

Yorkshire Highlands Register of Deeds Page

GRANT OF CONSERVATION EASEMENT

This Grant of Conservation Easement (“Conservation Easement”) is made among, **TNG_27, LLC**, and its successors and assigns (“Subdivider”), **Seno K/RLT Conservancy, INC.**, a non-profit, charitable corporation, and its successors and assigns (the “Land Trust”), **BANK?** (“Mortgagee”), and the **VILLAGE OF YORKVILLE**, a municipal corporation in Racine County, Wisconsin, and its successors and/or assigns (“the Village”)

RECITALS

A. The Subdivider is the developer of a subdivision project known as Yorkshire Highlands Subdivision located in the Village (the “Subdivision”). A copy of the Subdivision plat is attached hereto as **Exhibit A**.

Formatted: Font: Bold

B. The Subdivider is a fee simple title owner of Outlot 1 of the Subdivision as identified on the recorded plat. Outlot 1 will be owned individually by the owners of Lots 1 through 15 (the “Lot Owners”) so that each Lot Owner owns an undivided 1/15th interest in Outlot 1 with all other Lot Owners. The ownership interest of each Lot Owner in Outlot 1 shall not be separated from the lot to which such undivided interest is appurtenant and shall be deemed to be conveyed and encumbered with such lot even though such undivided interest is not expressly mentioned or described in the conveyance or other instrument. Outlot 1 shall be managed and maintained in accordance with the Stewardship Plan by Yorkshire Highlands Homeowner's Association (the “Owner's Association”), of which all Lot Owners will be members, as created by the Restrictive Covenants of the Subdivision (the “Restrictive Covenants”) recorded with the Racine County Register of Deeds. A copy of the Restrictive Covenants for the Subdivision is incorporated herein by reference as **Exhibit B**.

Formatted: Font: Bold, Not Highlight

B. Outlot 1 in the Subdivision plat is the subject of this Conservation Easement and will hereto be referred to as the “Easement Area”.

C. Mortgagee holds a mortgage interest in the lands located within the plat and will subordinate its interest in the Easement Area to the rights of the Land Trust and the Village.

D. The Village has recognized that the loss of open space within the Village is a great and immediate threat to preserving the rural character of the Village.

E. The Village ~~’s abides by a~~ conservation subdivision ~~_ordinance that~~ requires a subdivider to preserve no less than ~~69~~⁶⁴% of the gross area of the land to be developed as open space. This Conservation Easement occupies 69% of the Subdivision’s gross area and therefore is in compliance with the Village ordinance.

F. The Subdivision possesses natural open space (including valuable farmland) of great importance to the Village and its residents and the people of Racine County.

G. Subdivider is willing to grant this Conservation Easement to the Land Trust to protect environmentally sensitive areas and for the preservation of fertile farmland located within the Easement Area. Approximately 10.5 acres within a section of the agricultural area has been chosen for the establishment of native prairie as documented in the ~~“Stewardship Plan for Yorkshire Highlands, Yorkville, WI”~~^{Yorkshire Highlands Native Vegetation Stewardship Plan.} prepared by Eco-Resource Consulting, Inc. in May 2021 ~~with last update of August 2021.~~ The Stewardship Plan is attached hereto as **Exhibit C**. This area and including the entire Subdivision was delineated by Heartland Ecological Group, Inc. in May 2019. The “Wetland Delineation Report” is attached hereto as **Exhibit D**.

H. The Land Trust is qualified to be a “holder” (as that term is defined in Section 700.40(1)(b) of the Wisconsin Statutes) of conservation easements pursuant to Section

700.40(2) of the Wisconsin Statutes.

I. The Common Law and the Uniform Conservation Easement Act, Section 700.40 of the Wisconsin Statutes, provide for the creation and conveyance of conservation easements which impose restrictions or affirmative obligations on the owners of land.

J. The Land Trust agrees, by accepting this Conservation Easement, to honor the intentions of Subdivider and Village as stated herein and to preserve and protect in perpetuity the conservation values of the Easement Area for the benefit of this generation and those to come.

NOW, THEREFORE, in consideration of the foregoing recitals, which are hereby made a part of this Conservation Easement, and the mutual covenants, terms, conditions and restrictions contained herein, and other good and valuable consideration, the receipt and sufficiency of which by each of the parties is hereby acknowledged, and pursuant to the laws of the State of Wisconsin, including Section 700.40 of the Wisconsin Statutes, the parties hereto grant and agree as follows:

1. **Grant of Conservation Easement.** The Subdivider does hereby freely give, grant, assign, convey and confirm to the Land Trust, a perpetual conservation easement over the Easement Area pursuant to Section 700.40 of the Wisconsin Statutes as set forth herein. This Conservation Easement constitutes a servitude upon the land and runs with the land. The development rights conveyed by this Conservation Easement shall include all development rights, except those specifically reserved herein and those reasonably required to carry out the uses of the Easement Area permitted herein. The Conservation Easement and restrictions hereby conveyed consist of Covenants on the part of the Subdivider and its successors and assigns. The Land Trust accepts this Conservation Easement in perpetuity.

2. **Purposes.** The purposes of this Conservation Easement are: (i) to retain and protect the natural open space and agricultural values of the Easement Area, assuring its availability for open space use; (ii) protecting natural resources, maintaining and enhancing air or water quality; (iii) preserving the historical, architectural, archaeological or cultural aspects of the Easement Area now and in the future for the benefit of present and future generations; and (iv) to prevent any use of the Easement Area that will significantly impair or interfere with these purposes. The Easement Area shall be used only as expressly provided in this Conservation Easement. Management of the Easement Area shall be in accordance with the Stewardship Plan. The Stewardship Plan is to be strictly followed by the individual Lot Owners and the Owner's Association for the management and maintenance of the Easement Area. ~~Thereby~~ Moreover, to successfully implement, manage and protect the prairie planting specified in the Stewardship Plan, ~~within the farming area,~~ the Subdivider, ~~the~~ Lot Owners and Owners Association shall provide that the farming operation within the agricultural area identified on the plat within Outlot 1 be done sustainably by using no-till methods and ~~cover crops~~ as reasonably determined and required by the Land Trust.

3. **Prohibited Uses.** Any activity on or use of the Easement Area inconsistent with the purposes of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

a. No commercial, industrial, or mining activities shall be permitted, and no building, structure, or appurtenant facility or improvement shall be constructed, created, installed, erected or moved onto the Easement Area, except as specifically permitted under this Conservation Easement or the Stewardship Plan.

b. The division of the Easement Area into smaller parcels, whether through *de jure* or *de facto* subdivision, including divisions through the creation of subdivisions, condominiums, site leases, lot line adjustments or other means. This paragraph requires that the entire Easement Area remain as platted for the purposes of this Conservation Easement and prohibits any conveyance that further divides any portion of the Easement Area.

c. Use of the Easement Area for commercial or industrial purposes, including use by easement or other right of access or passage across or upon the Easement Area in conjunction with commercial activity.

d. The placement and construction of any buildings, structures, or other improvements of any kind (including, without limitation, roads and parking lots) other than those improvements shown on the plat ~~and the placement and maintenance of any Village approved community sanitary sewerage systems~~, or other improvements that are consistent with the Stewardship Plan.

e. Any alteration of the surface of the land, including, without limitation, the excavation or removal of soil, sand, gravel, rock or peat. Pesticide and herbicide application to the crops and soil in the farming area adjacent to the prairie planting is prohibited. However, the following alterations of the land are permitted: (i) alterations required or permitted in the course of implementing and managing the Easement Area in accordance with the Stewardship Plan; (ii) the construction and maintenance of any storm water drainage system; (iii) the construction and management of a path system all in accordance with the Stewardship Plan; or (iv) the installation of any other utility including gas, electric, cable and telephone. In no case shall mining of oil, gas, or other minerals be permitted.

f. Any use or activity that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface or subsurface waters.

g. Any use or activity, not expressly permitted, that causes or is likely to cause significant degradation of any woodlands, wetlands, streams, springs, lakes, ponds, marshes, sloughs, swales, swamps, or potholes now existing or hereinafter occurring.

h. No portion of the Easement Area shall be used for dumps, landfills, or the storage or deposit of waste materials of any kind ~~except for any use related to the community sanitary sewer systems installed within the Easement Area~~. Disposal of any waste materials generated by activities permitted under this Conservation Easement shall be in accordance with applicable state law and with the approval of the Land Trust and/or the Village.

i. The placement, use or parking of mobile homes, trailers, trucks, automobiles, or any other motorized vehicle except as necessary for the construction or management of a path with prior approval of the Land Trust.

j. No use shall be made of the Easement Area, and no activity thereon shall be permitted, which, in the reasonable opinion of the Land Trust, is or is likely to become inconsistent with the purposes of this Conservation Easement Area or as set forth in the Stewardship Plan.

4. **Reserved Rights.** The Subdivider reserves to itself and its successors and assigns, all rights accruing from any ownership or interest it has in the Easement Area, including the right to engage in or permit or invite others to engage in all uses of the Easement Area that are not prohibited herein and are not inconsistent with this Conservation Easement or the

Stewardship Plan, while recognizing that the Easement Area is private property and owned individually by each Lot Owner.

5. **Implementation and Management of Easement Area.** The Subdivider, its successors and assigns, shall be responsible for implementation of the Stewardship Plan and management of the Easement Area in accordance with the Stewardship Plan, which, Subdivider agrees, has been prepared by a consultant with expertise in rendering professional ecological services. Subdivider shall ensure that the Stewardship Plan has been implemented prior to turning control of the Subdivision over to the Lot Owners and Owner's Association pursuant to the Restrictive Covenants. Subdivider shall fund the implementation of the Stewardship Plan and management of the Easement Area for the first five (5) years as detailed in the Stewardship Plan. A copy of the estimate of the costs for the first five (5) years is incorporated in the Stewardship Plan (p. 16) as two possible cost estimates: one with options for monitoring in years (3) and (4) and a burn in year (5); the second without the options. The Subdivider shall fund the plan which includes all options. The Easement Area shall be managed in accordance with all applicable Village and County ordinances with specific attention given to the Village ordinances regulating weeds and those sections regulating maintenance of drainage easements. The Stewardship Plan shall be updated every five (5) years unless the Owner's Association and Land Trust both agree to an earlier update. The Owner's Association and Land Trust shall jointly approve the updated plan, which shall then be presented to the Village for Village Board approval.

a. *Assessment.* Commencing one year after execution of the Conservation Easement, one of the Land Trust's trained ecological auditors, or other qualified ecological

consultant hired by the Land Trust, shall conduct an annual assessment of the Easement Area to ensure compliance with the Conservation Easement and Stewardship Plan. During the buildout phase of the Subdivision, the Village may ask the Land Trust to conduct additional assessments to evaluate compliance. A written summary of any assessment shall be provided to the Village, Subdivider, its successors and assigns, including the Owner's Association. The Owner's Association shall provide the Land Trust with a list of new owners at the time of the annual assessment. The Land Trust and ecological consultant shall meet with the Subdivider, its successors and assigns, including the Owner's Association, to review findings and develop plans for corrective action if needed. Written notice of any planned corrective action shall be provided to the Village.

b. *Education Component.* Pursuant to the Sec. 28-125(f)(3) of the Village's Code of Ordinances, the Land Trust shall hold an educational meeting with the Lot Owners after the first annual assessment is conducted. Prior to the meeting, the Land Trust shall mail to each new Lot Owner a summary of the Conservation Easement restrictions and the Stewardship Plan. The education shall be tailored to the Subdivision and include, but not be limited to, the following:

- Review of long-term goals of the Stewardship Plan, progress over the past year, and plans for the coming year;
- General explanation of prohibited and allowed activities under the Conservation Easement; and
- Review of Conservation Easement violations over the past year and corrective action.

c. *Cost.* The cost for the assessments and education performed, as well as any administrative costs incurred by the Land Trust shall be borne by the Subdivider its successors and assigns as a fee of 1.5% levied on the sale price of each lot. Each fee will be paid along with a copy of the bill of sale to the Land Trust no later than 30 days after the Subdivider its successors and assigns receives payment for each lot. This fee/lot will cover the Land Trusts administrative costs (including but not limited to education and audits) and any legal costs into perpetuity, thereby, eliminating any future costs to the Subdivider or its successors and assigns (including the Owners Association).

d. *Failure to pay.* In case of failure to pay any of the costs as provided under this Conservation Easement, the Village may extend such costs and fees upon the tax roll as a special tax pursuant to Section 66.0627, Wis. Stats., or pursuant to any other applicable section of the statutes. The Subdivider, its successors and assigns, waive right to notice and hearing. In addition, the Land Trust or Village may commence legal action for the recovery of any such amounts owing to it hereunder.

6. **Additional Rights of Land Trust.** To accomplish the purpose of this Conservation Easement, the following additional rights are conveyed to the Land Trust and Village by this Conservation Easement:

a. To enter upon the Easement Area at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Conservation Easement and Stewardship Plan; provided that such entry shall be upon prior reasonable notice to the Subdivider or Lot Owners and shall not unreasonably interfere with the Subdividers or Lot Owners activities in the Easement Area; and

b. To investigate any activity on or use of the Easement Area that is inconsistent with the purpose of this Conservation Easement and to require, at the Subdivider's or Lot Owner's expense, whichever is applicable, the remediation of such areas or features of the Easement Area that may be damaged by any inconsistent activity or use.

7. **Approval.** Where the approval of the Land Trust and/or Village is required, such approval, or denial, shall be given in writing within forty-five (45) days of receipt of written request therefore. Such request shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Land Trust and/or ~~village~~ Village to make an informed judgment as to its consistency with the purpose of this Conservation Easement and Stewardship Plan. Such approval may be withheld only upon a reasonable determination that the action as proposed would be inconsistent with the purpose of or would otherwise violate any provision of this Conservation Easement or Stewardship Plan.

8. **Enforcement of the Restrictions.**

a. *Generally.* If the Land Trust, and/or the Village determines that any party is in violation of the terms of this Conservation Easement or Stewardship Plan, or that a violation is threatened, written notice of such violation or threatened violation shall be given to the alleged violating party advising such party of the nature and extent of the violation or threatened violation and demanding corrective action sufficient to cure the violation and, where the violation involves injury to the Easement Area resulting from any use or activity inconsistent with the purpose of this Conservation Easement, to restore the portion of the Easement Area so injured. If the alleged violating party fails to cure the violation within forty-five (45) days after receipt of such notice, or under circumstances where the violation cannot

reasonably be cured within a forty-five (45) day period, fails to begin curing such violation within the forty-five (45) day period, or fails to continue diligently to cure such violation until finally cured but no later than ~~one-hundred and eighty (180) days from the date of the notice.~~ the affected party may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation by temporary or permanent injunction, ex parte if necessary, to recover any damages to which it may be entitled for violation of the terms of this Conservation Easement, or injury to any conservation values protected by this Conservation Easement, including damages for the loss of natural or scenic resources and/or water quality and/or environmental values, and to require the restoration of the Easement Area to the condition that existed prior to any such injury. Any damages recovered shall be applied to the cost of undertaking any corrective action on the Easement Area. The parties agree that remedies at law for any violation of the terms of this Conservation Easement are inadequate and that the Land Trust and the Village shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which it may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy or otherwise available legal remedies. If the Land Trust and/or Village determine that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Easement Area, the Land Trust and/or Village may pursue remedies under this Section without prior notice to the Subdivider its successors and assigns or without waiting for the period provided for cure to expire.

b. *Third Party Enforcement Rights.* The Village has third-party enforcement rights with respect to this Conservation Easement. In such capacity, the Village

may, but is not obligated to, enforce the restrictions of this Conservation Easement.

c. *Costs of Enforcement.* Any costs incurred by the Land Trust and the Village in enforcing the terms of this Conservation Easement including, without limitation, costs of litigation and actual attorneys' fees, and any costs of restoration necessitated by any violation of the terms of this Conservation Easement shall be borne by the Subdivider, or its successors and assigns, if the final determination is in favor of the Land Trust and/or Village.

d. *Enforcement Discretion.* Enforcement of the terms of this Conservation Easement shall be at the discretion of the Land Trust and/or the Village, and any forbearance by it to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement shall not be deemed or construed to be a waiver of any subsequent breach of the same or any other terms of this Conservation Easement or of any rights under this Conservation Easement. No delay or omission by the Land Trust and/or the Village in the exercise of any right or remedy upon any breach by any party to this Conservation Easement shall impair such right or remedy or be construed as a waiver.

e. *Acts Beyond Subdivider's Control.* Nothing contained in this Conservation Easement shall be construed to entitle the Land Trust and/or the Village to bring any action against the Subdivider, its successors and assigns, for any injury to or change in the Easement Area resulting from causes beyond the Subdivider's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by the Subdivider under emergency conditions to prevent, abate or mitigate significant injury to the Easement Area resulting from such causes. In the event of acts beyond Subdivider's control, the area that is destroyed shall, to the extent practical, be restored pursuant to the Stewardship Plan at the cost of the Subdivider or its successors and assigns, or with the written consent of

the Village and the Land Trust (which consent will not be unreasonably withheld), the altered area may be managed for its remaining natural ecological value pursuant to a revised stewardship plan that reflects the altered condition of the land.

f. *Waiver of Certain Defenses.* The Subdivider hereby waives any defense of laches, estoppel or prescription.

g. *Appeal from Determination of Land Trust.* The Subdivider shall have the right to seek a review by the Village of any determination made by the Land Trust, and the Land Trust hereby agrees to participate in the administrative review process and, subject to the right of appeal, be subject to any decision made by the Village with respect to said determination. Such review shall proceed in accordance with Section 2-391 et. seq. of the Code of Ordinances for the Village of Yorkville, governing administrative determinations reviews.

h. *Land Trust Default.* In the event the Land Trust fails to timely perform any one or more of its obligations under this Conservation Easement, the Owner's Association shall provide written notice to the Land Trust of the default, with a copy of the notice being provided to the Village. If the Land Trust fails to cure the default after receiving written notice by the Owner's Association or in the event the Owner's Association fails to act, the Village shall have the right to provide notice to the Land Trust of the action or omission constituting the basis for the Land Trust's default. Any notice under this section shall provide the Land Trust at least forty-five (45) days from the date of notice to cure any alleged default or provide written notice to the Village of any circumstances not warranting the default notice. This forty-five (45) day period may be extended to the period of time reasonably necessary to cure the default if the Land Trust promptly commences activities to cure the default and in

Formatted: Not Highlight

good faith diligently pursues such activities to fully cure the default, but in no event shall the period of time to cure the default exceed one-hundred and eighty (180) days from the date of the notice. In the event a Land Trust default is not fully and timely cured by the Land Trust, the Owner's Association and Village shall have all of the rights and remedies available at law and in equity. In addition, the Village shall have the right to assign the Land Trust's easement, including its rights and obligations under this Conservation Easement, to another organization that is qualified and authorized to acquire and hold conservation easements under Sec. 700.40, Wis. Stats., or any successor statute then applicable. Any review of an administrative determination made under this paragraph shall proceed in accordance with Chapter 68 of the Wisconsin Statutes.

9. **Public Access.** No right of access by the general public to any portion of the Easement Area is conveyed by this Conservation Easement.

10. **Costs, Legal Requirements, and Liabilities.** Subdivider, its successors and assigns, retains all responsibilities and shall bear all costs and liabilities of any kind related to any ownership interests, operation, upkeep, and maintenance of the Easement Area, including the maintenance of adequate liability insurance coverage. Subdivider remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this Conservation Easement, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Subdivider shall keep the Easement Area free of any liens arising out of any work performed for materials furnished to, or obligations incurred by Subdivider.

11. **Taxes.** Notwithstanding this Conservation Easement, the obligation to pay taxes

on the land over which the Conservation Easement runs shall remain with the individual Lot Owners of the Subdivision or with the Subdivider to the extent applicable, its successors and assigns. Subdivider, its successors and assigns, shall pay before delinquency all taxes, assessments, fees and charges of whatever description levied on or assessed against the Easement Area by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish the Land Trust and/or Village with satisfactory evidence of payment upon request.

12. **Representations and Warranties.** Subdivider represents and warrants that to the best of its actual knowledge:

a. No substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment exists or has been released, generated, treated, stored, used, disposed of, deposited, abandoned, or transported in, on, from, or across the Easement Area;

b. There are not now any underground storage tanks located on the Easement Area, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Easement Area in a manner not in compliance with applicable federal, state and local laws, regulations, and requirements;

c. The Easement Area is in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Easement Area and its use;

d. There is no pending or threatened litigation in any way affecting, involving, or relating to the Easement Area; and

e. No civil or criminal proceedings or investigations have been instigated

or are now pending or have occurred during the time of Subdivider's ownership, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Easement Area or its use, nor do there exist any facts or circumstances that Subdivider might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.

13. **Remediation.** If, at any time, there occurs, or has occurred, a release in, on or about the Easement Area of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Subdivider agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by the Land Trust and/or the Village, in which case the Land Trust and/or the Village shall be responsible therefor.

14. **Control.** Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in the Land Trust and/or the Village to exercise physical or managerial control over the day-to-day operations of the Easement Area, or any of Subdivider's activities on the Easement Area, or otherwise to become an operator with respect to the Easement Area within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), or under state law.

15. **Hold Harmless.** Subdivider hereby releases and agrees to hold harmless, indemnify, and defend the Land Trust and/or Village and their members, directors, officers,

employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively “Indemnified Parties”) from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Easement Area, regardless of cause, unless due to the negligence of any of the Indemnified Parties; (2) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation, or requirement, including, without limitation, CERC-LA, by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Easement Area; (3) the presence or release in, on, from, or about the Easement Area, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, unless caused solely by any of the Indemnified Parties; and (4) the obligations, covenants, representations, and warranties of sections 10 through 14.

16. **Subsequent Transfers.**

a. *Reference.* The Subdivider agrees to incorporate the terms of this Conservation Easement by specific reference to the recording data hereof in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Easement Area.

b. *Transfer to Owner's Associations.* Further, at the time the Subdivider

turns over control of the Subdivision to the Owner's Association, Subdivider shall be released from any continuing obligations hereunder and the Owner's Association shall assume all benefits and burdens assigned to Subdivider under this Conservation Easement, except that prior to the turn over of control, Subdivider shall have implemented the Stewardship Plan, and shall request written confirmation from the Land Trust that the Subdivider's responsibilities with respect to implementation of the Stewardship Plan have been satisfied. The Village shall be provided a copy of the written confirmation by the Land Trust. The Village and the Land Trust acknowledge that at the completion of this subdivision project, the Owner's Association will be responsible for the management and maintenance of the Easement Area in accordance with the Stewardship Plan and Conservation Easement. However, Subdivider shall have provided funding for the first five (5) years of the implementation and management of the Stewardship Plan. Should the Owner's Association ever cease to exist, the individual Lot Owners of the Subdivision will be responsible for the management and maintenance of the Easement Area in accordance with this Conservation Easement and will assume all benefits and burdens assigned to Subdivider under this Conservation Easement.

c. *Notice of Transfer Required.* In signing the Conservation Easement, the Land Trust assumes perpetual responsibility for ensuring that the residents of the Subdivision abide by its restrictions and that the Easement Area is managed according to the Stewardship Plan.

17. **Assignment.** This Easement is transferable, but the Land Trust may assign its rights and obligations under this Easement only to an organization that is authorized to acquire and hold conservation easements under Sec. 700.40, Wis. Stats., (or any successor provision

then applicable) and only with the approval of the Village. As a condition of such transfer, the Land Trust shall require that the conservation purposes that this grant is intended to advance continue to be carried out. The Land Trust agrees to give written notice to Subdivider of an assignment at least twenty (20) days prior to the date of such assignment. The failure of the Land Trust to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way. Assignment by the Village of its interest in this Conservation Easement will occur automatically to any successor entity or entities, including any municipality or municipalities established under Wisconsin law with jurisdiction over part or all of the area now occupied by the Village.

18. **Notices.** Any notice, demand, request, consent, approval, or communication that any party desires or is required to give to another party shall be in writing and either served personally or sent by certified-mail, return receipt requested, addressed as set forth below or to such other address as any party from time to time shall designate by written notice to the others:

Village Administrator/Clerk
Village of Yorkville
925 15th Avenue
Union Grove, WI 53182

Seno K/RLT Conservancy, Inc.
c/o Executive Director
3606 Dyer Lake Rd
Burlington, WI 53105
Phone: 262-539-3222
~~Cell:~~

TNG₂₇, LLC
8338 Corporate Drive, Ste. 300

Racine, WI 53406
Phone: 262-898-7777
Fax: 262-898-1341

Unless otherwise indicated, any notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to allow the other party to make an informed judgment as to its consistency with the purposes of this Conservation Easement.

19. **Recordation.** This Conservation Easement shall be recorded in the office of the Register of Deeds for Racine County. Any party may re-record it at any time.

20. **Extinguishment.** If circumstances arise in the future such as to render the purpose of this Conservation Easement impossible to accomplish, this Conservation Easement and the easements granted herein can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. In the event this Easement is extinguished by eminent domain or other legal proceedings, the Land Trust shall be entitled to any proceeds which pertain to the extinguishment of the Land Trust's rights and interests in this Conservation Easement.

21. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the agreement to effect the purpose of this Conservation Easement and the policy and purposes of Section 700.40 of the Wisconsin Statutes. If any provision in this Conservation Easement is found to be ambiguous, an interpretation consistent with the purpose of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

22. **Severability.** If any provision of this Conservation Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Conservation Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

23. **Binding Effect.** This Conservation Easement shall run with the land and shall be binding on and shall inure to the benefit of the parties hereto, their heirs, successors, or assigns. It is hereby acknowledged that the covenants contained herein shall constitute a servitude upon the Easement Area and shall run with the land in perpetuity.

24. **Amendment and Modification.** This Conservation Easement and the Stewardship Plan incorporated herein by reference may be amended, modified and supplemented only by written agreement of the parties hereto or their successors or assigns, provided that any such amendment shall not diminish the goals or purposes of the Conservation Easement or affect its perpetual duration.

25. **Entire Agreement.** This Conservation Easement sets forth the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein, and supersedes all prior and current agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officers, employee or representative of any party hereto.

26. **Third Parties.** Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or corporation or entity, other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Conservation Easement. There are no third-party beneficiaries to this Conservation

**of Seno K/RLT Conservancy,
based on a template derived from the
Conservation Easement for Stonecrest Shores,
a Conservation Subdivision in the Village of Yorkville.**

Formatted: Font: (Default) Times New Roman, 12 pt,
Bold