall any residence be of a temporary character.

### **Section 3.13      PARKING**

Parking of commercial or service vehicles owned or operated by residents within the Property is prohibited unless such vehicles are kept in garages. Parking or storage of boats, travel trailers, mobile homes, campers, snowmobiles, all terrain vehicles, and other recreational vehicles within the Property is prohibited unless kept inside garages. Parking of more than three (3) vehicles in the driveway or on the street within the Property, by the residents or owners of any one lot in the Property, shall be prohibited, except for vehicles of guests, invitees or contractors of the residents or owners of such lot. This section shall not prohibit the temporary parking of any vehicles otherwise prohibited, if such parking is for the sole purpose of loading or unloading such vehicles



at the lot at which parked, for a period not to exceed forty-eight (48) hours. No cars or other vehicles shall be parked on lawns, yards or ditch areas at any time.

**Section 3.14 LOT MAINTENANCE**

All areas of lots not used as a building site or lawn or under cultivation as a garden shall have a cover crop and be kept free from noxious weeds, except for areas in agricultural production by Developer. The Owner shall keep each lot, and all improvements, in good order and repair and free of debris, including, but not limited to, the mowing of all lawns, the pruning of all trees and shrubbery and the painting (or other external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management. The Owner's obligation under this section with respect to maintenance shall apply to the street terrace, ditch areas and any stormwater easements on or abutting the Owner's Lot, along with the entire Lot itself, but shall not include any public path or trail on or adjoining the Lot.

**Section 3.15 TIME DEADLINES**

Construction of all buildings, including exterior finishes, shall be completed within nine (9) months after issuance of a building permit for the respective building, except that such time may be extended, in writing, by the Developer or Committee for good cause shown. Landscaping (including grading, sodding, and seeding) and paving of driveway shall be completed within one hundred eighty (180) days of completion of construction, provided weather conditions so allow. If such construction or landscaping is delayed due to matters beyond the control of the lot owner, the time for completion shall be extended by the period of such delay. Landscaping (including grading, walkways, sodding, and seeding) shall be completed within ninety (90) days after substantial completion of the exterior construction of the residence, provided weather conditions so allow. If weather conditions do not allow, such time shall be extended until such time as weather conditions do allow.

**Section 3.16 FENCES; SATELLITE DISHES; LIGHTING**

- (a) **Fences and Dishes.** No fence or enclosure may be constructed on any Lot, except decorative or ornamental landscape fencing and in-ground swimming pool fencing, which shall approved by the Developer or Committee in advance of installation in the sole judgment and discretion of the Developer or Committee. Any fencing shall be placed no closer than one (1) foot from a property line. Except to the extent preempted by federal law, no satellite signal receiving station or dish may be placed on any lot, except that each lot is allowed satellite dishes the diameter of which is one meter or smaller, if placed in an architecturally attractive location. The dishes shall be placed on the lot so as to make it as non-visible as reasonably possible from any abutting public street.

Placement of the dish shall be approved in writing by the Developer or Committee prior to installation, unless preempted by federal law. Exterior lighting on any lot shall be of such focus and intensity so that the residents of adjacent lots shall not be disturbed.

- (b) **Other Limitations.** Except to the extent preempted by federal or state law, no exterior antennas, satellite dishes, solar panels, wind mills, walls or fences of any kind shall be permitted within the Property unless approved in writing in advance by the Developer or the Committee, whichever is then applicable, including approval of the location, material, height and color thereof.

**Section 3.17 OFFENSIVE ACTIVITIES**

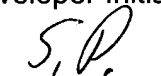
No noxious or offensive trade or activity shall be carried on, nor shall anything be done which may be or will become a nuisance to the neighborhood, including but not limited to, loud or unreasonable noise. This shall not be construed to prevent a family garden or orchard, provided that all family gardens and orchards shall be located in back yards, and the garden area on any lot may not exceed twenty-five (25%) percent of the lot area not covered by the residence, garage and driveway. No open burning or burning barrels shall be allowed on any lot. Trash containers must be stored in or behind garages and may be placed at the driveway or street only on days of trash collection. No hunting shall be allowed within the Property. Screened composting facilities may be maintained only with the approval of the Developer or the Committee. No clotheslines or clothes drying apparatus shall be permanently installed on any lot outside of any building. All garage doors shall be closed when the garage is not being actively used.

**Section 3.18 GRADE CHANGES TO UTILITY EASEMENTS**

The Owner of any lot subject to this Declaration shall not change the elevation of any utility easement in excess of six (6) inches without the permission of all of the applicable utilities and shall be responsible for any damages caused to underground utilities based on any changes in grade of more than six (6) inches.

**Section 3.19 REDIVISION OF LOTS [THIS SECTION MAY NOT BE AMENDED, MODIFIED OR WAIVED WITHOUT THE CONSENT OF THE TOWN OF WINDSOR, AS PROVIDED IN SECTION 3.26 HEREOF.]**

No lot as platted shall be resubdivided without the approval of the Town of Windsor. No boundary line within the Property shall be changed, except with the approval of the Developer or the Committee, whichever is then applicable. This section shall not be construed to prevent the use of one lot and part or all of another lot or lots as one building site.



**Section 3.20 SIGNS**

No signs of any type shall be displayed to public view on any lot without the prior written consent of the Developer or the Committee, whichever is then applicable, except for (a) lawn signs of not more than six (6) square feet in size advertising the property where located for sale, (b) signs erected by Developer advertising lots within the Property for sale, and (c) monument signs at the plat entrance(s) identifying the plat.

**Section 3.21 ZONING COMPLIANCE**

All buildings constructed on any lots subject to this Declaration shall conform to all governmental zoning requirements and all set-back requirements imposed by local ordinance. The Developer or the Committee, whichever is then applicable, shall have the right to change the set-back requirements for new construction within the Property from time-to-time, in their sole discretion, but such requirements shall never be less than the then applicable governmental zoning requirements or local ordinances.

**Section 3.22 STORMWATER MANAGEMENT FACILITIES [THIS SECTION MAY NOT BE AMENDED, MODIFIED OR WAIVED WITHOUT THE CONSENT OF THE TOWN OF WINDSOR, AS PROVIDED IN SECTION 3.26 HEREOF.]**

- (a) No Owner of any lot, nor any tenant, contractor, agent, invitee, or other user or occupant thereof, on which any stormwater easement is located on the recorded Plat of Bear Tree Farms shall do or permit any of the following within any such recorded stormwater easement at any time, without the written approval of the Town of Windsor: (1) alteration, grading or other improvement within such stormwater easement, including, but not limited to, the placing of decks, porches, outbuildings, storage buildings, play structures, accessory structures, permanent play equipment, signage (other than signage installed by the Developer or the Town of Windsor), swimming pools, fences, gardens, landscaping (other than grass), trees, shrubs or bushes; (2) placing or leaving any personal property within any such recorded stormwater easement at any time, including, but not limited to, lawn furniture, movable play equipment or lawn or garden ornaments or accessories; (3) obstructing, hindering or interfering in any way with the maintenance or inspection of any such recorded stormwater easement by the Association, the Town of Windsor or Dane County at any time; or (4) moving, removing, altering, or damaging any property monuments or stakes placed by a surveyor to identify the boundaries of any recorded stormwater easement or any signage placed by the Developer, the Association or the Town of Windsor within such recorded stormwater easement.

- (b) No Owner of any lot shall re-grade or obstruct any swale, drainage way, drainage ditches or stormwater detention area, whether established by easement or not, which is in existence at the time of development on such lot, so as to impede the flow of surface water across such swale, ditches or drainage way, or interfere with the proper functioning of any such swale, ditches, drainage way or stormwater detention area, and no structure, planting or other materials shall be placed or permitted to remain within any such swale, ditches, drainage way or stormwater detention area. No Owner or any person or entity acting on the Owner's behalf may change the elevation or side slopes of any ditch or ditches adjacent to the public streets without the written permission of the Developer or Committee. If such activity occurs, the Owner shall restore the ditches to their originally constructed condition upon request of the Developer or Committee.

### **Section 3.23 LANDSCAPING**

- (a) **Plan Approval.** Grading and landscaping plans must be submitted to the Developer or Committee for approval prior to the start of construction. The elevation of a lot may not be changed so as to materially affect the surface elevation or grade or water drainage to or from any adjacent lot, ditch or storm water conveyance area.
- (b) **Objectionable Trees.** No objectionable trees or shrubbery including, but not limited to, cottonwood, box elder, American elm, American ash trees, or other trees prohibited under the Town of Windsor subdivision ordinance, shall be planted on any lot. The Owner shall remove dead or diseased trees from the lot.
- (c) **General Requirements.** The following landscaping requirements apply to all lots within the Property:
- I. All yards must be either (i) sodded or (ii) seeded and fertilized, including street terraces.
  - II. Landscape plantings and maintenance of the premises and adjoining street terrace shall be the responsibility of the lot owner. Complete visual screening of the front, rear and side boundaries of the premises is prohibited without approval of the Developer or the Committee, whichever is then applicable.
  - III. The landscaping plan for each lot shall achieve a minimum of 500 landscaping points as determined by the following point schedule in order to be approved by the Developer or the Committee:

CA

S.P.

Canopy tree (2"-3" caliper at 18 inches)	75 pts.
Canopy tree (3"-4" caliper at 18 inches)	100 pts.
Canopy tree (greater than 4" at 18 inches)	150 pts.
Canopy tree or small tree (1-11/2" caliper at 18 inches)	50 pts.
Evergreen tree (4 to 6 feet in height)	25 pts.
Large deciduous tree (3-year transplant — 36" mm.)	10 pts.
Small deciduous tree (3-year transplant — 18" mm.)	5 pts.
Evergreen shrub (3-year transplant — 24" mm.)	5 pts.

**Section 3.24 ASSIGNMENT OF RIGHTS**

The Developer may elect to assign all of the Developer's rights to approve all of the items set forth in Article 3 hereof to the Committee after a period of ten (10) years from the date of recording the final plat and following approval of the Town of Windsor, or after seventy-five percent (75%) of the lots within the Property have been sold.

**Section 3.25 TERM [THIS SECTION MAY NOT BE AMENDED, MODIFIED OR WAIVED WITHOUT THE CONSENT OF THE TOWN OF WINDSOR, AS PROVIDED IN SECTION 3.26 HEREOF.]**

Article 3 hereof shall run with the land and shall be binding upon and inure to the benefit of all persons having an interest in the Property for a period of thirty (30) years after the Plat is recorded, after which time Article 3 of this Declaration shall automatically stand renewed for successive five (5) year periods unless the same is cancelled as provided in Section 3.26 below. If any person, or his heirs, successors or assigns, shall violate or attempt to violate any of the covenants and restrictions contained in Article 3 hereof while Article 3 hereof is effective, the Developer, the Committee or any person or persons owning any lot or lots within the Property, shall have standing to bring proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions, and the prevailing party shall be awarded reasonable attorneys fees and costs, and any person violating any of these covenants or restrictions shall be liable for all costs of removing any such violation.

**Section 3.26 RELEASE OR WAIVER [ THIS SECTION MAY NOT BE AMENDED, MODIFIED OR WAIVED WITHOUT THE CONSENT OF THE TOWN OF WINDSOR, AS PROVIDED IN THIS SECTION 3.26HEREOF.]**

Article 3 hereof, or any part thereof, may be cancelled, released, amended, or waived in writing as to some or all of the lots subject to this Declaration by an instrument

*UA*

Developer Initials

*S.P.*

signed by the Developer alone provided that Developer is the owner of all affected lots, or if the Developer has released or assigned the Developer's rights under Article 3 of this Declaration as provided, or no longer owns any lots within the Property, then by an instrument in writing signed by the Owners of a majority of the lots subject to this Declaration. Notwithstanding the foregoing, the Town of Windsor's written consent shall be required with respect to any such action with respect to the following sections: [3.06; 3.07; 3.19; 3.22; 3.25; 3.26; and, 3.32]. Any changes to said sections without prior written approval of the Town of Windsor, or its successor local government, shall be null and void.

**Section 3.27      INVALIDITY; GOVERNING LAW**

Invalidation of any one of these covenants or any severable part of any covenant, by judgment or court order, shall not affect any of the other provisions, which shall remain in full force and effect. This Declaration shall be governed by and construed under the laws of the state of Wisconsin, without regard to conflict of laws rules.

**Section 3.28      APPROVAL DEADLINE**

In the event the Developer or the Committee, whichever is then applicable, does not affirmatively approve or reject the plans, specifications and site, grading and landscaping plans, the prime contractor or builder, alterations, or any other matters which must be submitted to the Developer or Committee, within thirty (30) days after the same have been submitted or resubmitted to the approving authority in writing in a complete submission, then such approval shall not be required in that instance.

**Section 3.29      STANDARDS**

In exercising any authority under Article 3 of this Declaration, the Developer or Committee, as appropriate, shall act in accordance with the following standards:

- (a) to assure the most appropriate development and improvement of the Property;
- (b) to protect each Owner of a lot against improper uses by other lot owners;
- (c) to preserve the beauty of the Property;
- (d) to guard against the erection of poorly designed or poorly proportioned structures, or structures built of improper or unsuitable material;
- (e) to encourage and secure the erection of attractive, adequate sized homes, which conform and harmonize in external design with other structures within the Property

CA

S.P.

and which are properly located upon the lot in accordance with its topography and finished grade elevation; and

- (f) to provide for high quality improvements which will protect the investments of purchasers of lots.

### **Section 3.30 NO LIABILITY**

The Developer and the Committee shall not be liable for any loss suffered by any person on the basis of the approval or disapproval of any proposed use, plans, specifications, site, grading or landscaping plan or any other matter, including any loss arising out of the negligence of the Developer or Committee.

### **Section 3.31 REMEDIES**

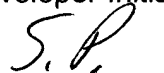
If any Owner shall violate or attempt to violate any covenant or restriction with regard to drainage swales, ditches, drainage ways, stormwater detention areas, or maintenance or landscaping, or if any lot owner responsible for specific duties with regard thereto shall fail to perform such duties, the Developer, the Committee or the Town of Windsor shall have standing to bring proceedings at law or in equity against the person or persons violating or attempting to violate such covenant or restriction or failing to perform such duties, and shall be awarded appropriate relief, including reasonable attorney fees and costs, to remedy said violation.

### **Section 3.32 ANNEXATION [THIS SECTION MAY NOT BE AMENDED, MODIFIED OR WAIVED WITHOUT THE CONSENT OF THE TOWN OF WINDSOR, AS PROVIDED IN SECTION 3.26 HEREOF.]**

No Owner may at any time petition to annex all or any part of the Property to any city or village under applicable annexation laws, in the capacity of a land owner.

### **Section 3.33 REPURCHASE OPTION**

On any lot conveyed by land contract or deed from the Developer, construction shall be commenced within two (2) years from the date of such land contract or deed. Upon violation of this restriction, the Developer shall have the option, exercisable by written notice to the lot owner within ninety (90) days after the expiration of such two (2) year period, to have said lot conveyed to the Developer at the original sales price, free and clear of any liens and encumbrances created by act or default of the owner of such lot, with taxes and installments on assessments for the year in which the conveyance occurs being prorated as of the date of such conveyance. Developer may waive its rights under this section in writing, in its discretion.



### **Section 3.34 OUTLOTS; NOTICE OF AGRICULTURAL ACTIVITIES**

- (a) Use of Outlots. Outlots within the Plat are owned and controlled by the Town of Windsor, and their use is subject to the control of the Town of Windsor for park or stormwater management purposes, subject to the provisions of any stormwater management agreement for Outlots between the Town of Windsor, Developer and the Association, or with Developer, the Association, and Dane County, and any use thereof is subject to the approval of the Town of Windsor. Outlots within the Plat are as of the date hereof owned and controlled by the Developer, and no use may be made of such Outlots without the approval of Developer or its successors and assigns. While the Association has an obligation to maintain Outlots under the stormwater management agreement with the Town, the Association has no ownership interest in any of the Outlots.
- (b) Notice to Lot Owners. Owners and residents within the Property are hereby advised that Lots 1-3 and 270 within the Plat will be developed in the future by Developer or its successors and assigns, which could include, but is not limited to, commercial and business uses in the case of Lot 2, and multi-family residential uses in the case of Lots 1, 3 and 270. Owners and residents within Bear Tree Farms are further hereby advised that any and all Lots within the plat will continue to be used for existing agricultural uses until actually developed, e.g. continued row crop production, which may involve dust, noise, odors, night operations, operation of heavy equipment and spraying or spreading of agricultural chemicals or fertilizers.

## **ARTICLE IV.**

### **Bear Tree Farms Homeowners Association, Inc.**

#### **Section 4.01 DEFINITIONS**

For purposes of Article IV of these Covenants, Restrictions, Conditions and Easements, the following terms shall be defined in the following manner:

"Association" shall mean and refer to Bear Tree Farms Homeowners Association, Inc., its successors and assigns.

"Board" shall mean and refer to the Board of Directors of the Association.

"Declaration" shall mean the Declaration of Covenants, Restrictions, Conditions and Easements for Lots 4-269 and 271-368 of the Plat of Bear Tree Farms, Town of Windsor, Dane County, Wisconsin, as it may from time-to-time be amended.

CA

S.P.

## **Section 4.02      ASSOCIATION MEMBERSHIP AND BOARD OF DIRECTORS**

- (a) **Members.** The Owner of each one of Lots 4-269 and 271-368 within the Plat of Bear Tree Farms, Town of Windsor, Dane County, Wisconsin, shall be a member of the Association. Where more than one person holds an ownership interest in any lot, all persons holding such interest shall be members. The members shall have such rights as are set forth herein, in the Articles and By-Laws of the Association, as amended from time-to-time, and as may be provided by the laws of the State of Wisconsin.
- (b) **Board of Directors.** The affairs of the Association shall be managed by the Board. The Board shall be selected in the manner, and shall have such duties, powers and responsibilities as are set forth herein, in the Articles and By-laws of the Association, as amended from time-to-time, and as may be provided by the laws of the State of Wisconsin, subject to the rights of Developer as set forth in such instruments.

## **Section 4.03      COMMON AREAS; ENTRANCE SIGN**

- (a) **Acquisition of Common Areas.** The Association may take title from time-to-time to real property or easements for real property within the Plat of Bear Tree Farms, Town of Windsor, Dane County, Wisconsin, for the purpose of providing common areas for the use and benefit of the members, bike and pedestrian trails, stormwater management facilities and location(s) for plat entrance signage. The Association shall have the right to exclusive management and control of all such common areas and all improvements thereon. The Association shall establish rules and regulations for the management and use of such facilities, subject to stormwater management agreements with the Town of Windsor and Dane County, and subject to such restrictions as are placed on the recorded plat with respect to Town of Windsor approval of restrictions on the use of the trail easements. Among other matters subject to Association regulation, the Association may establish hours for the use of trail easements and may determine whether or not to open and maintain or to close such trail easements during the winter weather season. The Association shall have no right or obligation to maintain, repair or regulate any trails located outside of the plat.
- (b) **Obligations of Association.** The Association shall have the duty to maintain common areas in good, clean, attractive and sanitary condition, order and repair, and to make such improvements and perform such maintenance as shall further the interests of the members, but shall have no obligation with respect to trails located outside of the boundaries of the plat. In addition, the Association shall have the duty to maintain Outlots for stormwater management purposes.

CA

S.P.

- (c) **Easement of Enjoyment.** Subject to the provisions of this Declaration, all common areas shall be held by the Association for the benefit of the members. Each of said members shall have an equal, undivided right to use and enjoyment of such common areas, subject to the right of the Association to manage such lands for the benefit of the members of the Association and to establish reasonable rules for the use of such common areas.
- (d) **Entrance Sign.** The Association shall maintain in good order and repair any entrance sign(s) to the Plat of Bear Tree Farms, at the expense of the Association.

#### **Section 4.04 ASSESSMENTS**


- (a) **Creation of Lien and Personal Obligation of Assessments.** The Developer hereby covenants, and each Owner of any lot within the Property (other than outlots) by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association all assessments levied by the Association in the amount and manner hereinafter provided. All such Association assessments, together with interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and a continuing lien upon the lot (but not any outlot) against which each such Association assessment is made. Each such Association assessment, together with interest thereon and costs of collection thereof, shall also be the personal obligation of the person who was the Owner of such lot (other than outlots) at the time when the Association assessment became due and payable. No Association assessment shall be made to any lots owned by the Developer, or its successors or assigns as designated by Developer, until such lot is actually developed.
- (b) **Creation of Assessments.** Assessments shall be determined, established and collected each year, starting with calendar year 2016, in the following manner:
- I. **Budget.** In December of each year starting in December 2015, the Board shall determine a budget for the ensuing calendar year, which shall include the costs to be incurred by the Association in connection with the maintenance, improvement and operation of common areas, payment of taxes and insurance, and other costs connected therewith, and payment of other obligations of the Association including stormwater management and entrance signage obligations, including a reasonable reserve for depreciation. Such budget shall be approved by a vote of two-thirds (2/3) of the Board on or before the last day of December each year.

*CA*

*S.P.*

- II. **Limitation on Assessments.** The maximum annual assessment which may be authorized under this Article shall be \$100 for each lot to which the Association has the power to make assessments hereunder or under other comparable instruments (excluding outlots), until the actual annual costs of maintenance, improvement and operation of common areas and payment of taxes, insurance and other costs associated therewith, and other obligations of the Association, including stormwater management and entrance signage costs, and including a reasonable reserve for depreciation, shall exceed the annual revenue generated by an assessment of \$100 per lot, in which event the maximum assessment per lot shall be such actual costs of maintenance, improvement and operation of common areas and payment of taxes, insurance and other costs associated therewith, including a reasonable reserve for depreciation, divided equally among all lots as to which the Association has the power to make assessments hereunder or under other comparable instruments (excluding outlots).
- III. **Declaration of Assessments.** The Board shall declare assessments so levied due and payable thirty (30) days from the date of such levy. The Board shall notify each Owner of the action taken by the Board, the amount of the assessment against the lot owned by such Owner and the date such assessment becomes due and payable. Such notice shall be mailed to the Owner at the last known post office address by United States mail, with postage prepaid, or be personally delivered to the Owner.
- IV. **Collection of Assessments.** In the event any assessment levied against any lot remains unpaid for a period of sixty (60) days from the date of the levy, the Board may, in its discretion, file a claim for a maintenance lien against the lot for which payment is not made, and upon compliance with the provisions of Section 779.70, Wisconsin Statutes, or other applicable authority, such claim shall be and become a lien against such lot. The claim shall thereafter accrue interest at the rate of interest payable upon legal judgments in the State of Wisconsin, and the Board may exercise such remedies to collect such claim as may be afforded by law. The Owner of the subject lot shall be responsible for all costs of collection incurred by the Association in connection therewith. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of any common areas or abandonment of his lot.
- V. **Joint and Several Liability of Grantor and Grantee.** Upon a voluntary conveyance, the grantee of a lot shall be jointly and severally liable with the grantor for all unpaid assessments as provided in this Article up to the





time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amount paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Association setting forth the amount of such unpaid assessments and any such grantee shall not be liable for, nor shall the lot conveyed be subject to a lien for, any unpaid assessment against the grantor pursuant to this Article in excess of the amount therein set forth. If the Association does not provide such a statement within ten (10) business days after the grantee's request, it is barred from claiming any lien which is not filed prior to the request for assessments owed by the grantor.

**Section 4.05 TERM**

Article IV hereof shall run with the land and shall be binding upon and inure to the benefit of all persons having an interest in the Property for a period of thirty (30) years after the Plat of Bear Tree Farms is recorded, after which Article IV of this Declaration shall automatically stand renewed for successive five (5) year periods unless the same is cancelled as provided in Section 4.06 below.

**Section 4.06 CANCELLATION, RELEASE, AMENDMENT OR WAIVER**

Article IV hereof, or any part thereof, may be cancelled, released, amended or waived in writing as to some or all of the lots subject to this Declaration by an instrument signed by the Developer, or if the Developer has released or assigned the Developer's rights under Article 3 of this Declaration as provided herein, then by an instrument in writing signed by both (a) the Owners of a majority of the lots (other than outlots) subject to this Declaration, and (b) a majority of the Board of the Association.

**Section 4.07 SEVERABILITY.**

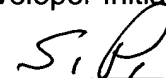
Invalidation of any one of these covenants or any severable part of any covenant, by judgment or court order, shall not affect any of the other provisions, which shall remain in full force and effect.

**Section 4.08 OWNERSHIP OF LANDS.**

Bear Tree Farms, Inc., PC Farms Holding II, LLC, and Statz Bros., Inc. execute this instrument as Owner as their respective interests may appear with respect to the fee ownership of the lands subject to this Declaration, all as described herein.



Developer Initials



8<sup>th</sup> IN WITNESS WHEREOF, the undersigned has executed this instrument on this September, 2015.

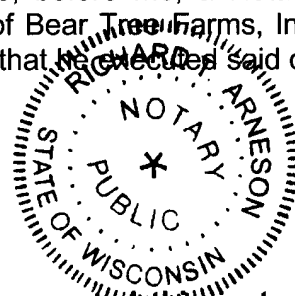
**BEAR TREE FARMS, INC.,**  
as Developer and Owner

By: Steven D. Pederson  
Steven D. Pederson, President

STATE OF WISCONSIN )  
) ss.  
COUNTY OF DANE )

On this 8<sup>th</sup> day of September, 2015, before me, a Notary Public, personally appeared Steven D. Pederson, as President of Bear Tree Farms, Inc., to me known, who being by me duly sworn, did depose and say that he executed said document on behalf of Bear Tree Farms, Inc.

Richard T. Arneson  
Notary Public, State of Wisconsin  
My Commission: 7/10/15



~~IN WITNESS WHEREOF, the undersigned has executed this instrument on this 8<sup>th</sup> day of September, 2015.~~

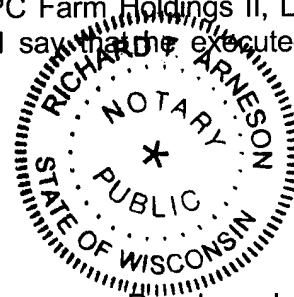
**PC FARM HOLDINGS II, LLC**

By: Steven D. Pederson  
Steven D. Pederson, President

STATE OF WISCONSIN )  
) ss.  
COUNTY OF DANE )

On this 8<sup>th</sup> day of September, 2015, before me, a Notary Public, personally appeared Steven D. Pederson, as President of PC Farm Holdings II, LLC, to me known, who being by me duly sworn, did depose and say that he executed said document on behalf of PC Farm Holdings II, LLC.

Richard T. Arneson  
Notary Public, State of Wisconsin  
My Commission: 7/10/17



owc/A

Developer Initials

SLP

