

## Round Tree Homeowners Association

Subdivisions. Any provisions contained herein for the benefit of the Developer may not be amended without its written approval and consent.

Section 2. **Proposal.** Amendments to these By-Laws may be proposed by one or more of the members of the Association whether at a meeting of members or by instrument in writing signed by it or them.

Section 3. **Meeting.** Upon any such amendment being proposed, a meeting for consideration of the same shall be duly called in accordance with the provisions of Article IV of these By-Laws.

Section 4. **When Effective.** Any amendment to these By-Laws shall become effective upon adoption of the same in accordance with Section 1 of this Article IX.

Section 5. **Distribution.** A copy of each amendment to these By-Laws shall be furnished to every member of the Association after adoption and to each owner of a Residence within the Common Areas.

### ARTICLE X Compliance

These By-Laws are set forth to comply with the requirements of Act No. 162 of the Public Acts of Michigan of 1982, as may be amended from time to time, and with the duly recorded Declaration. In the Declaration, the provisions of the statute and the Declaration shall be controlling.

## By-Laws of Round Tree Homeowners Association

### ARTICLE I Definitions

Section 1. **Association.** "Association shall mean Round Tree Homeowners Association, Michigan non-profit corporation.

Section 2. **Common Areas.** "Common Areas" shall mean the property, which is indicated on the recorded subdivision plats as private parks. Easement areas for Association maintenance are labeled separately on the subdivision plats.

Section 3. **Declaration.** "Declaration" shall mean the Declaration of Covenants, Conditions and Restrictions, as recorded in the office of the Oakland County Register of Deeds, as it may be amended from time to time.

Section 4. **Developer.** "Developer" shall mean Wineman Investment Co., a Michigan corporation, the Declarant", or its duly designated successor and assigns under the Declaration.

Section 5. **Round Tree Community.** "Round Tree Community" shall mean the Residential Areas and the Common Areas of the Round Tree Subdivisions.

Section 6. **Homeowners' Association.** "Homeowners Association" shall mean the non-profit homeowners' corporation responsible for the maintenance, administration, management and operation of the Common Areas, and easement areas established per the Round Tree Subdivision plats.

Section 7. **Residential Lot.** "Residential Lot" shall mean each building site (either improved or unimproved) designed for the construction of an individual or single family dwelling and any improved space designed for and ready for occupancy by an individual or single family for independent dwelling purposes.

### ARTICLE II Purposes

The purposes of the Association are set forth in the Articles of Incorporation of the Association.

### ARTICLE III Membership and Voting Rights of Members

Section 1. **Membership.** The members of the Association shall consist of the Developer and each of the Lot Owners as provided in the Recorded Declaration as amended.

Section 2. **Classes.** There shall be two classes of membership as provided in the Recorded Declaration Section 3.03.

Section 3. **Transfer.** The share of a member in the funds and assets of the Association cannot be separately assigned, pledged or transferred in any manner

Section 4. **Voting.** Except as limited in Section 5 below, each member of the Association shall be entitled to vote on all matters to be acted upon by the membership, in accordance with the number of votes assigned to that member in Section 3.03 of the Declaration, as it may from time to time be amended.

Section 5. **Voting Prior to First Annual Meeting.** No member, other than a Class B member, shall be entitled to vote prior to the first annual meeting of members held in accordance with the Declaration.

Section 6. **Quorum.** The presence of members of the Association representing at least twenty percent (20%) of the votes, based on the then total number of Residential Lots, in the Association shall be necessary to constitute a quorum for holding a meeting of the members of the Association. Anything to the contrary notwithstanding the Developer may waive the quorum requirement for the purpose of the First Annual Meeting and transfer of control of the Association with the election of a new Board of Directors. The absentee ballot of any member furnished at or prior to any duly called meeting at which said member is not

otherwise present in person or proxy shall be counted in determining the presence of a quorum with respect to the specific question upon which the ballot is cast.

Section 7. **Votes.** Votes may be cast in person or by a writing duly signed by a duly authorized designated voting representative not present at a given meeting. Absent any specific written designation to the contrary, the President of each member shall be its designated voting representative. Written votes must be cast with respect to specific questions of which due notice is given prior to a particular meeting and any such votes must be filed with Secretary of the Association at or before the appointed time of such meeting.

Section 8. **Majority.** A majority, except where otherwise provided herein or in the Declaration, shall consist of more than fifty percent (50%) of the votes constituting the quorum for any given meeting. Whenever provided specifically herein or in the Articles of Incorporation, action by the members of the Association may be required to be unanimous or of a greater majority than fifty percent (50%); otherwise the members may act by the majority specified above.

### ARTICLE IV Meetings of Members

Section 1. **Meetings.** Meetings of members of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the members as may be designated by the Board of Directors. Voting shall be as provided in Article III. Meetings of the Association shall be conducted in accordance with the Sturgis' Code of Parliamentary Procedure, Roberts Rules of Order or some other generally recognized manual of parliamentary procedure, when not otherwise in conflict with the Articles of Incorporation, the By-Laws of the Association, the Declaration or the law of the State of Michigan.

Section 2. **First Annual Meeting and Regular Annual Meetings.** The first annual meeting of the members of the Association shall be held at such time as the first Board of Directors of the Association shall determine but, in no event, later than 120 days after the completion and conveyance of 90% of all 230 Residential Lots proposed to be constructed within the Community. At least twenty (20) days written notice of the date, time and place thereof shall be given to each member. Thereafter, an annual meeting shall be held on the day and at such time and place as shall be determined by the Board of Directors.

Section 3. **Regular Meetings.** In addition to the annual meetings described in Section 2 of this Article IV, regular meetings of the members may be held at such times and places as shall be determined from time to time by the Board of Directors. Notice of regular meetings of the members shall be given to each member personally, by mail, telephone or telegraph, at least twenty (20) days prior to the date named for such meeting.

Section 4. **Special Meetings.** Special meetings of the members of the Association may be called by the President on seven (7) days notice to each member, given personally, by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

Section 5. **Waiver of Notice.** Before or at any meeting of the members, any member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the given of such notice. Attendance by a member at any meeting of the members of the Association shall be deemed a waiver of notice by it of the time and place thereof. If all the members are present at any meeting of the members of the Association, no notice shall be required and any business may be transacted at such meeting.

Section 6. **Adjournment.** If, at any meeting of the members of the Association, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such member for

purposes of determining a quorum and ratification by such member of any action taken or authorized at such meeting.

Section 7. **Action Without Meeting.** Any action required or permitted by Act No. 162 to be taken at any annual or special meeting of members may be taken without a meeting, without prior notice, and without a vote, if a consent in writing, setting forth the action so taken, is signed by the members having not less than the minimum number of votes that would be necessary to authorize or taken the action at a meeting at which all members entitled to vote thereon were present and voted.

**ARTICLE V  
Board of Directors**

Section 1. **Number and Qualifications of Directors.** The affairs of the Association shall be governed by a Board of Directors. Except for the Board of Directors which serves until the first annual meeting of members, the Class A Directors shall be elected by the membership and one Class B Director, shall be the Developer's representative. Directors shall serve without compensation.

Section 2. **First Board of Directors.** The first Board of Directors (and any successors thereto elected by the Class B member prior to the First Annual Meeting) shall be composed of one person unless enlarged by the Class B Member, and such first Board of Directors shall manage the affairs of the Association until the first annual meeting of members of the Association is convened at the time required by these By-Laws. Only the Class B Member shall be entitled to elect the first Board of Directors and any successors thereto prior to the First Annual Meeting of Members. Thereafter, the Board of Directors of the Association shall consist of five (5) Class A members of the Association, and an authorized representative of the Class B member until all residences planned for construction within the Subdivision have been completed and conveyed to individual homeowners purchasers after which time the Class B member shall no longer be entitled to a directorship unless such membership is continued under the provisions of Article III, Section 2 hereof. The actions of the First Board of Directors and any successors thereto who are elected solely by the Class B member shall be binding upon the Association and all members and owners of Units so long as such actions are within the scope of the powers and duties which may be exercised generally by a Board of Directors elected after the First Annual Meeting or provided for in the Declaration of Covenants as hereinbefore referred to.

Upon the completion of the First Annual Meeting of Members and election of the new Board of Directors the first Board of Directors and the Developer shall be deemed to have satisfactorily completed all its responsibilities relative to the Association and its' members and shall thereafter be released of any liability on account of same anything to the contrary notwithstanding.

Section 3. **Powers and Duties.** Subject to the limitations of Articles of Incorporation or Act No. 162 of the Public Acts of 1982, as they may be amended from time to time, as to the actions to be authorized or approved by the members, and subject to the duties of the Directors as prescribed by the By-Laws, all corporate powers shall be exercised by or under authority of, and the business and affairs of the Association shall be controlled by, the Board of Directors; it is hereby expressly declared the Directors shall have the following powers:

(a) To Select and remove all other officers, agents and employees of the Association, prescribe such powers and duties for them as may not be inconsistent with law, with the Articles of Incorporation or the By-Laws and fix their compensation.

(b) To conduct, manage and control the affairs and business of the Association, to maintain and contract for maintenance with respect to any property of the Association in Common Areas and to make such rules and regulations therefore, no inconsistent with law, with the Articles of Incorporation, Declaration or the By-Laws, as they may deem best.

(c) To appoint committees and to delegate to such committees, subject to the control of the Board of Directors, any of the powers and authority of said Board except the power to adopt, amend or repeal the By-Laws.

(d) To levy and collect regular annual assessments as provided in the Articles of Incorporation and in accordance with Article V, of the Declaration and to enforce the collection thereof; provided, however, that all special assessments for capital improvements shall be levied and collected only in accordance with the provisions of Article V, Section 5.04 of the Declaration.

(e) To contract for maintenance, landscaping, security and other management services on behalf of the residential developments within the Community to the extent such authority is conferred by the Declaration or delegated to the Board by members of this Association and/or the Members.

(f) To pay real and personal property taxes and special assessments which are or may become a lien on the property of the Association, if any.

(g) To contract and pay premiums for fire, casualty, liability and other insurance, including indemnity and other bonds, on said property facilities.

(h) To delegate such of its powers and duties as may be property delegable to a professional management company.

(i) To borrow money in furtherance of the purposes of the Association and to secure repayment of the same by mortgage, pledge or lien of Association properties.

(j) To lease, license, sell, convey or otherwise dispose of property of the Association in furtherance of the purposes of the Association.

(k) To contact when expedient and fair, with any person or entity to or with whom or which the Class B Member may be related or affiliated for the provision of services or products which are necessary to carry out the purposes and responsibilities of the Association.

(l) To do all other such acts as may be required by or are consistent with the purposes of the Association, provided such are permitted by law, the Declaration, the Articles of Incorporation, and/or the By-Laws.

Section 4. **Vacancies.** The term of the office of each of the Directors of the Association designated by a Class A Member shall coincide with his or her respective term as one (1) Class A Member. The duly appointed or elected successor to the President of the Homeowners' Association shall automatically be a Director of this Association in the place and stead of the person whom he/she succeeds. Any such Director of this Association may not resign his/her directorship without similarly resigning as president of the Homeowners' Association, which he or she represents.

Section 5. **Removal.** No Director of the Association may be removed at any time by the other Directors of this Association without a majority vote of the Membership and the Developer, as the case may be.

Section 6. **Meetings.** Regular meetings, special meetings, notice of meetings, quorum requirements, voting, and majority voting requirements for meetings of the Board of Directors are as described in Articles III and IV hereof for meetings of members of the Association.

Section 7. **Fidelity Bonds.** The Board of Directors shall require that all officers and employees of the Association handling or responsible for Association funds furnish adequate fidelity bonds. The premiums on such bonds shall be expenses of administration.

**ARTICLE VI  
Officers**

Section 1. **Officers.** The principal officers of the Association shall be a President, who shall be a member of the Board of Directors, a Vice President, Secretary and a Treasurer. The Directors may appoint First and Second Vice President, an Assistant Treasurer, an Assistant Secretary, or any of them and

such other officers as in their judgment may be necessary. Any two offices except that of President and Vice President may be held by one person.

Section 2. **Election.** The officers of the Association shall be elected annually by the Board of Directors at the annual meetings referenced in Article IV, Section 2 above and shall hold office at the pleasure of the Board.

Section 3. **Removal.** Upon a majority vote of the Board of Directors, as described in Article III, Section 8, any officer may be removed either with or without cause, and his successor elected at any regular meeting of the Board of Directors, at any special meeting of the Board called for such purpose.

Section 4. **President.** The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of the President of an association, including, but not limited to, the power to appoint committees from among the members of the Association from time to time as he may in his discretion deem appropriate to assist in the conduct of the affairs of the Association.

Section 5. **Vice President.** The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 6. **Secretary.** The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the members of the Association; he shall have charge of the corporate seal and of such books and papers as the Board of Directors may direct; and he shall, in general, perform all duties incident to the office of the Secretary.

Section 7. **Treasurer.** The Treasurer shall have the responsibility for the Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association, and is such depositories as may, from time to time, be designated by the Board of Directors.

Section 8. **Duties.** The officers shall have such other duties, power and responsibilities as shall, from time to time, be authorized by the Board of Directors.

**ARTICLE VII  
Finances**

Section 1. **Annual Assessment.** Every Class A member shall pay an annual assessment which shall be levied by the Board of Directors and which shall be used exclusively for the purposes of the Association as set forth in the Articles of Incorporation and the Declaration. The due dates of such annual assessments shall be fixed by the Board of Directors and they shall send written notice of such assessments to each member and to each Lot Owner. Said assessments may, in the discretion of the Board of Directors, be made payable on an annual or other periodic basis.

Section 2. **Amount.** The amounts of all assessment shall be determined in accordance with the provisions of the Declaration.

Section 3. **Records.** The Association shall keep detailed books of account showing all expenditures and receipts incurred by or on behalf of the Association. Such accounts and all other Association records shall be open for inspection by all members and all owners of the Common Areas during reasonable working hours. The Association shall prepare and distribute to each Owners' Association at least once each year a financial statement, the contents of which shall be defined by the Association. The books of account shall be audited at least annually by qualified independent auditors; provided, however, that such auditors need not be certified public accountant nor does such audit need to be a certified audit.

Section 4. **Management Agent.** The Board of Directors may, in its discretion, employ for the Association, a professional management agent at reasonable compensation established by the Board to perform such duties and services as the Board shall authorize provided that the Developer's approval shall be required as to the selection of said Agent.

Section 5. **Veto.** Notwithstanding the foregoing, the Lot Owner Members shall have the right, at any meeting duly convened for such purpose, to exercise control over any decisions of the members and directors of the Association to levy assessments for capital improvements pursuant to the terms and provisions of Article V, Section 5.04, of the Declaration.

Section 6. **Fiscal Year.** The fiscal year of the Association shall be an annual period commencing on such date as may be initially determined by the Directors. The commencement date of the fiscal year shall be subject to change by the Directors for accounting reasons or other good cause. Initially it shall be the calendar year.

Section 7. **Bank.** The funds of the Association shall be deposited in such bank as may be designed by the Directors and shall be withdrawn only upon the check or order of such officers, employees or agents as are designated by resolution of the Board of Directors from time to time. Reserves and other surplus funds of the Association may be invested from time to time in savings accounts or certificates insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or in obligations of the United States Government.

**ARTICLE VIII  
Indemnification of Officers and Directors**

Every director and officer of the Association shall be indemnified by the Association including those prior and current appointees of the Developer against all expenses and liabilities, including actual and reasonable counsel fees and amounts paid in settlement, incurred by or imposed upon him in connection with any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, to which he may be a party or in which may become involved by reason of his being or having been a director or officer of the Association, whether or not he is a director of officer at the time such expenses are incurred, except as otherwise prohibited by law; provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the director or officer seeking such reimbursement or indemnification, the indemnification herein shall apply only if the Association (with the director seeking reimbursement abstaining) approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled. At least ten days prior to payment of any indemnification which it has approved, the Association shall notify all Members thereof. Further, the Association is authorized to carry officers and directors liability insurance covering acts of the officers and directors of the Association in such amounts as it shall deem appropriate.

**ARTICLE IX  
Amendments**

Section 1. **General.** Amendments to these By-Laws shall be made only by and at the instance of the Class B Member until ninety (90%) of all Residential Lots planned and established in the Round Tree Subdivisions and residences constructed thereon have been conveyed to individual purchasers. Thereafter, amendments to the By-Laws shall be adopted only upon the affirmative vote of the Class A Members representing more than fifty percent (50%) of the Class A votes in the Association; provided, however that there shall be no such amendment to these By-Laws without the written consent of the Class B Member until conveyance of the last Lot to be established in Round Tree

## **Declaration of Covenants, Conditions & Restrictions Round Tree Subdivision**

This Declaration of Covenants, Conditions and Restrictions is made this 2<sup>nd</sup> day of July, 1993, by WINEMAN INVESTMENT CO., a Michigan corporation, whose address is 28400 Northwestern Highway, Suite 100, Southfield, Michigan 48034-1839 (hereafter sometimes referred to as "Developer"). \*and Wineman & Komer Building Company.

### **RECITALS:**

A. Developer is the owner of certain real property located in Orion Township, Oakland County, Michigan, which is described on Exhibit "A" attached hereto and made a part hereof.

B. Developer desires to develop the above referenced property in Phases, as such Phases shall be described in the plat or plats of subdivision recorded by Developer. Said Phases are intended to be part of an overall proposed development known as Round Tree Subdivision.

C. Developer desires to: promote the proper use and appropriate development and improvement of the above referenced property; guard against the construction of buildings with improper or unsuitable materials; promote adequate and reasonable development of aid property; encourage the construction of attractive improvements thereon and establish appropriate locations thereof to secure and maintain proper setbacks from the streets and adequate free spaces between structures; promote high standards of maintenance and operation of community facilities, open areas and services for the benefit and convenience of all owners of the property and all residents; and in general provide for a residential subdivision of high quality and character.

NOW, THEREFORE, Developer hereby declares that the real property described on Exhibit "A" attached hereto is, and any parcels and/or lots into which said property may be divided are, and shall be, held, transferred, sold, conveyed and occupied subject to the conditions, covenants, restrictions, reservations and grants hereinafter set forth, together with such other conditions, covenants, restrictions, reservations and grants which are hereafter recorded with respect to said property; all of which conditions, covenants, restrictions, reservations and grants are for the benefit of and shall run with and bind the property and all parties having any right, title or interest in the property or any part thereof, or improvements thereon, as well as their heirs, successors and assigns.

### **ARTICLE I Definitions**

1. "Association" shall mean a Michigan non-profit Corporation to be formed by Developer as provided in Section 3.01, and its successors and assigns.

2. "Common Areas" shall mean those portions, if any, of the Property (including any improvements thereon) for the common use and enjoyment of the Owners, which are designated as open space, active recreation, part, retentions ponds and other common areas on the recorded plat(s) for Phase I, and all subsequent Phases.

3. "Detention Basin Easement" shall mean the detention, retention and sedimentation basins and related facilities which are located outside Phase I and which are more particularly described on Exhibit "C" attached hereto and made a part hereof.

4. "Developer" shall mean Wineman Investment Co., a Michigan corporation, its successors and assigns.

5. "Entrance Improvements" shall mean the entrance-way monument, irrigation system and meter pit installed with respect to the common entranceway and non-access greenbelt easement that is referenced in Section 6.28 and which abuts Lapeer Road (M-24 Highway).

6. "Lot" shall mean each unit of land designated for residential use and the construction thereon of a single family dwelling unit,

as identified on the recorded plat(s) of subdivision with respect to Phase I and all subsequent Phases.

7. "Member" shall mean a member of the Association.

8. "Owner" shall mean the holder or holders of the record fee simple title to, and/or the land contract purchaser of, a Lot, whether one or more persons entities. The term "Owner" shall not include any mortgagee or any other person or entity having an interest in a Lot merely as security for the performance of an obligation, unless and until such mortgagee or other person or entity shall have acquired fee simple title to such Lot by foreclosure or other proceeding or conveyance thereof in lieu of foreclosure. In the event that more than one person or entity owns an interest in the fee simple title to a Lot, or in the event any Lot is subject to a land contract, then the interests of all such persons, or entities, and the interest of the land contract seller and purchaser, collectively shall be that of one Owner.

9. "Phase I" shall mean Round Tree Subdivision No. 1, according the plat thereof, recorded in Liber 224, Pages 24 through 29, Oakland Count Records, together with all Lots and Common Areas, if any, as described on the recorded plat of the subdivision.

10. "Phase II and All Subsequent Phases" shall mean such portion of the Property, together with all Lots and Common Areas, if any, as described on the plats of the subdivisions for such Phases where are hereafter recorded by Developer.

11. "Property" shall mean the real property described on Exhibit "A" attached hereto and previously made a part hereof, as the same may be amended; which Property includes Phase I and subsequent Phases of the overall proposed development know as Round Tree Subdivision.

12. "Township" shall mean the Charter Township of Orion.

13. "Wetlands" shall mean those portions of the Property which are designated as wetlands in the recorded subdivision plat and/or which are designated as such by the Township and any other governmental unit or agency having jurisdiction over the Property.

### **ARTICLE II**

#### **Property Subject to this Declaration**

The real property which is subject to and which shall be held, transferred, sold, conveyed and occupied pursuant to this Declaration is more particularly described on Exhibit "A" attached hereto and previously made a part hereof, as the same may be amended.

### **ARTICLE III**

#### **Round Tree Homeowners Association**

**Section 3.01 Creation and Purposes.** Developer shall form a non-profit corporation in accordance with the Michigan Non-Profit Corporation Act, Act No. 162 of the Public Acts of 1982, which shall be known as the Round Tree Homeowners Association or such other name as may be designated by Developer. The Association and its Members shall have those rights and obligations which are set forth in this Declaration and in the Articles of Incorporation and By-Laws of the Association.

The purposes of the Association shall be to maintain all Common Areas for the common use of all residents and owners of platted and unplatted Lots therein, and to arrange for the provision of services and facilities of common benefit, and in general to maintain and promote the desired character of Round Tree.

**Section 3.02 Membership.** Developer and every Owner of a Lot shall be a Member commencing on the date on which said Owner is conveyed fee simple title to said lot or, if applicable, the date on which a land contract purchaser enters into a land contract to purchase said Lot. All membership rights and obligations shall be appurtenant to and may not be separated from ownership of any Lot.

**Section 3.03 Voting Rights.** The Association shall have two (2) classes of Voting Members, which are as follows:

(a) Class "A" Members shall consist of all Owners of Lots other than Developer. Each Class "A" Member shall be entitled to one vote on each matter submitted to a vote of Members for each Lot owned by the Class "A" Member. Where title to a Lot is in more than one person or entity, all such persons or entities shall be Members and jointly shall be entitled to only one vote per Lot. Where a Lot has been sold pursuant to a land contract, the purchaser under said land contract shall be entitled to the vote for said Lot. Such multiple Owners (including co-purchasers under a land contract) may exercise said one vote per Lot as they may mutually agree, and such co-owners or co-purchasers shall notify the Association in writing of the person entitled to exercise such vote. In the event any multiple Owners fail to provide such notice to the Association at least thirty (30) days prior to the date set for a meeting, the Owner whose name first appears on the record title shall be deemed to be the Member authorized to vote on behalf of all the multiple Owners and any vote cast in person or by proxy by said Owner, or the failure of said Owner to vote, shall be binding upon all such multiple Owners.

(b) Developer shall be a Class "B" Member. In order to assure the orderly development and maintenance of the Property and the Common Areas in Phase I, and all subsequent Phases, the Class "B" Member shall be entitled to three (3) votes for each Lot owned within Phase I and all other Phases shown on the Final Preliminary Plat approved by the Township Board of Trustees on October 21, 1991, whether or not a final plat for each such Phase has been recorded at the time said voting rights may be exercised. Class "B" membership shall terminate as to any Lots owned by Developer at the time any such Lot is sold or conveyed to an Owner other than Developer, which Owner shall thereafter be a Class "A" Member.

**Section 3.04 Articles and By-Laws.** The Association shall be organized, governed and operated in accordance with its Articles of Incorporation and By-Laws, which shall be consistent with the provisions and purposes of this Declaration. In the event there exists any conflict between the provisions contained within the Association Articles of Incorporation and By-Laws and the provisions contained within this Declaration, the provisions of this Declaration shall control.

**Section 3.05 Directors.** The right to manage the affairs of the Association shall be exclusively vested in the Association Board of Directors. The Developer shall be the sole Director until such time as ninety (90%) percent of the Lots within all Phases have been sold and conveyed to persons other than builders who own or hold Lots for resale to customers in the ordinary course of business, or until such earlier time as Developer may elect, in its discretion. Thereafter, the Board of Directors, shall consist of five (5) members, who shall be elected by the Members of the Association in accordance with the provisions of the Articles of Incorporation and By-Laws of the Association.

**ARTICLE IV  
Rights in Common Areas**

**Section 4.01 Right of Members to Use Common Areas.** Each Member of the Association shall have the right and no-exclusive easement to use the Common Areas for the purposes provided herein. Such right and easement shall be appurtenant to, and shall pass with title to, every Lot and unplatted portion of the Property.

The Common Areas shall be retained as open park and recreation areas, and no dwellings shall be erected thereon. In addition, the Common Areas shall be used subject to the following provisions:

(a) There shall be no activity within any Wetlands except those activities which are permitted by applicable statutes, ordinances, rules and regulations of those governmental units have jurisdiction.

(b) The Common Areas shall be used and maintained in accordance with the provisions of all maintenance and/or easement agreements which are now or hereafter entered into by and between Developer and/or the Association and the Township with respect to the Property or any portion thereof, and any amendments to such agreements.

(c) The Association shall have the right to establish rules and regulations as the Board of Directors may deem necessary or desirable for the safe, orderly and convenient operation, maintenance and use of the Common Areas and the improvements, equipment or facilities located thereon.

(d) The Association shall have the right to suspend the voting rights of any Member and the right of any person to use the Common Areas or the facilities located thereon for any period during which assessment against such Member's Lot is delinquent and for a period not in excess of thirty (30) days for any infraction of any rules or regulations promulgated by the Board of Directors.

(e) The Association shall have the right to charge reasonable admission and other fees for the use of any facility or improvement located in the Common Areas.

(f) The Association shall have the right to establish such rules and regulations as the Board of Directors may deem necessary or desirable for the preservation of any Wetlands and detention and/or sediment basins located in any portion of the Property.

**Section 4.02 Title to Common Areas.** At such time as the Association has been formed and organized, the Developer may, in its discretion, convey title to the Common Areas and entranceway Improvements to the Association. In any event, Developer shall convey to the Association all of the Common Areas with Phase I on or before the date that fee simple interest in ninety (90%) percent of the Lots within Phase I have been conveyed by Developer. The Developer shall convey to the Association all Common Areas, if any, in each later Phase on or before the date that fee simple interest in ninety (90%) percent of the Lots in the applicable Phase have been conveyed by Developer. The conveyance of the Common Areas shall be subject to any easements reserved, dedicated or granted by Developer (in accordance with Sections 4.03 or 6.29 below) and the terms and provisions of any maintenance agreements or other Common Area maintenance and/or easement agreement entered into with the Township prior to the date of conveyance.

**Section 4.03 Common Area Easements.** Developer, the Association and the Township, their agents and representatives, shall have a perpetual easement for reasonable access to the Common Areas at all reasonable times for purposes of maintenance, repair, operation and improvement thereof.

Prior to the conveyance of the Common Areas by Developer to the Association in accordance with Section 4.02 above, Developer, subject to all applicable municipal ordinances, shall have the exclusive right to dedicate or transfer all or any part of the Common Areas to the public use, to grant private easements for the use of all or any part of the Common Areas, and to reserve, dedicate and/or grand public or private easements within the Common Areas for the construction, installation, repair, maintenance and replacement of rights-of-way, walkways, bicycle paths, water mains, sewers, drains, detention basins, retention basins, sedimentation ponds, water wells, electric lines, telephone lines, gas mains, cable television and other telecommunication lines and other public and private utilities, including all related equipment and facilities. Developer reserves the right to assign any such easements to units of government or public utilities. The location and configuration of such easements shall be determined by Developer in its discretion. Developer shall not be obligated to make any improvements to the Common Areas, to provide recreation facilities or to construct or install any buildings, structures or other improvements in the Common Areas, except

as may be required by the Township in its final approval of any plat for any Phase of the Property.

Upon conveyance by Developer to the Association of title to the Common Areas, the Association shall have the right to dedicate or transfer all or any part of the Common Areas to the public use and the right to reserve, dedicate or grant public or private easements for such purposes and subject to such conditions as may be agreed upon by the Members; provided, however, that any dedication, transfer or determination as to the conditions thereof shall be effective only upon execution of an instrument signed by the holders of two-thirds of all outstanding Class "A" votes and by Developer, if Developer continues to own any Lots or any other portion of the Property, and approved by the Township.

**Section 4.04 Detention Basin Easement.**

(a) Developer has granted to the Association and all Owners a non-exclusive easement for the discharge and run-off of storm drainage in and to the storm drain retention, detention and sedimentation basins and related facilities which are installed by Developer pursuant to the plans and specifications approved by the Township and the Oakland County Drain Commissioner (the "Drainage Facilities") within the real property which is more particularly described on Exhibit "B" attached hereto and made a part hereof (the "Detention Basin Easement").

(b) Developer reserves the right to relocate and/or vacate all or a part of the Detention Basin Easement, provided that Phase I and all subsequent Phases continue to have adequate storm drainage facilities which are within a recorded easement and which are approved by the Township, the Oakland County Drain Commissioner and all governmental units having jurisdiction. Developer further reserves the right to grant other non-exclusive easements for the discharge of storm drainage in and to the Detention Basin Easement as well as the right to dedicate or transfer all or any part of the Detention Basin Easement to the public use and to grant public or private easements within the Detention Basin Easement for the construction, installation, repair, maintenance and replacement of rights-of-way, roads, walkways, bicycle paths, water mains, sewers, drains, retention basins, water wells, electric lines, telephone lines, gas mains, cable television and other telecommunication lines and other public and private utilities, including all related equipment and facilities and/or for the use of the Detention Basin Easement as a Common Area. The location and configuration of any such easements shall be determined by Developer in its discretion.

(c) The Association shall be responsible for the maintenance of the Detention Basin Easement in accordance with the provisions of any and all maintenance agreements which are now or hereafter entered into by and between Developer and/or the Association and the Township, any and amendments thereto, and otherwise in accordance with all applicable statutes, ordinances, rules and regulations of those governmental units having jurisdiction thereover.

(d) For purposes of Section 4.01 and the covenants contained in Article V, the Detention Basin Easement shall be deemed to be a Common Area.

**Section 4.05 Maintenance of Common Areas.** The Association shall be responsible for the maintenance of the Detention Basin Easement, the Entranceway Improvements and other Common Areas in accordance with the Township's ordinances, rules and regulations and all other applicable statutes, rules and regulations of all governmental units having jurisdiction over the Detention Basin Easement, the Entranceway Improvements and/or the Common Areas.

**ARTICLE V  
Covenants for Maintenance and Capital Charges**

**Section 5.01 Creation of the Lien and Personal Obligation for Assessments.** Each Owner of any Lot, other than Developer, by accepting conveyance of such Lot, or, by entering into a land contract for the purchase of such Lot, shall be deemed to covenant and agree to pay to the Association when due the assessments described below, regardless of whether or not such covenant shall be expressed in such instrument of conveyance or land contract:

(a) general assessments to meet regular Association expenses, which shall include such assessments required to maintain any easement referenced in Sections 4.03, 4.04 or 6.28 of the Declaration; and

(b) special assessments for capital improvements, to be established and collected as set forth below; and

(c) special assessments for maintenance of Owner's premises, to be established and collected as set forth below; and

(d) all other assessments for taxes, levies, assessments or other charges lawfully imposed or charged to the Association with respect to the Common Areas.

The foregoing assessments, together with such interest thereon and costs of collection thereof (including court costs and reasonable attorneys' fees) which are described below, shall be a lien on the Lot against which they are made and all improvements thereon. Each such assessment, together with interest thereon, and the costs of collection thereof, in addition to constituting a lien on such Lot and improvements, shall also constitute a personal obligation of the person who is the Owner of the Lot on the date the assessment was established.

**Section 5.02 Purpose of General Assessments.** The general assessment levied under this Article V and the working capital funds required under Section 5.03(c), shall be used by the Association for the purpose of: (i) promoting the recreation, health, welfare and safety of the residents of the Property; (ii) improving, landscaping and maintaining the Common Areas, Entranceway Improvements and the greenbelt easements referenced in Section 6.28; (iii) providing services and facilities for the benefit of residents of the Property; (iv) maintaining, beautifying and improving the streets, parkways, rights-of-way and entranceways within the Property to the extent not regularly maintained by the Oakland County Road Commission or such other governmental agency having jurisdiction; and (v) discharging any taxes, insurance premiums and mortgage installments relating to the Common Areas and improvements thereon.

**Section 5.03 General Assessments.** Commencing in the year the Association is formed, and for each fiscal year of the Association thereafter, general assessments shall be levied and paid in the following manner:

(a) The Board of Directors of the Association shall levy against each Lot an annual assessment, based upon the projected costs, expenses and obligations of the Association for the ensuing fiscal year, which assessment shall be a specified amount per Lot. In the event the actual costs, expenses and obligations of the Association exceed the amount projected, the Board of Directors of the Association shall have the right to levy against each Lot such additional assessments as may be necessary to defray such costs, expenses and obligations, subject to the limitations set forth in subparagraph (b) below.

(b) For the first year in which the Association is formed, the annual assessment shall be the amount of One Hundred and 00/100 (\$100.00) Dollars per Lot. Within thirty (30) days from the beginning of each fiscal year of the Association thereafter, the Board of Directors shall send a written notice of assessment to each Owner stating the amount of the assessment established by the Board of Directors for the ensuing year. Each Owner shall pay said assessment within thirty (30) days from the date said written statement is mailed. Assessments not paid within said thirty (30) day period shall be deemed delinquent and interest shall accrue on delinquent assessments at the lower of ten (10%) percent per annum or the highest rate permitted by law.

(c) Any Owner who acquires a Lot from Developer or from a person or entity exempt from the payment of assessments under Section 5.07 below, shall pay to the Association, on the date said Lot is conveyed to the Owner: (i) the amount of One Hundred and 00/100 (\$100.00) Dollars, which constitutes a one-time, non-refundable contribution to the Association's working capital account (and not a prepayment of any general or special assessment); and (ii) an amount equal to the prorated balance of the general assessment and special assessment, if any, established for the then current assessment period, based upon the number of days remaining in the then current assessment period from the date of conveyance. For each fiscal year thereafter, such Owner shall be liable for any and all assessments levied in accordance with this Article V.

(d) The fiscal year of the Association shall be established in the manner set forth in the Association's By-Laws.

(e) The Board of Directors, in its discretion, may establish an installment program for the payment of any regular, special or deficit assessment and may charge interest in connection therewith.

**Section 5.04 Special Assessments for Capital Improvements.**

In addition to the general assessments authorized by Section 5.03 above, the Association may levy special assessments for the purpose of defraying all or part of the cost of any construction, reconstruction, repair or replacement of any improvements within the Common Areas, including any future equipment and other personal property relating thereto, provided, however, that no such special assessment shall be levied unless first approved by sixty (60%) percent of the total combined Class A and Class B votes, cast in person or by proxy at a meeting of the Association Members duly called for such purpose. Written notice of such meeting shall be sent to all Members at least thirty (30) days in advance of the meeting, which notice shall set forth the purpose of the meeting. Any such special assessments shall be due and payable according to the terms and conditions and in the manner specified in the resolution of the Association. Any special assessment not paid when due shall be deemed delinquent and interest shall accrue on such delinquent assessment at the rate specified in the assessment, or, if not specified, at the lower of ten (10%) percent per annum or the highest rate permitted by law.

The quorum required for the first meeting called for the purpose of voting on a special assessment shall be at least ninety (90%) percent of all the then authorized Class A and Class B votes present, either in person or by proxy. If the required quorum is not present at the first meeting called for the purpose of considering the special assessment, another meeting may be called for said purpose, with notice thereof to be given as provided for in this Section 5.04 and the required quorum at any such subsequent meeting shall be two-thirds (2/3) of the required quorum for the first meeting, provided that such second meeting is held within sixty (60) days from the date of the first meeting.

**Section 5.05 Uniform Assessment Rate: Assessments Against Specific Properties.**

(a) Subject to Section 5.05(b) below, all general, special and deficit assessments shall be fixed and established at a uniform rate for all Lots within the Property.

(b) Notwithstanding Section 5.05(a) above, and in addition to the assessments otherwise authorized in this Article V, the Association may levy an assessment against one or more specific Lots, for the purpose of maintaining and caring for the surface thereof and any plantings, landscaping or other vegetation located thereon. An assessment for such purposes shall not be levied except in compliance with the following procedures:

(i) Written notice of such determination which specifies the nature of the unsatisfactory condition and the actions required to remedy the unsatisfactory condition, shall be delivered to the Owner of the offending Lot.

(ii) The Owner shall have a period of not less than thirty (30) days from the date said Owner receives the above referenced notice to commence the required work.

(iii) If the Owner has not commenced the required work within said thirty (30) day period or, if having commenced such work, it is not completed within a reasonable time after commencement, the Association shall have the right to enter upon the Owner's property, complete the required work and assess the cost against such Lot; provided, however, such cost shall not exceed the reasonable cost for performing such work.

(iv) Any assessment levied under this Section 5.05(b) shall be due and payable thirty (30) days from the date the Owner receives a statement. Any such assessment not paid when due shall be deemed delinquent and interest shall accrue on such delinquent assessment at the lower of ten (10%) percent per annum or the highest rate permitted by law.

**Section 5.06 Certificate With Respect to Assessments.** Upon the written request of any Owner, the Association shall furnish, within a reasonable time, a written certificate regarding the status of any assessments levied against such Owner's Lot(s). Any such certificate, when properly issued by the Association, shall be conclusive and binding with regard to the status of the assessment as between the Association and any bona fide purchaser of said Lot(s) described in the certificate and the lender who has taken a lien on said Property as security for the repayment of a loan.

**Section 5.07 Exemption from Assessments.**

(a) All Lots owned by Developer shall be exempt from all regular, special and other assessments. Upon conveyance of any Lot by Developer to a Class A Member, the exemption for each such Lot shall thereupon cease and such Lot shall then be liable for the prorated balance of that year's established annual assessment and special assessment, if any. Notwithstanding the foregoing, however, any Lots owned by Developer shall not be exempt from assessment by the Township for real property taxes and other charges.

(b) Builders, developers and real estate companies who own or hold any Lot(s) for resale to customers in the ordinary course of business shall not be liable for the payment of any regular, special or other assessments imposed by the terms of this Article V; provided, however, that any exemption established by this Section 5.07(b) shall cease and terminate as to any Lot contained in any Phases in the event construction is not commenced within three (3) years from the date the plat of subdivision for the applicable Phase has been recorded.

**Section 5.08 Subordination of Liens to Mortgages.** The lien for assessments provided for in this Article V shall be subordinate to the lien of any mortgage or mortgages held by and bank, savings and loan association, insurance company, mortgage company or other similar institution existing of record at the time the lien for assessments shall be imposed. Sale or transfer of a Lot, or any portion thereof, shall not affect the assessment lien. However, the sale or transfer of any Lot in connection with a mortgage foreclosure proceeding, or any proceeding in lieu thereof, shall extinguish the lien of the assessments, interest and charges, which became due prior to such sale or transfer, but in no such event shall the prior Owner of said Lot be relieved of any liability for such obligations and debts. No sale or transfer pursuant to any foreclosure proceeding, or any proceeding in lieu thereof, shall relieve any Lot from any assessments thereafter levied or from the lien accruing from such assessments, and no subsequent sale or transfer shall release such Lot from liability for an assessment, interest or charges which hereafter become due or from any lien therefore.

**Section 5.09 Collection of Assessment and Creation of Lien.** If any assessment shall not be paid within thirty (30) days from the date payment is due, the Association may sue the Owner and obtain a personal judgment against said Owner and/or may enforce the lien in Oakland County Circuit Court in the same

manner as, and by following similar procedures which are required for, the foreclosure of mortgages, whether by advertisement or judicial action, including the allowance of such costs and reasonable attorneys' fees that would be recoverable in the foreclosure of a mortgage.

**Section 5.10 Action by the Township.** In the event the Association fails at any time to maintain the Detention Basin Easement, Entranceway Improvements or other Common Areas, in reasonable order and condition, the Township may serve written notice upon the Association setting forth the manner in which the Association has failed to maintain the Detention Basin Easement, Entranceway Improvements or other Common Areas and such notice shall include a demand that the maintenance deficiencies are cured within thirty (30) days from the date of the notice. The Association may, within fourteen (14) days from the date of the notice, request a hearing to appeal the Township's determination, before the board authorized by the Township Board of Trustees to hear such appeals. In the event the Association requests such a hearing, a hearing shall be held with reasonable time after the receipt of the Association's request. At such hearing, the terms of the original notice may be affirmed, modified or reversed.

If the deficiencies set forth in the original notice, of any modification thereof, shall not be cured within such thirty (30) day period or any extension thereof, the Township, in order to prevent the Detention Basin Easement, Entranceway Improvements or other Common Areas from becoming a nuisance, may enter upon the Detention Basin Easement, Entranceway Improvements or other Common Areas and perform the required maintenance to cure the deficiencies. Notwithstanding anything to the contrary contained in this Section 5.10, if the Township determines that any emergency condition exists with respect to the Drainage Facilities, or Entranceway Improvements which threatens the public health, safety or welfare, the Township shall have the right to immediately and without notice take appropriate action to abate such condition. The Township's costs to perform any such maintenance shall be assessed equally against each Lot and collected in the same manner as general property taxes, including the provisions under state and local law for payments of interest, penalty and foreclosure.

**ARTICLE VI  
General Restrictions**

**Section 6.01 Land and Building Use Restrictions.** All Lots shall be used for private residential purposes only and not building, except an existing building or as specifically authorized elsewhere in this Declaration, shall be erected, re-erected, placed or maintained or permitted to remain thereon, except one (1) single family private dwelling or model home and an attached private garage containing not less than two (2) nor more than four (4) parking spaces for the sole use of the Owner or occupants of the dwelling. No other accessory building or structure may be erected in any manner or location without the prior written consent of Developer.

**Section 6.02 Dwelling Quality and Size.** It is the intention and purpose of this Declaration to insure that all dwellings shall be of quality design, workmanship and materials approved by the Developer. All dwellings shall be constructed in accordance with the applicable governmental building codes, ordinances and/or regulations and with such further standards as may be required by this Declaration or by Developer, its successors and/or assigns. The minimum square footage of floor area of a dwelling, exclusive of attached garages, basements, steps, open and/or closed porches, breezeways and similar facilities, shall be not less than one thousand four hundred (1,400) square feet.

Notwithstanding the foregoing, the Developer shall be entitled to grant exceptions to the above referenced minimum square footage restrictions to the Owner of a Lot who applies for such exception; provided said Owner demonstrates to the satisfaction of Developer that a reduction in the square footage requirements as to said Owner will not adversely affect the quality of the subdivision or lessen the value of the homes surrounding the home to be constructed by the Owner on such Lot. In no event,

however, shall the minimum square footage requirement be reduced below one thousand two hundred (1,200) square feet. Any such exception granted to an Owner shall be evidenced by a written agreement and no such exception shall constitute a waiver of any minimum square footage requirement as to any other Lot or Lot Owner.

**Section 6.03 Buildings Location.** All buildings and structures shall be located on each Lot in accordance with all applicable Township ordinances, rules and regulations. All garages shall be designed to open toward the side yard of a Lot. Developer may grant exceptions to the requirement that a garage be designed for side entry, provided that the Owner who applies for such exception demonstrates to the satisfaction of Developer that the side entry garage requirement would impose a practical difficulty or undue hardship upon said Owner, based upon the size, configuration or other features of the Owner's Lot.

**Section 6.04 Lot Size.** The minimum Lot size for each Lot shall be the size established for said Lot in the applicable recorded plat of subdivision. In the event more than one (1) Lot, or portions thereof, are developed as a single unit (and except as to the obligations of each Lot Owner for any assessments made against each separate Lot), all Restrictions set forth in this Declaration shall apply to such resulting unit in the same manner as to any single lot.

**Section 6.05 Driveways.** Access driveways and other paved areas for vehicular use on a Lot shall have a base of compacted sand, gravel, crushed stone, or other approved base material and shall have a wearing surface of concrete, asphalt or the equivalent thereof. Plans for driveways, pavement edging or markers must be approved by Developer in writing prior to commencing any construction in accordance with such plans.

**Section 6.06 Natural Drainage Ways.** Where there exists on any Lot(s) a condition of accumulation of storm water remaining over an extended period of time, the Owner may, with the written approval of Developer, and the Township, take such steps as shall be necessary to remedy such condition, subject to the provisions of Sections 6.14 and 6.27 below and provided that the Owner does not install any obstructions or diversions of existing storm drainage facilities that causes damage to other property.

**Section 6.07 Building Materials.** Exterior building materials may be stone, brick, wood, vinyl, aluminum, and/or manufactured wood siding or any other material blending with the architecture and natural landscape which is approved by Developer.

**Section 6.08 Home Occupations, Nuisances and Livestock.**

No home occupation, profession or commercial activity shall be conducted in any dwelling, with the exception of model homes owned by, or the sales activities of, Developer or builders, developers and real estate companies who own or hold any Lots for resale to customers in the ordinary course of business. No noxious or offensive activity shall be carried on in or upon any Lot or premises nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, other than normal construction activity. No chickens or other fowl or livestock shall be kept or harbored on any Lot. No animals or birds shall be maintained on any Lot, except customary house pets for domestic purposes only. All animal life maintained on any Lot shall have such provisions and care so as not to become offensive to neighbors or to the community on account of noise, odor, or unsightliness and no household pets shall be bred, kept or maintained for any commercial purposes whatsoever. No burning of refuse shall be permitted, except that the burning of leaves shall be permitted if allowed by the Township, provided that it does not become offensive or a nuisance. No occupied or unoccupied Lot shall be used or maintained as a dumping ground for rubbish or trash.

**Section 6.09 Plant Diseases or Noxious Insects.** No plants, seeds or other things or conditions harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of a Lot.

**Section 6.10 Temporary Buildings, Damaged Dwellings and Reconstruction.** No trailer, mobile home, van tent, shack, garage, barn, out-building or structure of a temporary character shall be used at any time as a temporary or permanent residence, nor

shall any basement be used for such purposes; provided, however, that the foregoing restriction shall not apply to any activities by Developer or any builder, developer or real estate company during any sales and/or construction periods. All permanent dwellings shall be completed within two (2) years from the commencement of construction. No old or used buildings of any kind whatsoever shall be moved or reconstructed on any Lot. Any building damaged or destroyed by any cause, for which repair or reconstruction has not commenced within six (6) months from the date of damage or destruction, shall be removed so that there are no ruins or debris remaining within six (6) months from the date of damage or destruction. Any building which is not completed within two (2) years from commencement of construction or any damage or destruction not promptly remedied shall be deemed a nuisance and may be abated as provided by law. Any and all property within any public or private road or right-of-way which is disturbed by reason of any work performed by an owner, or said owner's agents, servants, employees or independent contractors, in erecting any building or structure on said owner's Lot shall be restored by said owner, at his sole expense, to its condition immediately prior to the commencement of such work. Said restoration shall be performed immediately following the completion of said work or, if such work is not completed, within a reasonable time following the date the work stopped. No storage sheds shall be erected on any Lot without the prior written approval of Developer.

**Section 6.11 Soil Removal.** Soil removal from Lots shall not be permitted, except as required for building construction and as permitted by Developer. In addition, all construction shall be subject to the requirements of the Michigan Soil Erosion and Sedimentation Control Acts and all other applicable statutes, ordinances, rules and regulations of all governmental units having jurisdiction.

**Section 6.12 Underground Wiring.** No permanent lines or wires for communication or other transmission of electricity or power (except transmission lines located within existing or proposed easements) shall be constructed, placed or permitted to be placed anywhere above ground on a Lot other than within buildings or structures.

**Section 6.13 Maintenance of Side Strips.** Owners of Lots shall be responsible for the maintenance of parkways or public rights-of-way located between their lot lines and edges of street pavements on which said Lots abut.

**Section 6.14 Tree Removal.** Clear-cutting or removal of trees greater than eight (8) inch caliper at breast height shall not be permitted unless such clear-cutting or tree removal is in compliance with all applicable municipal ordinances and approved by Developer. Prior to commencement of construction, each owner shall submit to Developer, for its approval, a plan for the preservation of trees in connection with the construction process. It shall be the responsibility of each Lot Owner to maintain and preserve all large trees on its Lot, which responsibility includes weeding trees, if necessary.

**Section 6.15 Performance of Construction.** No building shall be erected on any Lot except by a residential building contractor licensed by the State of Michigan for such purpose.

**Section 6.16 Vehicular Parking and Storage.** No trailer, mobile home, bus, boat trailer, boat, camping vehicle, motorcycle, recreational vehicle, commercial or inoperative vehicle of any description shall at any time be parked, stored or maintained on any Lot, unless stored fully enclosed within an attached garage or similar structure; provided however, that builders' trucks and equipment may be parked and used on any Lot during construction operations. No commercial vehicle lawfully upon any Lot for business shall remain on such Lot except in the ordinary course of business and in conformity with all applicable laws and/or ordinances.

**Section 6.17 Garbage and Refuse.** Trash, garbage or other waste shall be kept only in closed, sanitary containers and shall be promptly disposed of so that it will not be objectionable to neighboring property owners. No outside storage for refuse or garbage shall be maintained or used unless the same shall be properly concealed. The burning or incineration of rubbish, trash,

construction materials or other waste outside of any residential dwelling is strictly prohibited.

**Section 6.18 Fences and Obstructions.** No perimeter fences, wall or similar structures shall be erected on any Lot within the front yard area formed by the front Lot line, the side Lot lines and a connecting line which shall be the rearmost exterior wall of the residential dwelling, unless required by Developer for construction reasons, in its sole and exclusive discretion. No other fences, wall or similar structures shall be erected on any Lot without the prior written approval of Developer. Such approval shall be granted for enclosing swimming pools permitted under Section 6.21. In addition, no fence, wall, structure, planting or obstruction shall be erected, established or maintained on any corner within a triangular area formed by the street lines and a connecting line which is at a point twenty-five (25) feet from the intersection of such street lines, which shall have a height that is more than two (2) feet; provided, however, shade trees with wide branches which are at least eight (8) feet above ground shall be permitted within such area.

**Section 6.19 Landscaping and Grass Cutting.** Upon completion of a residential dwelling on any Lot, the Owner thereof shall cause such Lot to be finish graded, seeded or sodded and suitably landscaped as soon after such completion as weather permits, and in any event within eight (8) months from the date of completion. When weeds or grass located on any Lot exceed six (6) inches in height, the Owner of said Lot shall mow or cut said weeds and grass over the entire Lot except in wooded areas and Wetlands. If said Owner fails to mow or cut weeds or grass or properly water said grass within ten (10) days after being notified in writing, the Developer may perform such work and the cost thereof shall become a lien upon the Lot(s) involved until paid. All Lots owned by Developer or a builder who owns Lots for resale in the ordinary course of business shall be exempt from the foregoing restrictions contained in this Section 6.19. Upon conveyance of any Lot by Developer or a builder to an Owner other than Developer of a builder, the exemption for said Lot shall thereupon cease and such Lot shall be subject to all of the restrictions contained in this Section 6.19.

**Section 6.20 Motorized Vehicles.** No trail bikes, motorcycles, snowmobiles or other motorized recreational vehicles shall be operated on any Lot or in any drain casement, side strip, Common Areas, or retention area of the subdivision.

**Section 6.21 Swimming Pools, Tennis Courts and Other Structures.** No swimming pools, tennis courts, outdoor whirlpools, hot tubs, wood decks, greenhouses, porches or other recreational structures shall be constructed on any Lot without the prior written approval of Developer. The construction of any swimming pool or other recreational structure which has been approved in writing by Developer shall be constructed in accordance with this Declaration and with all applicable local ordinances and/or state laws.

Recreational structures, including swimming pools, tennis courts, whirlpools, hot tubs and the like, if permitted in writing by Developer, shall be screened from any street lying entirely within the Property, by wall, solid fence, evergreen hedge or other visual barrier as approved in writing by Developer and in compliance with all applicable laws, governmental regulations and ordinances.

**Section 6.22 Lawn Fertilization.** Any fertilizer used on any Lot abutting any Common Area shall have a low phosphorus content and the Township may require Township approval prior to the use of any fertilizer on any such Lot.

**Section 6.23 Signs: Illumination.** No signs of any kind shall be placed upon any Lot or on any building or structure located on a Lot, or any portion thereof, unless the plans and specifications showing the design, size, materials, message and proposed location(s) have been submitted to, and approved in writing by, Developer, with the exception of: (i) non-illuminated signs which are not more than four (4) square feet in area pertaining only to the sale of the premises upon which it is maintained; and (ii) non-illuminated signs which are not more than four (4) square feet in area pertaining only to a garage sale conducted on the premises, which garage sale and sign placement shall not exceed three (3)

days. The foregoing restrictions contained in this Section 6.23 shall not apply to such signs as may be installed or erected on any Lot by Developer or any builder who owns Lots for resale in the ordinary course of business, during any construction period or during any period that any residence is used as a model or for display purposes.

No exterior illumination of any kind shall be placed or allowed on any portion of a Lot other than on a residential dwelling, unless first approved by Developer. Developer shall approve such illumination only if the type, intensity and style thereof are compatible with the style and character of the development of the Lot.

**Section 6.24 Objectionable Sights.** Above or below ground fuel tanks shall not be permitted. The stockpiling and storage of building and landscape materials and/or equipment shall not be permitted on any Lot, with the exception of materials and/or equipment that will be used within a reasonable length of time. In no event shall the storage of landscape materials extend for a period of more than thirty (30) days. No laundry drying equipment shall be erected or used outdoors and no laundry shall be hung for drying outside of a dwelling. No television or radio antennae or satellite dishes shall be constructed or erected upon the exterior of any dwelling on any Lot, without the prior written approval of Developer.

**Section 6.25 Maintenance.** The Owner of each Lot and the occupants of any portion of the Property shall keep all buildings and grounds in good condition and repair.

**Section 6.26 Real Estate Sales Office.** Notwithstanding anything to the contrary contained in this Declaration, Developer, and/or any builder(s) which Developer may designate, may construct and maintain on any Lot(s) a real estate sales office, or offices and construction trailers with such promotional signs as Developer or said builder(s) may determine and/or a model home or homes for such purposes; Developer and any such designated builder(s) may continue such activity until such time as all of the Lots in which Developer and such builder(s) have an interest are sold.

**Section 6.27 Wetlands.** No Wetlands shall be modified in any manner by any person or entity other than Developer or its authorized representatives, unless a permit for such modification has been issued by the Township and any other governmental unit or agency having jurisdiction over such Wetlands within the Property.

**Section 6.28 Non-Access Greenbelt Easement.** A non-access greenbelt easement for Phase I is hereby expressly reserved to Developer and to the Association in, through and across a strip of land sixty-five (65) feet in width along the rear lot lines of Lots 1 ,2, 3, and 4, which abut Lapeer Road (M24 Highway) and across a strip of land fifty (50) feet in width along the northerly property lined of Lot 1. Said easement area shall be covered by a suitable ground cover and a screen planting, which shall initially be put in place by Developer and shall thereafter be maintained by the Association

**Section 6.29 Reservation of Easements.** Subject to all applicable municipal ordinances, easements for the construction, installation, maintenance and replacement of public utilities, surface drainage facilities, sanitary sewer, storm sewer, water supply facilities, public walkways, bicycle paths and ingress and egress are hereby reserved to Developer, its successors and assigns, over, under and across Common Areas, and the Detention Basin Easement, as may be indicated on any recorded or proposed plat of subdivision within the Property and/or as may otherwise appear of record or as such easements may hereafter be required in the sole discretion of Developer. The use of such easements, or any portion thereof, may be assigned by Developer at any time to any person, firm, corporation, governmental agency or municipal authority or department furnishing one or more of the foregoing services and/or facilities and any such easements hereby reserved may be relinquished and waived, in whole or in part, by Developer by the filing of record of an appropriate instrument of relinquishment. Developer shall have the right and authority at any time to enter into such maintenance or other agreements with any municipal authority or other governmental

authority as Developer may determine to be necessary or appropriate for the purpose of providing for the maintenance, repair or replacement of any such easements or facilities located upon, over, under or through such easements and for the further purpose of providing for assessments for such purposes against any or all of the Lots within the Property. To the extent provided for in any such agreement(s), such assessments shall be levied as provided for therein and shall constitute a lien upon the Lot(s) upon which it is levied. No structure, landscaping or other materials shall be placed or permitted to remain within any of the foregoing easements which may damage or interfere with the installation or maintenance of the aforesaid utilities or which may change, obstruct or retard the flow or direction of water in, on or through any drainage channels, if any, in such easements, nor shall any change be made by any Owner in the finished grade of any Lot once established by the builder of any residential dwelling thereon, without the prior written consent of Developer. Access shall be granted to Developer and its successors and assigns by the Owner of each Lot to an easement which burdens such Lot for the maintenance of all improvements in, on over and/or under such easement, without charge or liability for damage. Except as may otherwise be provided in this Declaration, or in any maintenance agreement made between Developer and any municipal or governmental authority, the Owner of each Lot shall maintain the service area of all easements within his Lot, keep grass and weeds cut, keep the area free of trash and debris and take such actions as may be necessary to eliminate or minimize surface erosion. The Owner of each Lot shall be liable for any damage to any improvements which are located in, on, over and/or under an easement, including, but not limited to, damage to electric, gas, telephone and other utility and communication distribution lines and facilities, which damage arises as a consequence of any act or omission of the Owner, his agents, contractors, invitees and/or licensees.

**Section 6.30 Reciprocal Negative Easements.** Unless otherwise expressly provided for in this Declaration, no mutual or reciprocal negative easements shall be deemed to arise or be created hereunder with respect to any land situated within or outside the boundaries of the Property.

**ARTICLE VII  
Architectural Controls**

**Section 7.01 Architectural Controls.** It is understood and agreed that the purpose of architectural controls is to promote an attractive, harmonious residential development having continuing appeal. Accordingly, unless and until the construction plans and specifications are submitted to and approved in writing by Developer in accordance with the provisions of Section 7.02 (below), (i) no building, fence, wall or other structure shall be commenced, erected or maintained, and (ii) no addition, change or alteration therein shall be made, except for interior alterations.

**Section 7.02 Submission of Plans and Plan Approval.** All plans, specifications and other related materials shall be filed in the office of Developer, or with any agent specified by Developer, for approval or disapproval. Said construction plans and specifications shall show the nature, kind, shape, height, materials (including samples of exterior building materials upon request), approximate cost of such building or other structure, proposed drainage of surface water, location and grade of all buildings, structures and improvements, as well as utilities and parking areas for the subject Lot. Developer shall have sole authority to review, approve or disapprove the plans or specifications and/or any part thereof. Developer shall have the right to refuse to approve any plans or specifications or grading plans, or portions thereof, which are not suitable or desirable in the sole discretion of Developer, for aesthetic or other reasons. In considering such plans and specifications, Developer shall have the right to take into consideration the compatibility of the proposed building or other structures with the surroundings and the effect of the building or other structure on the view from adjacent or neighboring property, it is desired that the natural

landscape and trees be left in their natural state as much as possible or practical.

A report in writing setting forth the decision of Developer, and the reasons therefore, shall be furnished to the applicant by Developer within thirty (30) days from the date of filing of complete plans, specifications and other materials by the applicant. Developer will aid and cooperate with prospective builders and make suggestions based upon its review of preliminary sketches. Prospective builders are encouraged to submit preliminary sketches for informal comment prior to the submission of architectural drawings and specifications. Failure of Developer to give written notice of its disapproval of any final architectural plans and/or specifications submitted pursuant to the requirements of this Article VII within thirty (30) days from the date they are submitted shall constitute approval thereof. Developer shall be entitled to charge each applicant a review fee in an amount not to exceed Two Hundred Fifty and 00/100 (\$250.00) Dollars, to reimburse Developer for costs incurred in connection with the review of said applicant's plans, specifications and related materials.

Neither Developer nor any person(s) or entity(ies) to which it delegates any of its rights, duties or obligations hereunder, including, without limitation, the Association and Architectural Control Committee referenced in Section 7.03 below, shall incur any liability whatsoever for approving or failing or refusing to approve all or any part of any submitted plans and/or specifications. Developer hereby reserves the right to enter into agreements with the grantee (or vendee) of any Lot(s) (without the consent of grantees or vendees of other Lots or adjoining or adjacent property) to deviate from any or all of the restrictions set forth in this Declaration, provided that said grantee or vendee demonstrates that the application of the particular restriction(s) in question would create practical difficulties or hardships for said grantee or vendee. Any such deviation shall be evidenced by a written agreement and no such deviation or agreement shall constitute a waiver of any such restriction as to any other Lot or Owner.

**Section 7.03 Architectural Control Committee.** At such time as the fee simple interest in ninety (90%) percent of the Lots in all Phases have been conveyed by Developer, or, at such earlier time as Developer may elect, Developer shall delegate and assign all of its rights, duties and obligations as set forth in Article VI and this Article VII, to a Committee representing the Owners of Lots or to the Association, provided that such assignment shall be accomplished by a written instrument wherein the assignee expressly accepts such powers and rights. Such instruments, when executed by the assignee shall, without further act, release Developer from the obligations and duties in connection therewith. If such assignment or delegation is made, the acts and decisions of the assignee or delegate as to any matters herein set forth shall be binding upon all interested parties. If Developer assigns its rights and obligations under Article VI and this Article VII to an Architectural Control Committee, said Committee shall consist of no less than three (3) Members and no more than five (5) Members, to be appointed by Developer. Developer may transfer its right to appoint Members of the Architectural Control Committee to the Association which shall then have the right to appoint and remove Members of the Committee. However, until such time as Developer transfers its right to appoint members of the Architectural Control Committee to the Association, Developer reserves the right to appoint and remove Members of the Committee in its sole discretion.

**ARTICLE VIII  
General Provisions**

**Section 8.01 Amendment.** The covenants, conditions, restrictions and agreements of this Declaration, as they relate to any Phase for which a final plat of subdivision has been recorded, may be amended by Developer, without the consent of any other Owner or any other person or entity whatsoever (whether or not

any such person or entity shall now or hereafter have any interest in any Lot or portion of the Property, including mortgagees and others), at any time prior to the sale of the first Lot in said Phase to a person other than a builder who holds and sells Lots to customers in the ordinary course of business, subject to the approval of the Township if such approval is required. Developer, without the consent of any other Owner or any other person or entity whatsoever (whether or not any such person or entity shall now or hereafter have any interest in any Lot or portion of the Property, including mortgagees and others), shall also have the right to amend, modify or terminate, in whole or in part, the covenants, conditions, restrictions and agreements of this Declaration, as they relate to any Phase within the Property for which a final plat of subdivision has not been recorded, subject to the approval of the Township if such approval is required. In addition, provided that Developer has an ownership interest in all, or any part, of the Property, Developer, without the consent of any other Owner or any other person or entity whatsoever (whether or not any such person or entity shall now or hereafter have any interest in any Lot or portion of the Property, including mortgagees and others), may at any time amend this Declaration as may be necessary or required to comply with the requirements of any federal, state, county or local statute, ordinance, rule, regulation or formal requirement relating to the Property or any part thereof, or to increase or decrease the amount of land described in Exhibit "A" of this Declaration as Developer deems necessary, subject to the approval of the Township if such approval is required. In addition to the foregoing, Developer may at any time, without the consent of any Owner, mortgagee or any person who now or hereafter has any interest in and to the Property, amend this Declaration in order to correct survey or other errors of for the purpose of facilitating conventional mortgage loan financing for existing or prospective Owners and to enable the purchase or insurance of such mortgage loans by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration or the Department of Housing and Urban Development, or by any other public or private insurer or any institutional participant in the secondary mortgage market.

Subject to the foregoing, the covenants, conditions, restrictions and agreements of this Declaration, as they relate to any Phase for which a final plat has been recorded may only be amended, at any time following the date on which a Lot has been conveyed by Developer to a person other than a builder who owns or holds Lots for resale to customers in the ordinary course of business, by a written instrument recorded in the office of the Oakland County Register of Deeds, signed by: (i) the Owners of at least seventy-five (75%) percent of the total Lots contained within all Phases for which a final plat of subdivision has been recorded; and (ii) Developer, in the event Developer then continues to own any Lots or any portion of the Property. Notwithstanding the foregoing, any and all such amendments shall be subject to the approval of the Township, if such approval is required.

**Section 8.02 Term.** The covenants, conditions, restrictions and agreements of this Declaration shall continue in full force and effect and shall run with and bind the land for a period of twenty (20) years from the date this Declaration is recorded and shall thereafter automatically be extended for successive periods of ten (10) years each, unless terminated by written instrument executed by: (i) the Owners of not less than seventy-five (75%) percent of the total Lots contained in all Phases for which a final plat of subdivision has been recorded; and (ii) Developer, in the event Developer then continues to own any Lots or any portion of the Property. Notwithstanding anything to the contrary contained in this Declaration, the provisions of Sections 6.22 and 6.27 of this Declaration, shall run forever, without right of termination or amendment unless modified or deleted pursuant to an amendment authorized by Section 8.01.

**Section 8.03 Enforcement.** Developer, the Association and any Owner shall have the right to enforce, by proceeding at law or in equity, all covenants, conditions, restrictions, reservations, liens and charges now or hereafter imposed by the provisions of this

Declaration. Failure by Developer, the Association or any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver thereof or a waiver of any right to enforce the same by any other person at any time thereafter.

**Section 8.04 Insurance Proceeds.** All proceeds of any insurance maintained with respect to any assets of the Association, and the Common Areas (if said Common Areas have been conveyed to the Association), and all proceeds of any condemnation proceedings or sales in lieu of condemnation relating to the assets of the Association or the Common Areas (if said Common Areas have been conveyed to the Association) shall be paid to the Association and shall be the property of the Association and not of its Members or any other persons or entities.

**Section 8.05 Severability.** The invalidation of any one or more of the covenants, conditions, restrictions and agreements of this Declaration by judgment or court order, shall in no way affect the validity of any of the other provisions of this Declaration, and the same shall remain in full force and effect.

**Section 8.06 Notices.** Each Owner shall file the correct mailing address of such Owner with Developer and shall promptly notify Developer in writing of any subsequent change of address. Developer shall maintain a file of such addresses and make the same available to the Association. A written or printed notice, deposited in the United States mail, postage prepaid and addressed to any Owner at his last known address shall be sufficient and proper notice to such Owner, wherever notices are required in this Declaration.

**Section 8.07 Number and Gender.** As used in this Declaration, any gender shall include any other gender, the plural shall include the singular and the singular shall include the plural, whenever appropriate.

**Section 8.08 Execution of Additional Documents.** Each of the Owners, at no expense to itself, hereby agrees, at the request of Developer or the Association, to perform such further acts and execute all such further documents as may be required or desirable in the sole discretion of Developer or the Association, to carry out the purposes of this Declaration.

**EXHIBIT "A"  
Legal Description of Property**

A PART OF THE EAST ¼ OF SECTION 23, T-4-N, R-10-E, ORION TOWNSHIP, OAKLAND COUNTY, MICHIGAN, MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE NORTH ¼ CORNER OF SAID SECTION 23; THENCE N. 88°00'51" E., 958.34 FEET ALONG THE NORTH LINE OF SAID SECTION 23 (SCRIPPS ROAD) TO THE POINT OF BEGINNING; THENCE CONTINUING N. 88°00'51" E., 2,020.00 FEET ALONG THE SAID NORTH LINE (SCRIPPS ROAD) TO THE NORTHEAST CORNER OF SAID SECTION 23; THENCE S. 01°08'09" E., 1,559.48 FEET ALONG THE EAST LINE OF SAID SECTION 23; THENCE S. 82°14'43" W., 897.19 FEET TO THE NORTHEAST CORNER OF PERRY ACRES NO. 1 AS RECORDED IN LIBER 85, PAGE 44 OF PLATS, OAKLAND COUNTY RECORDS; THENCE FOLLOWING TWO COURSES ALONG THE PERIMETER OF SAID SUBDIVISION: (1) S. 82°14'28" W., 389.85 FEET, AND (2) S. 03°09'51" E., 547.10 FEET; THENCE S. 87°38'30" W., 1,530.31 FEET ALONG THE NORTH LINE OF SAID PERRY ACRES NO. 1 AND PERRY ACRES AS RECORDED IN LIBER 75, PAGE 14 OF PLATS, OAKLAND COUNTY RECORDS, TO A POINT ON THE EASTERLY LINE OF M-24 (LAPEER ROAD); THENCE THE FOLLOWING TWO COURSES ALONG SAID EASTERLY LINE: (1) ALONG A NON-TANGENT CURVE TO THE RIGHT 29.40 FEET, SAID CURVE HAVING A RADIUS OF 85,823.70 FEET, CENTRAL ANGLE OF 00° 01' 11" AND A LONG CHORD BEARING OF N. 04°31'31" W., 29.40 FEET, AND (2) N. 04°30'56" W., 599.60 FEET, THENCE N. 85°29'04" E., 100.00 FEET; THENCE ALONG A CURVE TO THE RIGHT 64.35 FEET, SAID CURVE HAVING A RADIUS OF 100.00 FEET, CENTRAL ANGLE OF 36°52'12" AND A LONG CHORD OF S. 76°04'50" E., 63.25 FEET; THENCE ALONG A CURVE TO THE LEFT 64.35 FEET, SAID CURVE HAVING A RADIUS OF 100.00 FEET, CENTRAL ANGLE OF 36°52'12" AND LONG CHORD OF S. 76°04'50" E., 63.25 FEET; THENCE N. 85°29'04" E., 121.92 FEET; THENCE N. 04°30'56" W., 166.00 FEET; THENCE N. 85°29'04" E., 239.79 FEET; THENCE S. 81°26'35" E., 285.19 FEET; THENCE N. 04°54'22" W., 485.51 FEET; THENCE N. 88°00'51" E., 33.81 FEET; THENCE N. 03°54'11" W., 1,033.58 FEET; TO THE POINT OF BEGINNING AND CONTAINING 97.64 ACRES.

SUBJECT TO THE RIGHTS OF THE PUBLIC IN SCRIPPS ROAD.

ALSO, SUBJECT TO ANY AND ALL EASMENTS, RESTRICTIONS OR RIGHTS-OF-WAY, RECORDED OR OTHERWISE.